The City of Birmingham
Zoning Ordinance

Ordinance No. 90-130	**05/15/90**
Ordinance No. 90-137	**05/29/90**
Ordinance No. 90-207	**08/07/90**
Ordinance No. 91-214	**09/10/91**
Ordinance No. 94-66	**04/05/94**
Ordinance No. 94-255	**11/29/94**
Ordinance No. 95-56	**03/21/95**
Ordinance No. 97-16	**01/28/97**
Ordinance No. 97-20	**02/18/97**
Ordinance No. 97-21	**02/18/97**
Ordinance No. 97-77	**06/24/97**
Ordinance No. 00-142	**09/05/00**
Ordinance No. 01-25	**03/06/01**
Ordinance No. 02-44	**04/23/02**
Ordinance No. 02-159	**11/05/02**
Ordinance No. 06-2	**01/09/06**
Ordinance No. 06-86	**06/09/06**
Ordinance No. 07-33	**03/21/07**
Ordinance No. 1858-G	**07/01/08**
Ordinance No. 08-237	**11/25/08**
Ordinance No. 10-68	**05/11/2010**
Ordinance No. 1888-G	**05/11/2010**
Ordinance No. 10-31	**03/02/2010**
Ordinance No. 10-111	**08/24/2010**
Ordinance N0. 11-137	**11/08/2011**
Ordinance No. 13-141	**11/05/2013**
Ordinance No. 13-165	**12/17/2013**
Ordinance No. 13-178	**12/26/2013**
Ordinance No. 15-80	**6/02/2015**
Ordinance No. 15-133	**9/15/15**
Ordinance No. 16-217	**11/15/16**
Ordinance No. 17-51	**4/25/2017**
Ordinance No. 18-33	**2/27/2018**
Ordinance No. 18-148	**9/18/2018**
Ordinance No. 19-95	**7/9/2019**
Ordinance No. 19-157	**10/8/2019**
Ordinance No. 20-44	**3/17/2020**

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Editor's note

This Publication consists of the Zoning Ordinance of the city, being Ordinance No. 1809-F, as amended. A uniform system of capitalization has been employed, catch lines have been added to individual sections where necessary and a frontal analysis has been added for the convenience of the user. Amendments are indicated by an historical citation following each amended section.

Pursuant to Ordinance No. 63-3, the term "City Commission" has been changed to "City Council" and the term "City Comptroller" has been changed to Director of Finance."

Title 1 – Zoning Ordinance
Chapter 1: General Provisions and Definitions

Article I. General Provisions

Section 1. Title and purpose.

A. Title and Citation. The Ordinance codified in this title shall be known as "T*he Zoning Ordinance for City of Birmingham, Alabama*," and may be cited and referred to herein as "this Ordinance."

B. Purpose and Authority. This Ordinance is enacted pursuant *Title 11, Chapter 52, Articles I through IV inclusive, of the 1975 Code of Alabama Annotated* to provide the establishment of districts within the corporate limits of the City of Birmingham, Alabama (City); to regulate within such districts the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population and the use of buildings, structures, and to provide methods of administration of this Ordinance and penalties for the violation thereof. This Ordinance is designed to implement the goals and objectives of *The Plan: City of Birmingham Comprehensive Plan* (Comprehensive Plan), as adopted by the Birmingham Planning Commission (Commission), October 2, 2013. A diverse range of zoning districts are created by this Ordinance which establish appropriate land uses and associated standards for development needed to implement the land use policies of the Comprehensive Plan. In conjunction with this Ordinance an official zoning map assigns an appropriate zoning classification to all properties to which this Ordinance is applicable. Also established by this Ordinance are special overlay districts, including Flood Plain Overlay, U.S. Highway 280 Overlay District and Highland Park Neighborhood Form Based District, which are intended to address specific aspects of land use control or design not easily accomplished by conventional zoning techniques. This Ordinance further establishes land use standards which are designed to protect the value and integrity of neighboring properties, enhance the general character and appearance of the community, reinforce the central business district, lessen congestion, provide adequate privacy, light and air, protect landowners from adverse impacts of adjoining developments, and provide a reasonable balance between efficient utilization of land and protection of public interest and environmental resources. Also established in this Ordinance are those rules and procedures to administer and enforce the provisions of this Ordinance, so as to protect the public health, safety, morals, convenience, order, prosperity and general welfare of the City.

Section 2. Applicability.

A. General. The provisions of this Ordinance shall apply to the development of all land within the corporate limits of the City. No development shall be undertaken without prior authorization pursuant to this Ordinance.

B. Minimum Requirements. The requirements of this Ordinance shall be considered as the minimum requirements for the promotion of the public health, safety and general welfare. It is not intended to interfere with or abrogate or annul any easements, covenants or other agreements between parties. Where this Ordinance imposes a greater restriction upon property than that imposed by other resolutions, rules, regulations, easements, covenants or agreements, the provisions of this Ordinance shall govern.

C. New Development. Upon the effective date of this Ordinance or any subsequent amendment, any new building or other structure or any tract of land shall be used, constructed or developed only in accordance with all applicable provisions of this Ordinance.

D. Existing Development. Any existing use, lot, building or other structure legally established prior to the effective date of this Ordinance that does not comply with its provisions shall be subject to the regulations of the nonconforming provisions of this Ordinance stipulated in of Chapter 9, Article VII.

Section 3. Exceptions.

A. Previously Issued Permits and Exceptions. Any development for which a variance or permit has been authorized before the effective date of this Ordinance may be continued, changed, extended, enlarged or structurally altered only as provided in this Ordinance.

   1. Any permit issued before the effective date of this Ordinance or subsequent amendment shall remain in effect provided that construction is begun within six months from the date of issuance of the permit.

   2. In no event shall such use be changed except to a conforming use or a nonconforming use as provided for in Chapter 9, Article VII. A change in occupancy or ownership shall not by itself constitute a change in use.

B. Temporary Dwelling as a Result of Natural Disaster. The Director may issue a temporary permit for a manufactured home as a single-family dwelling unit on any lot previously occupied by a permanent dwelling that was destroyed by natural causes and is being reconstructed. The Director may impose conditions upon the issuance of the permit to provide for the least impact on surrounding property. Permits shall be for a period of time not to exceed three months. The Director may review and grant an extension of time not to exceed one additional three-month period.

Section 4. Severability.
Should any article, section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section, clause and provision hereof being declared severable.

Section 5. Rules for construction of language.

A. General. All provisions, terms, phrases and expressions contained in this Ordinance shall be construed so that the true intent and meaning of the City may be fully carried out.

B. Computation of Time. The time within which an act is to be done shall be computed by including the first and last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. In the computation of time for public hearing notice, the first day (day of the advertisement) shall be included and the last day (day of the hearing) shall be excluded. The following time-related words shall have the meanings ascribed below.

   1. "Day" means a calendar day unless working day is specified.
   2. "Week" means seven calendar days.
   3. "Month" means a calendar month.
   4. "Year" means a calendar year, unless otherwise indicated.

C. Conjunctions. Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows:

   1. "And" indicates that all connected items, conditions, provisions or events shall apply.
   2. "Or" indicates that one or more of the connected items, conditions, provisions or events shall apply.
   3. "Either or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

D. Delegation of Authority. The Director may authorize subordinates to perform the required acts or duties of this Ordinance unless the terms of the provision or section specify otherwise.

E. Jurisdiction. The word "City" shall mean the corporate limits of the City of Birmingham, Alabama.

F. Non-technical and Technical Words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

G. Fractions. When any requirement of these regulations results in a fraction of a dwelling unit or parking space the fraction if less than 0.5 shall be rounded down to

the nearest whole number, and if equal to or greater than 0.5 shall be rounded up to the nearest whole number.

H. Shall and May. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

I. Tense. Words used in the past or present tense include the future as well as the past or present, unless the context clearly indicates the contrary.

J. Text and Figures. In case of any difference of meaning or implication between the text of this Ordinance and any figure, the text shall control.

K. The word “person” includes individuals, firms, corporations, associations, trusts and any other similar entities.

L. The word “Commission” means the Birmingham Planning Commission.

M. The word “Board” means the Zoning Board of Adjustment of the City.

N. The word “Department” means the Department of Planning, Engineering and Permits of the City.

O. The acronym “DHR” shall mean the State of Alabama or Jefferson County Department of Human Resources.

P. The acronym “ADEM” shall mean the Alabama Department of Environmental Management.

Q. The acronym “ZCO” shall mean Zoning Certificate of Operation.

R. The word “Council” means the Birmingham City Council.

S. The acronym “ZAC” shall mean the Zoning Advisory Committee.

T. The acronym “DRC” shall mean the Design Review Committee.

Section 6. Disclaimer

Any property use allowed by this ordinance is for lawful conduct only and does not authorize or condone use of the property in violation of, or in conflict with, any federal, state or local law, ordinance, or regulation. Any licenses, permits or other permissions required by any other provision of law must be obtained in addition to the zoning for a particular use and are the responsibility of the property owner or the person legally in charge of the property.

Article II. General Regulations

Section 1. Use of land.
No land shall be used except for a use permitted in the district in which it is located, except as provided in Chapter 9, Article VII.

Section 2. Use of structures.
No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or structure be used, except for a use permitted in the applicable district, except as provided in Chapter 9, Article VII.

Section 3. Height of structures.
No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit established for the applicable district, except as provided in Chapter 3.

Section 4. Dimensional regulations.
No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the dimensional regulations of the applicable district, except as provided in Chapter 3.

Section 5. Encroachment on or reduction of open spaces, etc.
The minimum yards, parking spaces, and open spaces, required by this Ordinance for each structure existing at the time of passage of this Ordinance, or for any structure hereafter erected or structurally altered, shall not be encroached upon or considered as part of the yard, parking space or open space required for any other structure, nor shall any lot area be reduced below the lot area per family requirements of the applicable district, except as provided in Chapter 9.

Section 6. Off-street parking and loading.
No building shall be erected, converted, enlarged, reconstructed or moved except in conformity with the off-street parking and loading regulations of Chapters 5 and 9.

Section 7. Building to be on lots.
Every building hereafter erected, converted, enlarged, reconstructed, moved or structurally altered shall be located on a lot as herein defined such that no lot lines are crossed by any building or structure, except as provided in Chapters 3 and 9.

Section 8. Accessory Building Construction.
No accessory structure shall be constructed or moved upon a lot until the construction of the principal building has actually been commenced.

Section 9. Accessory Building Used for Dwelling Purpose.
An accessory building may be used for dwelling purposes when all conditions are met, as described in Chapter 4, Article IV, Section 2, Item B.

Section 10. Joint occupancy.
No structure shall be erected, structurally altered, or used as a single-family or two-family dwelling simultaneously with any other use, except to allow a caretaker dwelling, live-work building or mixed-use development where specifically provided for in this Ordinance.

Section 11. Permits for construction.
Construction or remodeling of any structure on any lot, placement of any structure on any lot, grading or clearing of any lot, alteration of earth contained in any lot shall not be allowed to commence prior to it being clearly demonstrated that a proposed development or use is allowed in the applicable district and any permits necessary for the specific activity have been issued by the Department. When permits are issued for any development activity on a specific lot, the applicant shall develop in a manner that ensures compliance with the approved permit and any other Ordinance of the City governing the specific development activity. If a property is not in compliance with this ordinance, a permit for construction issued by the Department, any conditions imposed by this ordinance or the Board or Commission or another ordinance of the city, the owner or his agent shall not be allowed to request another permit or certificate of occupancy for the property until the violation has been corrected, unless a new permit is required to correct the violation.

Section 12. Building material storage.
Building materials or temporary structures for construction purposes shall not be placed or stored on any lot or parcel of land located in a Residential or Business Zone District before appropriate building permits have been issued by the Department.

Section 13. Grading and clearing.
No clearing, earthwork or other land disturbing activity shall be undertaken prior to all appropriate permits having been issued by the Department in accordance with the Soil Erosion and Sediment Control Ordinance. (Ord. No. 88-148). No excavation for foundations, nor any erection, or structural alteration of any structure shall be undertaken prior to appropriate permits having been issued by the Department.

Section 14. Limitations on Animals.
No person shall keep or maintain in connection with any dwelling unit more than four dogs or cats aged six months or older, except in the AG District.

Section 15. Annexations.
Any territory hereafter annexed to the City shall continue to be subject to the county, town or city zoning district classifications and regulations as such territory was subject to at the time of annexation. Said zoning classifications and regulations shall be enforced by the City, as if such classifications and regulations were its own, until initial zoning is placed on the territory by the City or until the territory is successfully rezoned by a person(s) or organization having standing to do so. If the territory is not zoned by any county, town or city classifications or regulations at the time of annexation into the City, the Department shall move to initially zone the territory to a City classification within a reasonable time, not to exceed 90 days.

Section 16. Lighting.
The following standards shall apply in all districts:

A. All site lighting shall be shielded so that substantially all directly emitted light falls within the property line. No illumination in excess of one-half foot-candle shall be permitted across the boundary of any adjacent residential property or a public street.

B. No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. Lighting prohibited by this provision shall include, but not be limited to any light that may be confused with or construed as a traffic-control device.

Section 17. Utility Structures.
Utility structures, including, but not limited to poles, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power or to provide telephone or telegraph service and pipe lines, vents, valves, hydrants, regulator, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other fluids, may be constructed, erected, repaired, maintained or replaced within any district within the City of Birmingham. This is not to be construed to include the erection or construction of buildings or electric substations.

Section 18. Limitation on Outdoor Storage in all Commercial and Mixed-Use Districts.
When located in a zoning district that allows a specific use and it has met all requirements and conditions of this Ordinance or any other applicable Ordinance of the City, outside display shall be limited to the incidental display of a small amount of goods for sale or rent by an establishment having activities that occur principally within a building on the same lot, or to the display of new or used vehicles (where permitted by the district).

Section 19. Inoperable motor vehicles.
Inoperable motor vehicles shall not be permitted in a front or side yard in a residential district for a period exceeding five days. One disabled motor vehicle may be permitted in a rear yard in a residential district provided that such vehicle is not located in a required yard and is not located there for a period exceeding thirty days.

Section 20. Carports.
Carports in any yard other than the rear yard shall be attached to the principal structure and shall be built of compatible materials to the principal structure.

Section 21. Solid waste container.
New and expanded structures shall provide an area for a solid waste container that is not located in the public right-of-way. The container must be located on the same lot as the principal building and no closer than 25 feet to dwellings off-site. Except for uses having small containers serviced by the City of Birmingham's Public Works Department, solid waste containers must be: 1) in rear or side yards or within the principal building; 2) exterior sites must be below grade OR have a solid opaque screening walls or gate on all sides made of concrete, masonry material and/or wood matching the principal building at a height taller than the container; 3) when a proposed use includes a food service establishment enclosure must be compliant with county health department regulations.

Title 1 – Zoning Ordinance
Chapter 1: General Provisions and Definitions

Article III. Definitions.

Section 1. Generally.

For the purpose of this Ordinance, certain terms and words are hereby defined. Any word used in this Ordinance not defined in this section will be defined by using "Webster's II New College Dictionary". Words used in the present tense shall include the future; the singular number shall include the plural and plural the singular; the word "building" shall include the word "structure" and the word "shall" is mandatory and not optional.

1. **Abutting.** Any property touching or sharing a common boundary. This term shall not be deemed to include parcels that are across a public street or right-of-way from each other.
2. **Accessory Structure.** Any subordinate structure that is incidental to the principal use of the premises, and is located on the same lot as the related main use.
3. **Accessory Use.** Any use that is subordinate and incidental to the principal use of the premises.
4. **Adjacent.** Any property that is abutting or separated by a right-of-way.
5. **Adult.** A person 18 years of age or older.
6. **Adult Establishment.** Any "adult bookstore," "adult cabaret or dancing establishment," "adult motion picture theater," or any commercial establishment which presents material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below for observation by patrons therein.
   Specified anatomical areas.

   (1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

   (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

   Specified sexual activities.

   (1) Human genitals in a state of sexual stimulation or arousal;

   (2) Acts of human masturbation, sexual intercourse or sodomy; and

   (3) Fondling or other erotic touching of human genitals pubic region, buttocks or female breast.

a. **Adult bookstore.** An establishment having, as a substantial portion of its stock in trade available for purchase or rental, books, magazines, and other periodicals, novelty items, cassette tapes, videotapes, DVDs or films which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined above, or an establishment with a segment or section devoted to the sale, rental or display of such material.

b. **Adult cabaret or dancing establishment.** A cabaret or dancing establishment which regularly features live performances that are characterized by the exposure of "specified sexual activities" or by "specified anatomical areas," as described above.

c. **Adult motion picture theater.** An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined above, for observation by patrons therein.

d. **Adult Studio.** Any building or land used for the production of adult entertainment media, such as, video, webcams, webchat, or any other internet based adult entertainment that is used for the purpose of delivering adult entertainment to any audience via the internet or by any other means.

7. **Alley.** A public right-of-way providing access to the back or side of a premises that has primary frontage on a street.
8. **Amphitheater.** Any premises or outdoor structure specifically designed and used as a place of assembly for purpose of entertainment.
9. **Amusement (indoor).** The provision of entertainment or games of skill that is wholly enclosed in a building, such as bowling alleys, skating, billiards and pool halls, theaters, arcades, and similar types of amusement operations.
10. **Amusement (outdoor)** The provision of entertainment or games of skill where any portion of the activity takes place outside of a building, such as a stand-alone golf driving range, archery range, miniature golf course, or similar types of amusement operations. This use does not include a stadium, automotive or other types of race track, vehicular related activities or similar or related activities, or any uses listed within the Planned Recreational District (PRD) zoning district.
11. **Animal Boarding Facility.** Any building used for the temporary, indoor overnight boarding, care and grooming of domesticated dogs and cats.
12. **Animal Day Care.** Any building, designated or arranged for the daytime care and grooming of domesticated dogs and cats. Does not include overnight boarding.

13. **Animal Kennel.** Any building(s), outdoor animal run or land designated or arranged for the care, breeding, boarding, training, or selling animals, primarily, but not limited to domesticated dogs and cats, whether by owners of such animals or by persons providing facilities and care, but shall not apply to the keeping of animals in a pet store, a laboratory for scientific or experimental purposes or in a veterinary establishment for the purpose of observation and/or recovery necessary to veterinary treatment.
14. **Apiary.** Any premises where bees are kept in hives or colonies for the production of honey.
15. **Appliance Repair.** Any building used for the repair of large appliances such as washing machine, refrigerator, and other similar items.
16. **Arena.** A large building with tiers of seats for spectators at sporting, entertainment or other recreational events.
17. **Automobile/Light Truck/Repair.** Any building used for the general repair or reconditioning of automobiles and engines, including but not limited to body, frame or fender straightening or repair, the reconditioning, repairing, sale, mounting, or installing of any tires, painting, or upholstery work, collision repair, vehicle steam cleaning, but excluding the assembly, disassembly, dismantling or salvage of automobiles, in whole or in part.
18. **Automobile Parking.** The use of property for parking or storage of operable automobiles and light trucks on a temporary basis. Such parking shall be for the use of licensed vehicles only and is not intended to include merchandise, vehicles for sale or vehicle repair.
19. **Automobile Sales.** A retail business which sells automobiles that is primarily housed in a structure and characterized by a mixture of secondary supporting uses; however, the principal use of the site shall be the marketing and outside display of automobiles, whether by sale, rental, lease or other commercial or financial means. Secondary supporting uses may include on-site facilities for the repair and service of automobiles previously sold, rented, or leased by the dealership. No visibly disabled vehicles shall be stored on the premises.
20. **Automobile Service.** Any building used for the replacement of any part, or repair of any part, to an automobile that does not require removal of the engine head or pan, engine transmission or differential, including, but not limited to oil change and lubrication, cooling, electrical, fuel and exhaust systems, wheel alignment and balancing, brake adjustment, relining and repairs, mufflers, batteries, tire services and sales, shock absorbers, installation of stereo equipment, car alarms or cellular phones, dispensing of gasoline and motor fuels at retail , but excludes dismantling, rebuilding, reconditioning, or salvage of automobiles, in whole or in part.
21. **Bakery, Retail.** Any building used to produce and sell, to the general public, baked goods including but not limited to bread, pies, bagels, pastries, cakes and cupcakes. Retail bakeries may have seating areas for customers where retail items can be purchased and consumed.

22. **Bakery, Wholesale.** Any building used to produce and sell at wholesale, to retailers, baked goods including but not limited to bread, pies, bagels, pastries, cakes and cupcakes.
23. **Bar.** Any building where liquor, beer or wine or any combination are served for consumption on the premises, with or without food.
24. **Bed and Breakfast Inn.** A premises where overnight accommodations and a morning meal in a dwelling unit provided to transient guests for compensation.
25. **Bed and Breakfast Inn, Historic.** A premises where overnight accommodations and a morning meal in a dwelling unit provided to transient guests for compensation within an owner-occupied dwelling in a local historic district or other historically significant structure.
26. **Block-face.** All the properties abutting one side of a street and lying between the two nearest intersecting streets or between the nearest intersecting street and any railroad right-of-way, unimproved land, watercourse or City boundary.
27. **Brewery.** Any building used for the production of beer that manufactures more than 40,000 barrels per year, with a barrel containing 31 U.S. liquid gallons. A brewery, actively and continuously engaged in the manufacture of alcoholic beverages on the manufacturer's licensed premises, may conduct tastings or samplings on the licensed premises, and for that purpose give away or sell alcoholic beverages manufactured there for consumption on only the premises where manufactured.
28. **Brewery, Micro.** Any building used for the production of beer that manufactures less than 40,000 barrels per year, with a barrel containing 31 U.S. liquid gallons. A micro-brewery, actively and continuously engaged in the manufacture of alcoholic beverages on the manufacturer's licensed premises, may conduct tastings or samplings on the licensed premises, and for that purpose give away or sell alcoholic beverages manufactured there for consumption on only the premises where manufactured.
29. **Brew Pub.** An establishment, meeting the qualifications of a brew pub under the State alcoholic beverage control laws in Title 28, Chapter 4A of the Code of Alabama 1975, as amended, where beer is actively and continuously manufactured or brewed, in a quantity not to exceed 10,000 barrels in any one year, for consumption on the premises or for sale to any designated wholesaler licensee for resale to retail licensees; and which contains a restaurant or otherwise provides food for consumption on the premises.
30. **Buffer.** An area located at the perimeter of the lot containing landscaping, berms, walls or fences that screen uses on adjacent properties from those uses occurring on the subject property.
31. **Building.** Any structure having a roof supported by columns and enclosed by walls designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind.

a. **Liner Building.** A building which is at least 24 feet deep, measured from the frontage façade, and masks a parking lot or parking structure from the frontage.

32. **Building Height.** The vertical distance from the grade level at the front façade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height between eaves and ridge for gable, hip and gambrel roofs.

33. **Bus Station.** A structure or building where City or intercity mass transit stops to pick up and drop off passengers. It is larger than a bus stop; bus station may include a terminal station for a number of routes, or a transfer station where the routes continue.

34. **Business Service.** The provision of services required for the day to day operation of a business such as, but not limited to, consulting service, photocopy or office supply.

35. **Business Service with Distribution.** The provision of business services that includes the warehousing and distribution of packages.

36. **Car Wash, Automated.** A building or portion thereof containing facilities for washing passenger vehicles, using production-line methods with a chain conveyor, blower, steam cleaning device or other mechanical devices within a partially enclosed structure.

37. **Car Wash, Manual.** A building or portion thereof containing facilities for washing passenger vehicles by manually operated high-pressure wands and operations that are done by hand such as auto detailing.

38. **Chicken Coop.** A building where domesticated hens are kept and the fenced area around the coop, called a run.

39. **Child.** A person under 18 years of age.

40. **Child/Adult Care.** The provision of care for individuals, who are not related to the primary caregiver, for less than 24 hours per day. These following classes are referenced:

    a. Accessory Child/Adult Care Center. A facility or licensed agency that provides for the care of children or adults for periods of less than 24 hours a day and is accessory to primary use of the lot.

    b. Adult Care Center. A building or structure wherein an agency, association, organization, person or group of persons, whether established for financial gain or otherwise, regularly provides care for three or more adults.

    c. Child Care Center. A facility or licensed agency that provides for the care of thirteen or more children for periods of less than 24 hours a day.

d. Department of Human Resources (DHR). State of Alabama or Jefferson County Department of Human Resources.

e. Family Day/Night Care Home. A child care facility which is the family home in which the operator resides and which receives not more than six children and is licensed as a Family Day / Night Care Home by DHR.

f. Family Group Day/Night Care Home. A child care facility which is the family home in which the operator resides and which receives not more than twelve children, and is licensed as a Family Group Day / Night Care Home by DHR.

g. Substitute/Alternate. A person employed by an adult or child care provider on a part-time basis who is available to act as a care giver in the absence of the operator.

h. Zoning Certificate of Operation. A certificate of operation, issued by the Department authorizing the operation of a child or adult care facility within the City.

41. **Clinic.** A facility for examining and treating patients with medical, addictive, mental or physical problems on an outpatient basis, including ambulatory care or similar medical services that require a stay of less than 24 hours.
42. **Cold Frame.** An unheated outdoor structure with a glass or clear plastic top that protects seedlings and plants from the cold.
43. **College or University.** An institution of higher education offering undergraduate or postgraduate degrees.
44. **Commercial Vehicle.** A commercial vehicle is any motor vehicle that has a capacity greater than one-ton or trailer over 14 feet such, but not limited to a truck, box truck, semi-truck, van, limousine, wrecker, coach or bus.
45. **Communal living facility.** Facilities in which four or more unrelated persons reside, including Assisted Living Facility, Boardinghouse, Nursing Home, Rehabilitation Facility, Sheltered Care Home, Transitional Home. Communal Living Facilities do not include child foster care facilities or facilities located in multi-family districts that are used for housing the mentally handicapped or mentally ill, where there are no more than 10 such people plus 2 unrelated persons to either the occupants of the facility or to each other. (Code of Alabama 11-52-75.1 and Board Case No. 84-95)
    a. **Assisted living facility.** Residencies for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational activities, financial services and transportation.

b. **Boardinghouse.** A dwelling, or part thereof, in which for compensation lodging and meals are provided for four or more persons.

c. **Nursing home.** A home for the aged or infirm in which four or more persons not of the immediate family are received, kept or provided with food and shelter or care as part of convalescence, rehabilitation or hospice for compensation; but not including hospitals, clinics or similar establishments devoted primarily to the diagnosis and treatment of the sick or injured.

d. **Rehabilitation Facility.** A building used for the provision of treatment for addictive, mental or physical disabilities for 24 hours a day to four or more persons.

e. **Transitional home.** A facility in which four or more individuals live for a short period while receiving social psychological or similar therapy or counseling excluding jails, prisons, and other correctional institutions.

h. **Sheltered Care Home.** A dwelling for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

46. **Community Garden.** A property used for cultivation and harvesting, for useful and productive purposes, food crops and/or ornamental crops for personal use, donation off-premise sale or on premise sale in residential districts when a special exception is granted by the Board.

47. **Composting Facility (Solid Waste Treatment Facility).** A commercial or public solid waste processing facility where yard or garden waste, manure and other putrescible materials are transformed into soil or fertilizer by biological decomposition.

48. **Conditional Use.** A use or occupancy of a structure, or a use of land, permitted only upon review and approval of a site plan and subject to the limitations and conditions specified in Chapter 4, Article II of this Ordinance.

49. **Condominium.** The form of ownership of real or personal property or a combination thereof under a declaration providing for ownership of units of the property by one or more owners together with an undivided interest in common and limited common elements.

50. **Conservation Subdivision.** A residential development wherein a portion of the site is preserved as permanent undisturbed natural area, to continuously protect, environmental features. Conservation subdivisions are characterized by clustering of homes, reduced lot sizes, and provision of an undisturbed natural area to enable the preservation and maintenance of environmental features.

51. **Construction.** Is the development of physical improvements on a site such as, but

not limited to, water and sewer lines, footings, and/or foundations. Clearing, grading, the storage of building materials or the placement of temporary structures on a site shall not constitute beginning construction.

52. **Contractor Yard.** The construction and incidental storage activities performed by construction contractors on lots other than construction sites.

53. **Convenience Store.** A retail establishment selling primarily food products household items, newspapers, and magazines, candy, and beverages and in which gasoline and other motor fuels, are dispensed at retail, by use of fixed approved dispensers. Convenience stores may include an automated car wash for washing one automobile at a time, within an enclosed building.

54. **Convention Center.** Any building designed and used to accommodate 1,000 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including food and beverage preparation and service for on-premise consumption.

55. **Cottage Development.** A grouping of single-family dwellings clustered around a common area, in which not all lots front on a public street and is provided access by a shared driveway or alley.

56. **Country Club/Golf Course/Swim or Tennis Club.** A public or private establishment operated for the purpose of playing golf, swimming or playing tennis that may include an accessory office, retail pro shop, restaurant, banquet facilities, lounge, golf driving range, caretaker's dwelling unit , and golf/tennis academy.

57. **Dairy, Factory.** A building where raw milk is processed into milk, butter, yogurt, cheese or other dairy product.

58. **Dairy, Farm.** Any premises where milk is harvested from cows.

59. **Director.** The Director of the Department of Planning, Engineering and Permits of the City of Birmingham, or his designee.

60. **Distillery.** Any building used for the production of liquor in quantities exceeding 1,000 barrels per month, with a barrel containing not more than 55 U.S. liquid gallons. A distillery, actively and continuously engaged in the manufacture of alcoholic beverages on the manufacturer's licensed premises, may conduct tastings or samplings on the licensed premises, and for that purpose give away or sell alcoholic beverages manufactured there for consumption on only one premises where manufactured.

61. **Distillery, Artisanal.** Any building used for the production of liquor in quantities not to exceed 1,000 barrels per month, with a barrel containing not more than 55 U.S. liquid gallons. An artisanal distillery, actively and continuously engaged in the manufacture of alcoholic beverages on the manufacturer's licensed premises, may conduct tastings or samplings on the licensed premises, and for that purpose give away or sell alcoholic beverages manufactured there for consumption on only one premises where manufactured.

62. **District.** A classification for which the zoning regulations governing the use of buildings and premises, the height and location of buildings, the size of yards, and the intensity of use are compatible.

63. **Donation Box.** A temporary accessory structure placed by a non-profit in a side or rear yard of certain commercial and industrial districts to collect clothing and other household items.

64. **Donation Center.** A facility located on the premises of a principal institutional use where donated items including clothing, furniture, house wares, small electrical appliances, household textiles, toys, and other small household items are collected.

65. **Dressmaker/Tailor/Millinery.** An establishment for producing clothing and hats for individuals at retail only.

66. **Drive-In/Drive-Through.** Any establishment where services are rendered or items are sold, for consumption on-site or off-site, and orders are made from a car to a server at a window, or via a speaker and receiver, or via an automated device.

67. **Driving Range, Free-Standing.** A facility equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, and which may include a snack-bar and pro-shop, but excludes miniature golf courses and "putt-putt" courses.

68. **Dwelling, Accessory.** One or more rooms located within an accessory structure and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes that supports only one family. Accessory dwellings are subject to conditions listed in Chapter 4, Article IV, Section 2, Item B.

69. **Dwelling, Caretaker.** A residence, incidental to a principal use, for an on-site manager, security guard or caretaker employed on the premises.

70. **Dwelling, Single-Family Detached.** A building containing one dwelling unit and that is not connected to any other dwelling or principal building and designed for or occupied exclusively by one family.

71. **Dwelling, Townhouse.** A building on its own recorded lot connected to another primary structure occupied exclusively by one family that is attached by common walls to a like building. See Chapter 4, Article II, Section 2.

72. **Dwelling, Duplex, Triplex, Quadplex.** A building divided horizontally or vertically containing two, three or four dwelling units respectively on one lot where each unit independently supports one family.

73. **Dwelling, Multiple-Family.** A building containing five or more dwelling units.

74. **Dwelling Unit, Other.** One or more rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes that supports only one family.

75. **Electronics Repair.** Any building used for the repair of small electronics such as personal computers, phones, and other small electronics.

76. **Event Center.** Any building where the primary use is staging of temporary events, and may be operated by a vendor for the purpose of renting space for private functions.

77. **Façade.** That portion of any exterior elevation on a building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

78. **Family.** One or more persons occupying a dwelling and living as a single housekeeping unit, all of whom or all but two of whom are related to each other by birth, adoption or marriage as distinguished from a group occupying a communal living facility.

79. **Farmer's Market.** Premises where outdoor sales sanctioned by the State of Alabama Farmer's Market Authority, consisting of whole uncut produce, ornamental crops and value-added agricultural products such as baked goods, jams and jellies, pickles and relish, dried fruits, syrups and honey, eggs, meat, nuts and handmade art and crafts.

80. **Fence or Wall.** A structure, solid or otherwise, erected, placed, or constructed on a property, which is intended to be a barrier, boundary, enclosure, privacy feature, or decorative item. It is characteristic of such an item that it is normally a separate "stand-alone" structure, erected along the perimeter (or close to the perimeter) of a property.

81. **Financial Institution.** Any building, room, space or portion thereof where an establishment provides a variety of financial services, and are limited to, federally insured banks, credit unions, and mortgage companies.

82. **Fitness Center.** A building and premises containing recreational facilities such as gymnasiums, swimming pools or playing fields that is available to the membership of a club.

83. **Flea Market.** Premises where outdoor sales consisting of individual stalls used for selling various types of merchandise such as used household items, and cut-rate goods.

84. **Fraternity/Sorority House.** Living quarters that may be used for gathering or entertaining for private social organizations serving students of colleges or universities and located on the campus as depicted on the approved master plan of the college or university.

85. **Frontage.** The area between a building frontage façade and a path, passage, waterbody, civic space, or the curb (or if there is no curb, the edge) of the vehicular lanes of a thoroughfare having vehicular lanes, inclusive of the built and planted components of such area. Frontage is divided into private frontage and public frontage.

86. **Frontage Façade.** A façade that is set along a frontage line.

87. **Frontage Façade Void Area.** The area of a frontage façade not comprised of walls; including windows, doors and other openings in the wall. Frontage façade

88. **Funeral Home.** A building designed for the purpose of furnishing funeral supplies

and services to the public and includes facilities for the preparation of the human body for internment and/or cremation.

89. **Furniture Store.** A retail store where furniture is displayed, stored and offered for sale.

90. **Garage, private.** An accessory building or part of a principal building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

91. **Garage Sale/Yard Sale.** A sale of personal property by homeowner or occupant of real property.

92. **Grade Level.** For buildings the average level of the finished ground surface at the front façade of a building. For signs, trees, landscaping and light fixtures, the level of finished ground surface at the base of the sign, tree, plant or fixture.

93. **Greenhouse/Hoophouse.** A temporary or permanent structure where plants are cultivated and that is typically made of, but not limited to, glass, plastic, piping, translucent plastic or fiberglass.

94. **Greenway.** An open space conservation area that provides passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open spaces or natural areas.

95. **Gross Floor area.** The gross horizontal areas of all floors, measured from the exterior faces of the exterior walls of a building, and any outdoor seating area or patio used by restaurants or bars.

96. **Heavy Equipment Sales and Service.** The retail or wholesale sale or rental of heavy motorized vehicles or equipment, along with service, repair or maintenance such as, but not limited to construction equipment rental yards, tractor-trailers, semi-trailers, buses, and farm equipment.

97. **Heliport.** Any premises used for landing helicopters for loading and unloading of occupants of the aircraft, excluding maintenance and fueling.

98. **Home Improvement Store.** The retail sale of a diverse range of hardware and related materials generally used in the maintenance, repair or construction of buildings or other structures, including lawn and garden supplies, and may include outside display of finished product or packaged materials.

99. **Home Occupation:** An activity carried out for financial gain by a resident, with an approved business license from the City, and conducted entirely within the resident's dwelling unit. Home occupations are accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

100. **Hospital.** Any institution, building or other premises established for the maintenance, observation, medical or dental care and supervision and skilled nursing care of persons suffering from sickness, disease or injury or for the convalescent or chronically ill persons.

101. **Hotel/Motel.** An establishment offering sleeping accommodations to guests. Hotels may include, as an integral part of operations, a restaurant, bar, conference rooms, banquet or ballrooms, gift shop, recreation facility and a caretaker dwelling.

102. **Internment, Cemetery.** Any land used for the interment of the dead which may include buildings for the purpose of preparing the dead for interment or cremation and structures such as mausoleums and columbariums.

103. **Internment, Columbarium.** A structure designed to store the ashes of human remains that have been cremated, in niches or cinerary urns.

104. **Internment, Mausoleum.** A building or other structure used as a place for the interment of the dead in sealed crypts or compartments.

105. **Junkyard, general**. A premises used for the outside storage or placement of used and/or damaged materials and items.

106. **Junkyard, vehicular.** A premises used for the outside placement, storage, parking, dismantling, or disassembling of any disabled or inoperable vehicles, or parts thereof, including, but not limited to motors, tires, wheels, axles, transmissions and other accessories.

107. **Landfill.** A method of compaction and earth cover of solid wastes that does not contain garbage or other putrescible wastes, including, but not limited to, tree limbs and stumps, demolition materials, incinerator residues, and like materials not constituting a health or nuisance hazard, such as hazardous waste or medical waste, where cover need not be applied on a per day used basis.

108. **Landfill, Sanitary.** A controlled area of land upon which non-hazardous and non-medical farm, residential, institutional, commercial or industrial solid waste is deposited and is covered with compacted earth each day as deposited, with no on-site burning of wastes, and so located, contoured, and drained that it will not constitute a source of water pollution as determined by the Alabama Department of Environmental Management (ADEM).

109. **Landscape Plan.** A document, prepared by an Architect, Landscape Architect or other design professional with special knowledge of landscaping standards, that depicts location, character and extent of landscaping, and shall include plant location, corresponding plant schedule, planting instructions, and must include a combination of shrubs, trees and ground cover.

110. **Laundry Plant.** Any building or structure in which articles of clothing and goods are subjected to the process of dry cleaning, and pressing of such articles.

111. **Legal Non-conforming use.** The use of any building or land which was lawful prior to the adoption or amendment of this Ordinance or does not conform to the amendments of this Ordinance or to the present requirements of the applicable district, or a use that has been granted resumption of legal non-conforming use by the Zoning Board of Adjustment (Board), but that is in compliance with Chapter 9, Article VII.

112. **Livestock Barn.** Any structure or premises used for the boarding, breeding and/or raising of domestic livestock (excluding swine, sheep and goat), whether by owners of such animals or by persons providing facilities and care.

113. **Lot.** A plot, unit, or other portion of land in a subdivision or plat of land, having its principal frontage on a street, except that cottage subdivisions may have a portion of the units face interior common area and up to 20 percent of lots in character districts may have frontage on a path or passage if such lots have legal and physical vehicular access to a vehicular thoroughfare via driveway or easement, separated from other such portions by description on a record of survey map, for the purpose of ownership, sale, occupancy, use, construction or development, separate from other lands.

114. **Lot, corner.** A lot abutting upon two or more streets at their intersection.

115. **Lot, through.** A lot other than a corner lot abutting two streets.

116. **Lot of record.** A lot recorded in the office of the probate judge in the county where it is located prior to the adoption of subdivision regulations. If a portion of a lot or parcel has been conveyed prior to adoption of subdivision regulations, the remaining portion of such lot shall also be considered a lot of record.

117. **Lot width.** The width of the lot at the front building setback line.

118. **Manufactured Home.** A pre-fabricated dwelling unit that must have a Federal Manufactured Home Construction and Safety Standards label, a HUD label of approval and manufactured date later than June 15, 1976, and an Alabama Manufactured Housing Commission insignia and date plate.

119. **Manufacturing, Heavy.** The manufacture or compounding process of raw materials. These activities or processes may necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process, and may generate dust, odor, heat, glare and vibration. These activities may involve outdoor operations as part of their manufacturing process. Typical heavy manufacturing uses include but are not limited to: concrete batch plants; concrete, tile, or brick manufacturing; automobile, truck, and tire assembly; ammonia or chlorine manufacturing; metal casting or foundries; gas manufacturing; grain milling or processing; metal or metal ore production, refining, smelting, or alloying; petroleum or petroleum product refining; boat, pool and spa manufacturing; slaughtering of animals; glass manufacturing; paper manufacturing; manufacturing of raw materials into compost, and wood or lumber processing.

120. **Manufacturing, Light.** The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Typical light manufacturing uses include but are not limited to: electronic goods; food and

bakery products; non-alcoholic beverages; alcoholic beverages; dry cleaning plants; paper imprinting; household appliances; leather products; jewelry; food and bakery products; and, clothing apparel.

121. **Manufacturing, Specialized.** Facilities engaged in the assembly, design, repair, or testing of: analyzing or scientific measuring instruments; semiconductor and related solid state devices, including but not limited to: clocks, integrated microcircuits, jewelry, medical, musical instruments, photographic or optical instruments, or timing instruments, and assembly of hand held finished products or any custom architectural or artisan industry, characterized as light industry, that does not have an ADEM permit for pollution release or noise, odor, illumination, trucking, or other adverse impacts to surrounding uses.

122. **Market Manager.** Individual that is responsible for the operation of a Farmer's and/or Public Market.

123. **Medical Lab.** A facility for analytic or diagnostic research or investigation of a medical nature on blood, tissue, or other human or animal components, but not for the production of a product.

124. **Mini-storage Warehouse.** A building or group of buildings containing separate, individual spaces available for lease or rent for storage purposes only.

125. **Mixed-Use Development.** Premises that integrates a combination of retail, office, residential, hotel, recreation or other function.

126. **Mobile Grocery Store.** A motorized vehicle, trailer, or other portable unit drawn by a motorized vehicle from which food items are sold or distributed. The mobile grocery store may not exceed 26 feet in length. No preparation or assembly of food items or beverages may take place from the unit. Food items may include fresh fruit, vegetables, meat, dairy, pantry staples, or small household items. A mobile grocery store shall not be allowed to operate in the City's right-of-way without authorization or permission from the City.

127. **Motor Freight, Distribution.** Facilities engaged in the shipment of goods from shippers to receivers for a charge including the services of other transportation establishments to effectuate delivery.

128. **Nursery.** Any premises used for the retail and wholesale sale of plants grown on or off site, as well as accessory items such as clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels, but not power equipment such as lawnmowers or tractors.

129. **Office.** A room or group of rooms where the principal use is conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment.

130. **Office, Institutional.** Any building used as an office for charitable non-profit organizations that may hold meetings on a regular basis, and charity events on a temporary basis.

131. **Office, Leasing/Sales.** The use of a unit or dwelling as a leasing and or sales office

for other units solely within that development.

132. **Office Warehouse.** Any building used for the combined uses of office and warehouse, where the office function is the principal use (at least 60% of the gross floor area) of the building, for the primary purpose of wholesale trade, display, and distribution of products.

133. **Off-Premise Sign.** Any permanent or temporary sign which directs the attention of the general public to a business, service, product or activity not conducted, offered or sold as a major portion of business upon the premises where such sign is located.

134. **Open Space.** Land not covered by man-made impermeable surfaces, parking or buildings, other than recreational structures, pools, or stormwater facilities, which may be landscaped or preserved in a natural state for private use of owners or guests, or for public access as may be required by the provisions of these regulations or the zoning ordinance.

135. **Opioid**. An opioid is a class of addictive narcotic drugs that are often prescribed for severe pain relief but also are frequently used (and abused) illegally to create euphoric states of consciousness. Common types of opioids are heroin, codeine, and morphine.

136. **Opioid Replacement Therapy Treatment Facility**. Any operation that has received a Certificate of Need from the State Health Planning and Development Agency of Alabama to operate a facility to prescribe and/or dispense opioid replacement drugs and offer therapy to individuals and groups as a part of a treatment program. These opioid replacement drugs generally include, but not limited to, methadone, naloxone, naltrexone, and similar types of opioid receptor agonists.

137. **Public Market**. Premises where outdoor sales consisting of whole uncut produce, ornamental crops, value-added agricultural products such as baked goods, jams and jellies, pickles and relish, dried fruits, syrups and honey, eggs, meat, nuts, handmade art and crafts and unique local goods. Sales of used clothing, mass produced items and appliances are prohibited.

138. **Park.** Any facility or property specifically designated as a park, natural area or recreation area that is used for recreational uses or predominately kept in a natural state.

139. **Pawnshop.** Any building or portion thereof where a pawnbroker is engaged in lending money on the security of pledged goods left in pawn, or in the business of purchasing personal property to be left in pawn on the condition it may be redeemed by the seller for a fixed price within a fixed period of time, as regulated by Title 5, Chapter 19A of the Code of Alabama.

140. **Payday Loan (Deferred Presentment) Business**. A business that, in accordance to the requirements and restrictions listed in Chapter 18A of Title 5 of the Code of Alabama (Alabama Deferred Presentment Services Act), involves a transaction pursuant to a written agreement involving the following combination of activities in exchange for a fee: (1) accepting a check or authorization to debit a checking

account and, in connection with that acceptance, advancing funds to the checking account holder; and (2) holding the check or authorization to debit the checking account for a specified period of time.

141. **Personal Care Services.** Services such as, spas, tanning salons, beauty and barber care, and dry cleaning and laundry services not to include a laundry plant.

142. **Personal Instruction.** Services for training individuals or groups in the arts, dance, personal defense, crafts or other subjects of a similar nature.

143. **Place of Worship.** Any structure or site used primarily for religious practices.

144. **Power Plant.** Any structure or land used for the generation of electrical power.

145. **Premises.** A lot, parcel or acreage parcel together with all buildings and structures existing thereon.

146. **Principal Building.** A building that contains the principal use located on a premises.

147. **Principal Frontage.** With respect to corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. For corner lots, prescriptions for the location of parking in certain lot layers pertain only to the principal frontage and prescriptions for the first lot layer pertain to both frontages of a corner lot. With respect to non-corner lots, principal frontage is synonymous with frontage.

148. **Principal Use.** The main use located in a building or on a premises.

149. **Printing and Publishing.** The production and distribution of books, magazines, newspapers and other printed matter, including record pressing and publishing, and engraving.

150. **Private Club.** A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

151. **Public building.** Any building that is accessible to the public and its operation is funded from public sources.

152. **Racetrack.** Any premises or building that includes a measured course where animals or machines are entered in competition against one another or against time, including tracks that are used for drifting.

153. **Railroad Station.** A building or structure where railroad cars stop to load and un-load passengers.

154. **Railroad Yard.** The use of land, building or structure for activities directly associated with the operation of a railroad such activities may include loading and off-loading of freight, and maintenance and repair of railroad cars.

155. **Recreation Equipment Sales and Service.** The retail or wholesale sale of motorcycles, trucks and vans, recreational vehicles, boats, or similar motorized

recreational equipment, along with incidental service or maintenance such as, but not limited to boat dealers, motorcycle dealers, and recreational vehicle dealers.

156. **Recycling (Recovered Materials) Collection Center.** A drop-off facility that is staffed and fenced for the temporary assemblage of small recovered materials or recyclable consumer items, such as food and beverage containers, fabrics and paper, that has waste receptacles on site that are open to the public.

157. **Recycling Facility (Solid Waste Treatment Facility).** A facility, other than a facility open to the public to receive household waste and recyclable material, where any method, technique, or process is utilized to separate, process, modify, convert, treat or otherwise prepare non-putrescible waste so that component materials or substances may be used or reused or sold to third parties for such purposes.

158. **Resource Extraction.** The extraction of minerals or materials, including rock crushing, screening and the accessory storage of explosives.

159. **Restaurant.** Any establishment where food is prepared and sold for consumption on-site or as take-out.

160. **Retail.** An establishment engaged in the selling or renting of goods or merchandise (usually to the general public for personal use or household consumption, although they may also serve business and institutional clients) and in rendering services incidental to the sale of such goods.

161. **Rummage Sale.** A sale of personal property or other merchandise for the express purpose of raising charitable donations for the benefit of the entity holding the sale by a place of worship, charitable, or civic organization.

162. **Salvage Yard.** Any land or building used for the storage of recovered materials for the purpose of recycling, reuse, or proper storage for future recycling or reuse.

163. **School, Business.** An enterprise offering instruction and training in a service or the arts such as secretarial, cosmetology, commercial artist, computer software, legal, and similar training, provided that such enterprise does not offer student housing or athletic facilities at the site.

164. **School, Elementary/Middle.** Any building used for public primary instruction or a parochial or private school having a curriculum including the same courses ordinarily given in a public school that may include accessory structures such as a gymnasium.

165. **School, High.** Any building used for public secondary instruction or a parochial or private school having a curriculum including the same courses ordinarily given in a public school that may include accessory structures such as a gymnasium or stadium.

166. **School, Trade.** Any building used for the offering of regularly scheduled instruction in technical, commercial or industrial trade skills.

167. **Scientific Lab.** A facility primarily engaged in performing physical, chemical, and other analytical testing services or investigation and experimentation of a scientific nature and other scientific research, but not for the production of a product.

168. **Scrap Metal Processor.** Any building or land used for the storage, purchase or sale of scrap metal which may include the grading, cutting, preparing, processing or refining of scrap metal for sale and shipment to industrial consumers.

169. **Shopping Center.** A group of commercial-retail establishments planned, developed, owned or managed as a unit with off-street parking provided on the property. Any out-parcel within a shopping center shall be developed under a separate site plan.

170. **Sign.** A sign is any object or device or part thereof situated outdoors or indoors which is used to advertise or identify a person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images. Signs do not include merchandise, pictures or models of products or services incorporated in a window display.

171. **Solar Panel, Building Mounted.** A solar energy collection device mounted to a structure.

172. **Solar Panel, Ground Mounted.** A solar energy collection device mounted to the ground.

173. **Solid Waste Transfer Facility.** Any building used to receive and temporarily store solid waste prior to being delivered to a sanitary landfill or other solid waste facility.

174. **Special Exception.** An action where permission is granted to establish that a use be allowed within a district after the Board determines that the use as proposed would not disturb public health, safety, welfare, comfort, convenience, appearance, prosperity or general welfare.

175. **Stable.** Any lot, building, structure or premises used for the boarding, breeding, training, and/or raising of horses, whether by owners of such animals or by persons providing facilities and care.

176. **Stadium.** A large open space with tiers of seating for spectators surrounding a field used for sporting, entertainment or recreational events.

177. **Story.** That portion of a building other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

178. **Street.** A public right-of-way for movement of motor vehicles, pedestrians or non-motorized traffic, whether identified as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however designated.

179. **Street Line.** A dividing line between a lot, tract or parcel of land and an abutting street.

180. **Street Setback.** The distance a building or structure shall be setback from a front, side or rear lot line. Street setback may be referred to as a front, side or rear setback or front, side or rear yard.

181. **Structure.** Anything constructed or erected, the use of which requires a location

on the ground, or attached to something having a location on the ground, including but not limited to buildings, signs, billboards, back stops for tennis courts, fences or radio towers.

182. **Structural Alterations.** Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders; provided, however, that the application of any exterior modernizing shall not be considered a structural alteration.

183. **Studio, Radio/TV.** A facility for the staging and recording of video or audio productions such as, but not limited to, music commercials, programs, and motion pictures. Any broadcasting antennas or satellites are subject to the regulations of Chapter 4, Article V of this Ordinance.

184. **Subdivision Committee.** A committee composed of five (5) members of the Commission authorized to hear and decide upon applications for subdivisions of land, and to advise the chief legislative body of the City on vacation of public lands and new right-of-way dedications, all such actions to be taken on behalf on behalf of the Commission.

185. **Tank Farm.** Any land or structure used for the storage of one or more aboveground large containers for the bulk storage of material in liquid, powder or pellet form. Items stored at these facilities are intended to be wholesaled to retailers, and no retailing of stored items can occur on site.

186. **Timbering.** Any premises used for the harvesting of timber.

187. **Title Loan Business.** Any business that offers a short term loan that is collateralized by the title of a vehicle in accordance with the requirements and restrictions described and detailed in Chapter 19A of Title 5 of the Code of Alabama (Alabama Pawn Shop Act).

188. **Truck Plaza.** Any building premises or land in which or upon which a business may engage in the service, maintenance or storage of commercial vehicles including dispensing of motor fuel or petroleum products directly into motor vehicles. A truck plaza also may include overnight accommodation, restaurant and truck wash facilities.

189. **Truck Repair, Heavy.** Any building or land used for the general repair or reconditioning of heavy trucks and equipment and engines, including but not limited to body, frame or fender straightening or repair, the reconditioning, repairing, sale, mounting, or installing of any used tires, painting, or upholstery work, collision repair, vehicle steam cleaning, but excluding the assembly, disassembly, dismantling or salvage of any vehicle, in whole or in part. No abandoned or inoperable vehicles shall be stored on the premises.

190. **Upholstery Shop.** Any building used for the minor repair of furniture and replacement of upholstery to household and office furnishings, but does not include motor vehicle upholstering or repair.

191. **Urban Farm, Outdoor.** An outdoor commercial farm that produces and distributes

food crops, ornamental crops and other agriculture products, such as honey, either for sale on site or off site utilizing traditional farming methods, hydroponics or aquaculture.

192. **Urban Farm, Indoor.** An enclosed commercial farm that produces and distributes food crops, ornamental crops and other agriculture products for sale on site or off site utilizing hydroponics or aquaculture, and is completed enclosed within a building. Outside storage is prohibited.

193. **Utility Substation.** A facility that regulates electric current, telephone switching or natural gas pressure for distribution to individual neighborhoods.

194. **Variance.** A departure from any provision of this Ordinance for a specific parcel, except use, without changing the zoning ordinance or the underlying zoning of the parcel. A variance is intended to be granted on rare occasions, when demonstration of unnecessary hardship based on the review standards set forth in Chapter 9, Article VI in relation to other properties in the same zoning district.

195. **Veterinarian Clinic.** An enterprise for the medical treatment of animals and for the temporary, indoor overnight boarding, care, grooming and convalescence of domesticated dogs and cats.

196. **Warehouse.** A facility used primarily for the bulk storage of goods and materials or motor vehicles, characterized by heavy trucking activity, but not involved in manufacturing or production.

197. **Wholesale.** The sale or distribution of goods from the premises that may consist of the flexible use of the floor area for warehouse, assembly, showroom and office space.

198. **Wireless Communication.** Towers, antennas and accessory buildings for transmitting and receiving radio, television, satellite, cellular and microwave, and broadcast tower.

199. **Wrecker Impound Lot.** Any land used for the outside storage of operable vehicles awaiting final disposition.

200. **Wrecker Service Yard.** Any land used for the temporary outside storage of disabled vehicles awaiting final disposition. This definition shall not be applicable to junkyards as defined herein.

201. **Yard.** An open space between a building or use and the adjoining lot lines, unoccupied and unobstructed by any structure or use from the ground upward, except as otherwise provided in Chapter 3: Area and Dimensional Regulations.

202. **Yard, Required.** A yard the depth of which is specified in Chapter 3: Area and Dimensional Regulations of the applicable district.

203. **Yard, front.** A yard extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

204. **Yard, rear.** A yard extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

205. **Yard, side.** A yard extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

206. **Zoning Advisory Committee.** A committee composed of seven members of the Commission authorized to approve site development plans, hear and recommend rezoning of land applications and Zoning Ordinance text changes to advise the chief legislative body of the City, all such actions to be taken on behalf of the Commission.

207. **Zone map.** The map referred to in Chapter 9, Article I (Official Zoning Map).

208. **Zoning district map.** The Zone Map.

209. **Zoo.** Any premises, building or enclosure which contains wild animals on exhibition for viewing by the public.

Article I. Zoning Districts

Section 1: Zoning districts established.

A. Purpose and Intent. In order to implement the land use policies of the comprehensive plan, the following districts are established by this Ordinance. The zoning districts referenced in this Ordinance are as follows:

1. AG - Agriculture District:

2. Dwelling Districts:
   Single-Family Districts:
   D-1 - Single-Family District
   D-2 - Single-Family District
   D-3 - Single-Family District
   Multi-Family Districts:
   D-4 - Medium Density Residential District
   D-5 - Multiple Dwelling District
   D-6 - Planned Residential District

3. Mixed-Use Districts:

   MU-L - Mixed-Use Low
   MU-M - Mixed-Use Medium
   MU-H - Mixed-Use High
   MU-D - Mixed-Use Downtown

4. Commercial Districts:

   C-1 - Neighborhood Commercial District
   C-2 - General Commercial District

5. Manufacturing and Industrial Districts:

   I-1 - Light Manufacturing District
   I-2 - Heavy Industrial District
   I-3 - Planned Manufacturing District
   I-4 - Landfill, Mining and Timbering District

6. Specific Plan Districts:

   HID - Health and Institutional District
   PRD - Planned Recreational District
   MXD - Planned Mixed Use District

7. Holding Zone District

Section 2. Zoning districts described.

A. Agricultural (AG) District. The AG district is intended to allow for the use of land for agricultural uses within the City or other previously undeveloped vacant land or other low-density low-impact development. Some of these areas maybe best suited as natural conservation areas, because they are unsuitable for urban scale development due to severe environmental constraints.

The AG district is designed for uses that generally occur in rural rather than urban areas. These districts permit: very low density residential development generally on very large lots of land where public sanitary sewer service and public water supply are not available or not planned; agricultural and timbering uses; schools, churches and neighborhood-serving public uses.

B. Dwelling Districts. The dwelling districts allow a range of densities from very low (one unit per acre) to as high as thirty units per acre. These districts offer a diversity of housing types (including single-family, two-family, townhouse, cottage and multifamily developments) throughout all density ranges established by the comprehensive plan.

Dwelling districts are to be applied in a manner consistent with the comprehensive plan. They should be applied according to the compatibility of the associated density with the prevailing development pattern of the area.

Dwelling districts also permit a limited range of compatible and supportive community-related uses such as, churches, schools, small day care centers and public buildings.

1. Single-Family (D-1, D-2 and D-3) Districts. The D-1, D-2 and D-3 districts are designed to allow for single-family residential development at a variety of densities, these districts may be applied to preserve the character of developed residential areas that are predominately single-family in nature and recommended to remain so by the comprehensive plan. Uses in these districts include: single-family homes, schools, churches, and neighborhood-serving public uses.

2. Two-Family, Cottage, Townhouse and Small Multi-Family (D-4) District. The D-4 district is designed to allow for either established residential subdivisions where the pattern of development contains both one-and two-family, cottage developments, small multi-family structures and where maintaining a mixture of housing types is desirable. Uses in this district include: one and two-family homes, cottages, townhouses, small multi-family, schools, churches and neighborhood-serving public uses.

3. Multifamily (D-5) District. The D-5 district is designed to allow for a range of medium to high density residential development characterized by multi-family structures. Generally, they will be found at or adjacent to major transportation or transit corridors and intersections and in downtown adjacent areas. Uses in this district include: multi-family rental and condominium structures and

townhouses, typically in large developments or mid-rise and high-rise buildings, schools, churches, and neighborhood-serving public uses.

4. Planned Residential (D-6) District. The D-6 district is designed to allow for the flexible and orderly arrangement of large planned residential areas designed as a single unit in a manner consistent with a development plan. The owner or owners of a tract of land may submit a petition for the establishment of such a district provided the tract of land is five or more acres in area or less than five acres and is located within an urban renewal project area.

C. Mixed-Use Districts. Mixed-Use districts, ranging from vibrant downtown environments to active urban villages, include residential, retail, entertainment, and office uses. The mixture can be vertical, with uses on different floors of a building, and horizontal, with different uses in adjacency. Mixed-use centers are pedestrian-friendly and provide concentrated population and activity centers that can support enhanced transit. Buildings should be oriented to the street, with active ground-floor uses or easy pedestrian access. Parking should be located in the rear of the parcel or to the side where lots are shallow, or in parking structures or parking areas that serve multiple lots. Uses that require large amounts of trucking are not suitable for mixed-use areas. Churches, schools and public uses are included in mixed-use areas.

To effectively implement the mixed use policies of the comprehensive plan, a variety of mixed-use districts are provided that offer a range of permitted uses and intensities of development. The lowest intensity districts encourage development at intensities commensurate with nearby residential areas and local shopping services. The higher intensity mixed-use districts, being more permissive in the allowable intensity of development and the range of nonresidential uses, are intended to be located in areas characterized by enhanced transit opportunities and high levels of support services.

1. Mixed-Use (MU-L) Low District. The mixed use low district is designed to be compact, walkable, and contain residential and commercial areas, often with a "Main Street" spine that historically served as a town center with two- to three-story buildings. Uses can be mixed horizontally (side-by-side), or vertically (one above the other). Uses in this district include: multi-family, townhouse, cottage and small-lot single-family residential, neighborhood supporting retail and services, offices, hotels and live/work structures. Main Street areas would typically be characterized by ground-floor uses including small markets, convenience retail and services, restaurants and cafes, and existing or potential residential uses on upper floors.

2. Mixed-Use (MU-M) Medium District. The mixed-use medium district will have a similar mix of uses as in Mixed-Use Low District, but with provision for up to mid-rise buildings and larger multi-family developments.

3. Mixed-Use (MU-H) High District. The mixed-use high district is designed to accommodate medium- to high-density office, residential, retail, artisanal industries and small warehouses that may be characterized as light industry

that do not have noise, odor, illumination, trucking, or other adverse impacts on adjacent land uses. This district will could also include entertainment areas, and be transit-accessible or transit-ready locations. Intensity of development would vary by area. Uses in this district include: high density multi-family, loft, townhouse, and small-lot residential, retail and services, offices, hotels, large entertainment facilities, and live/ work structures. Ground-floor uses encouraged on desired pedestrian-intensive streets.

4. Mixed-Use (MU-D) Downtown. The mixed-use downtown district is designed to accommodate Medium- to high-density office, residential, retail and entertainment areas that create vibrant 18–24-hour, 7-day a week live-work-play environments, typically mid-rise to high-rise; artisanal industries and small warehouses that may be characterized as light industry that do not have noise, odor, illumination, trucking, or other adverse impacts on adjacent land uses. This district is focused in the downtown area, and should be transit-accessible. Uses in this district include: high density multi-family, loft, townhouse, retail and services, offices, hotels, large entertainment facilities, and live/work structures.

D. Commercial Districts. Commercial districts are designed for establishments engaged in a variety of consumer sales and service uses, professional and business services, and recreational uses. Freestanding structures are common within these commercial districts, with most businesses desiring to be oriented toward major streets and thoroughfares.

1. Neighborhood Commercial (C-1) District. The neighborhood commercial district is designed to allow for areas of neighborhood retail and services that meet the day-to-day needs of residents and workers of surrounding neighborhoods (typically within a 1-mile radius) Uses in this district include: smaller grocery stores, banks, restaurants and services such as small professional and health offices, barber/beauty shops, dry cleaners, small- to medium-scale offices, schools, churches, and neighborhood-serving public uses. This district is intended to be accessible both by automobile with sufficient parking, but also designed to accommodate pedestrian and bicycle access.

2. General Commercial (C-2) District. This general commercial district is designed to allow for areas serving a citywide or regional trade area, including shopping and entertainment centers that offer a range of retail and service establishments. Uses in this district include: large supermarkets, department stores, movie theaters, big box stores, supporting retail and other services, leisure and entertainment uses, high density multi-family, schools, churches, and neighborhood-serving public uses. Office uses with ground floor retail are encouraged. This district is intended to be accessible by auto, but should be designed to accommodate pedestrians and bicyclists, provide interior circulation between properties, and appropriate landscaping to counter heat island and stormwater impacts.

E. Manufacturing and Industrial Districts. The manufacturing and industrial districts will implement the various manufacturing and industrial policy objectives of the comprehensive plan. The range of permitted uses, area requirements and operational standards reflect the intended purpose of the respective district.

1. Light Manufacturing (I-1) District. The light manufacturing district is designed to allow for light manufacturing and office uses, potentially in "business park" settings, and typically near major transportation routes including Interstates, State Highways, railroad spurs and airport facilities. Uses in this district include: warehouse and distribution uses, urban agriculture, supporting uses, such as minor retail and services to support the major uses. No residential uses are allowed in this district.

2. Heavy Industrial (I-2) District. The heavy industrial district is designed to allow for heavy manufacturing. These uses typically require significant truck traffic and/or rail connections. Uses in this district include: heavy manufacturing, junkyards, scrap metal processors, and supporting uses included (minor retail, services, and offices connected to the industrial use or serving an industrial park). No residential uses are allowed in this district.

3. Planned Manufacturing (I-3) District. The planned manufacturing district is designed to allow for the orderly arrangement of high quality manufacturing development designed for maximum compatibility internally and with surrounding environs. This district shall not be established on less than six acres; however, this may be reduced to one acre, or a half block consisting of all lot frontage between two intervening streets, if such property is situated within or adjacent to a "C" or "I" zoning district or else abuts on a street having at least four moving lanes. Uses in this district include: warehouse and distribution uses, urban agriculture, supporting uses, such as minor retail and services to support the major uses. No residential uses are allowed in this district.

4. Mining, Landfill and Timbering Industrial (I-4) District. The mining, landfill and timbering district is designed to allow specific high intensity heavy industrial uses. Uses in this district include: heavy industrial, waste management, mining and timbering.

F. Special Planned Districts. Special planed districts are intended to implement the context sensitive development and land use compatibility of large planned developments such as, large recreation areas, large health and institutional uses, and large mixed-use planned areas. The districts shall be used to promote site specific development in the location, integration, and arrangement of land uses, building, structures, utilities, access, parking and streets.

1. Planned Recreation (PRD) District. The planned recreational district is designed to allow for the orderly arrangement of large recreational facilities and associated commercial uses. Uses in this district include: amusement parks, athletic fields and stadiums carnivals, circuses, drive-in or enclosed theaters, fairgrounds, golf courses, practice golf driving range, race tracks (automobile, stock cars,

motorcycles, horses and dogs), riding stables and trails, sport arenas, swimming pools, boating or water parks, theme parks, and zoos.

2. Health and Institutional (HID) District. The health and institutional district is designed to allow for the orderly arrangement of buildings and uses on the campus of professional health care providers, hospitals, institutions of higher learning, including residential dwellings that are associated with such uses and are located on the same campus of the associated institution, as well as other uses that may from time to time be associated with, or accessory to, the aforementioned uses.
3. Planned Mixed-Use (MXD) District. This planned mixed-use district is designed to allow for a compatible and complementary mixture of residential, office, commercial, cultural, institutional, governmental, and industrial uses in large planned developments. The purpose of this district is: to encourage flexible, creative and imaginative approaches to a range of urban development opportunities; to provide flexible and creative solutions to transportation and parking problems, public or private, motorized and pedestrian; to promote citizen interaction and a sense of community; to provide opportunities for affordable housing; to provide economic, convenient and efficient provision of sufficient public services; to assure the provision of public spaces and activities; to preserve significant natural features of the land; and to develop in a manner complementary with other land in the vicinity.

G. Holding Zone (HZD) District. The purpose of district is to provide for the regulation of all uses and structures within areas which have been recently annexed and are yet to be developed in order to encourage the orderly timing and phasing of growth in these areas. The Holding Zone District may be applied to any areas which have been recently annexed for which the City finds should be held in a primarily undeveloped state for an interim period of time pending development and/or completion of a comprehensive land use plan for the subject area.

Article II: Permitted Uses Table.

Section 1. General

A. The range of land uses permitted as of right, permitted subject to specific conditions, permitted subject to special exceptions standards, permitted as accessory to a principal use on the same lot, permitted by administrative review, permitted with an approved conceptual plan or permitted with an approved master plan are established in the following permitted use Table 1.02.201.

B. In addition to all other provisions of this Ordinance, land uses established by the district land use table as permitted with conditions (PC) shall comply with the specified provision of Chapter 4, Article II; special exception (SE) uses shall be subject to the provisions of Chapter 4, Article III; uses permitted as accessory to a principal use on the same lot shall be subject to the provisions of Chapter 4, Article IV; uses allowed by administrative review shall be subject to the provisions of Chapter 4, Article V, Section 1; uses allowed by conceptual plan shall be subject to the provisions of Chapter 4, Article V, Section 7; and uses allowed by master plan shall be subject to the provisions of Chapter 4, Article V, Section 3 of this Ordinance. In the event of any conflict between the district land use table and the text of regulation, the text shall control.

Section 2. Multiple Uses.

When two or more principal uses are proposed for the same lot, each principal use shall be subject to the applicable provision of this title.

Section 3. New Uses.

The Director is empowered to categorize new land uses not enumerated in this title according to the most comparable land use classification established by this title. The Director's decision may be appealed to the Board.

Section 4. Director and Council Approved Uses.

In the I-2 District, when any other use not in conflict with any other ordinance of the City regulating nuisances or solid waste and all other provisions of this Ordinance, that use may be approved by the Director, provided further, that the uses listed below may not be operated, placed, or established on a property until and unless the use shall be approved by the Council after report from the Department: Abattoir, Acid manufacture, Atomic power plant or reactor, Explosives manufacture or inside storage, Fat, grease, lard or tallow rendering or refining, Glue or size manufacture, Garbage, offal or dead animal reduction or dumping, Petroleum refining, Stockyard or slaughter of animals, Hazardous waste or toxic disposal, Medical and infectious materials disposal.

Section 5. Key To Permitted Use Table 1.02.201.
The following notations are utilized in the district land use table in conjunction with the zoning districts established by this title and the land uses associated with those districts. Lack of one of the following notations in a cell of the district land use table indicates that the specific land use category is not permitted within that corresponding zoning district.

P	-	Permitted as of right
PC	-	Permitted with conditions as described in Chapter 4, Article II
SE	-	Permitted by special exception with conditions as described in Chapter 4, Article III
PAC	-	Permitted as accessory to another principal use as described in Chapter 4, Article IV
AR	-	Administrative Review
X	-	Not permitted
PCP	-	Permitted with approved Conceptual Plan
PMP	-	Permitted with approved Master Plan

Section 6. Permitted Use Table 1.02.201.
Several notes at the end of the Permitted Use Table 1.02.201 indicate other land use development standards that may apply to development within the City.

TABLE 1.02.201 PERMITTED USES

	Dwelling Districts						Mixed Use Districts				Comm. Districts		Manufacturing & Industrial Districts				Other Districts			
Zoning District	**D-1**	**D-2**	**D-3**	**D-4**	**D-5**	**D-6**	**MU-L**	**MU-M**	**MU-H**	**MU-D**	**C-1**	**C-2**	**I-1**	**I-2**	**I-3**	**I-4**	**PRD**	**MXD / PUD**	**HID**	**AG**
DWELLING USES:																				
Dwellings:																				
Single-Family Detached	P	P	P	P	P	PC	P	P	X	X	X	X	X	X	X	X	X	PCP	PMP	P
Townhouse	X	X	X	PC	PC	PC	PC	PC	P	P	X	X	X	X	X	X	X	PCP	PMP	X
Duplex/Triplex/Quadplex	X	X	X	P	P	PC	P	P	X	X	X	SE	X	X	X	X	X	PCP	PMP	X
Multiple Family(5 or more units)	X	X	X	X	P	PC	X	P	P	P	X	P	X	X	X	X	PAC	PCP	PMP	X
Manufactured Housing	SE	SE	SE	SE	SE	SE	X	X	X	X	X	X	X	X	X	X	SE	PCP	X	PC
Communal Living Facility	X	X	X	SE	SE	SE	X	SE	SE	SE	X	SE	X	X	X	X	X	X	X	X
Conservation Subdivision	P	P	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cottage Development	X	X	X	P	X	P	P	P	X	X	X	X	X	X	X	X	X	X	X	X
Dwelling, Caretaker	X	X	X	X	X	X	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	PAC	PCP	PMP	X
Dwelling, Accessory	X	X	X	PAC	PAC	X	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	X	X	X	X
Dwelling Unit, Other	X	X	X	X	X	X	P	P	P	P	P	P	X	X	X	X	X	PCP	PMP	P

Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Associated Dwelling Uses:																				
Accessory Structure	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	PMP	P
Garage Sale/Yard Sale	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	PAC	PAC	PMP	PAC
Home Occupations	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	PAC	PAC	PMP	PAC
Residential Compost Pile	PAC	PAC	PAC	PAC	X	X	PAC	X	X	X	X	X	X	X	X	X	X	X	PMP	PAC
Temporary Storage	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	X	X	X	X	X	PAC	X	PAC
EDUCATIONAL/INSTITUTIONAL/ CIVIC USES:																				
Adult Care Center	X	X	X	X	SE	SE	PC	PC	PC	PC	PC	PC	X	X	X	X	PC	PCP	PMP	PC
Child Care Center	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	X	PC	PCP	PMP	PC
Family Day/Night Care Home	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	X	X	X	PC	PMP	PC
Family Group Day/Night Care Home	X	X	X	SE	PC	PC	PC	PC	PC	PC	PC	PC	X	X	X	X	X	X	PMP	PC
Accessory Child Care Center	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	PAC	SE	PMP	PAC
College or University	X	X	X	X	X	X	P	P	P	P	P	P	X	X	X	X	X	PCP	PMP	X
Fraternity/Sorority House	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PCP	PMP	X
Institutional Office	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	X	X	X	X	X	PCP	PMP	X
Internment, Cemetery	SE	SE	SE	SE	SE	SE	X	X	X	X	X	X	X	X	X	X	X	SE	X	SE

Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Internment, Columbarium	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	X	PAC	PMP	PAC
Internment, Mausoleum	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	X	PAC	X	PAC
Park/Greenway	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	P	PCP	P	P
Personal Instruction	PC	PC	PC	PC	PC	PC	P	P	P	P	P	P	X	X	X	X	P	PCP	PMP	P
Place of Worship	SE	SE	SE	SE	PC	PC	SE	PC	PC	PC	SE	PC	X	X	X	X	X	PCP	PMP	PC
Private Club	X	X	X	X	X	X	X	P	P	P	X	P	P	P	X	X	X	PCP	PMP	P
Public Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	P	PCP	P	P
Rummage Sale	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	X	X	PAC	X	PAC
School, Business	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	PCP	PMP	X
School, Elementary/Middle	SE	SE	SE	SE	PC	PC	SE	PC	PC	PC	SE	PC	X	X	X	X	X	PCP	PMP	X
School, High School	SE	SE	SE	SE	PC	PC	SE	PC	PC	PC	SE	PC	X	X	X	X	X	PCP	PMP	X
School, Trade	X	X	X	X	X	X	X	X	SE	SE	X	SE	P	P	P	X	SE	PCP	PMP	X
MEDICAL USES:																				
Clinic	X	X	X	X	X	X	PC	P	P	P	PC	P	P	P	P	X	X	PCP	PMP	X
Hospital	X	X	X	X	X	X	X	SE	P	P	X	P	P	X	P	X	X	PCP	PMP	X
Medical Lab	X	X	X	X	X	X	X	SE	P	P	SE	P	P	P	P	X	X	PCP	PMP	X
Opioid Replacement Therapy Treatment Facility	X	X	X	X	X	X	X	X	SE	SE	X	SE	SE	SE	X	X	X	X	X	X
Scientific Lab	X	X	X	X	X	X	X	X	SE	SE	X	SE	P	P	P	X	X	PCP	PMP	X

Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Veterinarian Clinic	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	PC	X	PC	PCP	PMP	PC
COMMERCIAL USES:																				
Animal Boarding Facility	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	PC	X	PC	PCP	PMP	PC
Animal Day Care	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PCP	PMP	PC
Animal Kennel	X	X	X	X	X	X	X	X	X	X	X	X	PC	PC	PC	X	PC	X	X	PC
Appliance Repair	X	X	X	X	X	X	X	X	PC	PC	X	PC	P	P	P	X	X	PCP	X	X
Automobile Parking	SE	SE	SE	SE	SE	SE	P	PC	PC	PC	P	P	PC	PC	P	X	P	PCP	PMP	X
Automobile Sales	X	X	X	X	X	X	X	X	P	P	X	P	P	P	P	X	P	PCP	X	X
Automobile Service	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PCP	PMP	X
Automobile/Light Truck Repair	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	PC	X	PC	PCP	X	X
Bakery, Retail	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	PCP	PMP	X
Bakery, Wholesale	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	X
Bar	X	X	X	X	X	X	X	P	P	P	X	P	P	P	X	X	P	PCP	X	X
Bed and Breakfast Inn	X	X	X	X	X	X	PC	PC	P	P	PC	P	X	X	X	X	X	PCP	PMP	P
Bed & Breakfast Inn, Historic	SE	SE	SE	PC	PC	PC	X	X	X	X	X	X	X	X	X	X	X	PCP	PMP	X
Off-Premise Sign	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	PC	X	X	PCP	X	X
Business Service	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	PCP	PMP	X
Business Service w/ Distribution	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	X

Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Car Wash, Automated	X	X	X	X	X	X	SE	SE	PC	PC	SE	PC	PC	PC	PC	X	PC	PCP	X	X
Car Wash, Manual	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PCP	PMP	X
Convenience Store	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PCP	PMP	X
Donation Box	X	X	X	X	X	X	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	X	PAC	PMP	X
Donation Center	X	X	X	X	X	X	X	X	P	P	X	P	P	P	X	X	X	PCP	PMP	X
Dressmaker/Tailor/Millinery	X	X	X	X	X	X	P	P	P	P	P	P	P	P	X	X	X	PCP	PMP	X
Drive-In/Drive-Through	X	X	X	X	X	X	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	PAC	PAC	PMP	X
Electronics Repair	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	X	PCP	PMP	X
Event Center	X	X	X	X	X	X	X	X	SE	SE	X	SE	P	X	X	X	SE	PCP	X	X
Financial Institution	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	PCP	PMP	X
Fitness Center	X	X	X	X	X	X	PC	P	P	P	PC	P	P	P	P	X	P	PCP	PMP	X
Funeral Home	X	X	X	X	X	X	X	X	P	P	X	P	P	P	P	X	X	PCP	X	X
Furniture Store	X	X	X	X	X	X	X	X	P	P	P	P	P	P	P	X	X	PCP	X	X
Home Improvement Center	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	PCP	X	X
Hotel	X	X	X	X	X	X	X	PC	P	P	X	P	P	X	P	X	PC	PCP	PMP	X
Market, Farmer's	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	X	PC	PCP	PMP	PC
Market, Flea	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	X	X	PCP	X	X
Market, Public	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	X	X	PC	PCP	PMP	PC
Mini-Storage Warehouse	X	X	X	X	X	X	X	X	PC	PC	X	PC	P	P	P	X	X	PCP	X	X

Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Mobile Grocery Store	PAC	PAC	PAC	PAC	PAC	PAC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PC	PC	PC
Nursery	X	X	X	X	X	X	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PCP	PMP	PC
Office	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	PCP	PMP	X
Office, Leasing/Sales	PC	PC	PC	PC	P	P	P	P	P	P	P	P	X	X	X	X	PC	PCP	PMP	PC
Payday Loan	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	X	X	X	X	X	X
Personal Care Services	X	X	X	X	X	X	P	P	P	P	P	P	P	P	X	X	P	PCP	PMP	X
Recreation Equipment Sales/Service	X	X	X	X	X	X	X	X	X	X	X	P	P	P	P	X	P	PCP	X	X
Restaurant	X	X	X	X	X	X	P	P	P	P	P	P	P	P	P	X	P	PCP	PMP	X
Retail	X	X	X	X	X	X	PC	P	P	P	PC	P	P	P	P	X	P	PCP	PMP	X
Shopping Center	X	X	X	X	X	X	PC	P	P	P	PC	P	P	P	P	X	P	PCP	PMP	X
Title Loan/Pawnshop	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	X	X	X	X	X	X
Upholstery Shop	X	X	X	X	X	X	P	P	P	P	P	P	P	P	PC	X	X	PCP	X	X
COMMUNICATION USES:																				
Printing and Publishing	X	X	X	X	X	X	PC	PC	P	P	PC	P	P	P	P	X	X	PCP	PMP	X
Studio, Radio/TV	X	X	X	X	X	X	PC	PC	P	P	PC	P	P	P	P	X	X	PCP	PMP	X
Wireless Communication:																				
Broadcast Satellite	X	X	X	X	X	X	X	X	AR	X	SE	AR	AR	AR	AR	AR	SE	SE/AR	AR	AR
Broadcast Tower	X	X	X	X	X	X	X	X	X	X	X	X	SE	SE	SE	SE	SE	SE/AR	X	SE

Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Cellular, Microwave or Two-Way Antennas	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	AR	SE/AR	AR	AR
Cellular, Microwave or Two-Way Towers	SE	SE	SE	SE	SE	SE	SE	SE	AR	X	SE	AR	AR	AR	AR	AR	AR	SE/AR	SE	AR
MANUFACTURING & INDUSTRIAL USES:																				
Brew Pub	X	X	X	X	X	X	X	PC	PC	PC	X	PC	P	P	P	X	PC	PCP	X	X
Brewery	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	X
Brewery, Micro	X	X	X	X	X	X	X	X	PC	PC	X	X	P	P	P	X	PC	PCP	X	X
Contractor Yard	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	X
Dairy, Factory	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	P
Dairy, Farm	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PCP	X	P
Distillery	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	X
Distillery, Artisanal	X	X	X	X	X	X	X	X	PC	PC	X	X	P	P	P	X	PC	PCP	X	X
Heavy Equipment, Sales and Service	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	X	X	X
Junk Yard, General	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Junk Yard, Vehicular	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Manufacturing, Heavy	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Manufacturing, Light	X	X	X	X	X	X	X	X	X	X	X	X	PC	PC	P	X	X	PCP	X	X
Manufacturing, Specialized	X	X	X	X	X	X	X	X	PC	PC	X	PC	P	P	P	X	X	PCP	X	X
Resource Extraction	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X

Motor Freight, Distribution	X	X	X	X	X	X	X	X	X	X	X	X	P	P	P	X	X	PCP	X	X
Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Salvage Yard	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Scrap Metal Processor	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Tank Farm	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X
Timbering	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	PC
Truck Plaza	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	X	X	X	X	X
Truck Repair, Heavy	X	X	X	X	X	X	X	X	X	X	X	X	P	P	PC	X	X	X	X	X
Warehouse	X	X	X	X	X	X	X	X	PC	PC	X	X	P	P	P	X	X	PCP	PMP	X
Warehouse/Office	X	X	X	X	X	X	X	X	PC	PC	X	PC	P	P	P	X	X	PCP	X	X
Wrecker Service w/outside storage of disabled vehicles	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Wrecker Impound Lot	X	X	X	X	X	X	X	X	X	X	X	X	SE	PC	X	X	X	X	X	X
AGRICULTURAL USES:																				
Apiary	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	PAC	X	PAC	PAC	PMP	P
Chicken Coop	PAC	PAC	PAC	X	X	X	X	X	X	X	X	SE	SE	SE	SE	X	X	X	X	PAC
Community Garden	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	X	PC	PC	PMP	P
Dairy Farm	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P
Livestock Barn	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	SE	X	PAC
Market Stand	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	X	X	PAC	X	X

Poultry/Rabbit Farm	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P
Stable/Ranching	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PAC	X	X	P
Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Urban Farm, Indoor	X	X	X	X	X	X	X	X	P	P	X	P	P	P	PC	X	PC	PCP	X	P
Urban Farm, Outdoor	X	X	X	X	X	X	X	X	X	X	X	SE	PC	PC	PC	X	PC	PCP	X	P
TRANSPORTATION USES:																				
Airport	X	X	X	X	X	X	X	X	X	X	X	X	X	X	SE	X	X	X	X	X
Bus Station	X	X	X	X	X	X	X	PC	PC	PC	X	PC	PC	X	PC	X	X	PCP	PMP	X
Heliport	X	X	X	X	X	X	X	X	SE	SE	X	X	SE	SE	SE	X	SE	X	PMP	X
Railroad Station	X	X	X	X	X	X	X	X	X	PC	X	X	PC	PC	X	X	X	X	X	X
Railroad Yard	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X
UTILITY USES:																				
Power Plant	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X	X	X
Utility Substation	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P	P	P	P	SE	SE	SE	SE
Reservoir/Water Tank	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	P	P	X	SE	SE	SE	SE
Solar Panel, Building Mounted	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	PC	P	P	P	P	PC	PCP	PC	PC
Solar Panel, Ground Mounted	X	X	X	X	PC	PC	X	PC	PC	PC	PC	PC	P	P	P	P	PC	PCP	PC	PC
Waste Water Treatment Plant	X	X	X	X	X	X	X	X	X	X	X	X	X	SE	X	SE	X	X	X	X
Water Treatment Plant	X	X	X	X	X	X	X	X	X	X	X	X	SE	SE	SE	X	SE	X	X	SE
Water/Sewer Pumping Station	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE

WASTE MANAGEMENT USES:																				
Composting Facility	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	PC	X	X	X	PC
Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Landfill	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	PC	X	X	X	X
Landfill, Sanitary (Private)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X
Landfill, Sanitary (Public)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	X	X	X
Recycling Collection Center	X	X	X	X	X	X	X	X	PC	PC	X	PC	P	P	X	X	X	PCP	PMP	X
Recycling Facility	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	PC	X	X	X	X
Solid Waste Transfer Facility	X	X	X	X	X	X	X	X	X	X	X	X	X	PC	X	PC	X	X	X	X
RECREATION/ENTERTAINMENT USES:																				
Adult Establishment	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	X	X	X	X	X	X
Amphitheater	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PC	PC	X	PC	X	X	X	X	P	PCP	PMP	X
Arena	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PC	PC	X	PC	PC	X	X	X	PC	PCP	PMP	X
Amusement, Indoor	X	X	X	X	X	X	PC	P	P	P	PC	P	P	X	P	X	P	PCP	X	X
Amusement, Outdoor	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	PC	PC	X	PC	PCP	PMP	X
Convention Center	X	X	X	X	X	X	X	X	PC	PC	X	PC	PC	X	X	X	PC	PCP	PMP	X
Country Club Golf/Swim	P	P	P	P	P	P	P	P	P	P	P	P	P	P	X	P	P	PCP	PMP	P
Drive-In Movie	X	X	X	X	X	X	X	X	X	X	X	X	P	P	X	X	P	PCP	X	X
Driving Range Free-Standing	X	X	X	X	X	X	X	X	X	X	X	PC	PC	PC	X	X	PC	PCP	X	X
Greenway/Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	PCP	PMP	P

Fitness Center	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	P	P	P	P	P	X	X	X	P	PCP	PMP	X
Zoning District	D-1	D-2	D-3	D-4	D-5	D-6	MU-L	MU-M	MU-H	MU-D	C-1	C-2	I-1	I-2	I-3	I-4	PRD	MXD / PUD	HID	AG
Stadium	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PAC	PC	PC	X	PC	PC	X	X	X	PC	PCP	PMP	X
Zoo	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X	P

NOTES :

In addition to all other provisions of this Ordinance, Wireless Communication Facilities shall comply with the specified provisions of Chapter 4, Article V, Section 1 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the D-6 district shall comply with the specified provisions of Chapter 4, Article V, Section 2 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the HID district shall comply with the specified provisions of Chapter 4, Article V, Section 3 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the PRD district shall comply with the specified provisions of Chapter 4, Article V, Section 4 of this Ordinance.

In addition to all other provisions of this Ordinance, construction of walls and fences shall comply with the specified provisions of Chapter 4, Article V, Section 5 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the I-3 district shall comply with the specified provisions of Chapter 4, Article V, Section 6 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the MXD district shall comply with the specified provisions of Chapter 4, Article V, Section 7 of this Ordinance.

In addition to all other provisions of this Ordinance, property zoned with a preceding Q shall comply with the specified provisions of Chapter 4, Article V, Section 8 of this Ordinance.

In addition to all other provisions of this Ordinance, property zoned with a preceding C shall comply with the specified provisions of Chapter 4, Article V, Section 9 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the HZD district shall comply with the specified provisions of Chapter 4, Article V, Section 10 of this Ordinance.

In addition to all other provisions of this Ordinance, developments within the a flood plain zone district shall comply with the specified provisions of Chapter 8, Article II, of this Ordinance.
In addition to all other provisions of this Ordinance, developments within the US Highway 280 overlay district shall comply with the specified provisions of Chapter 8, Article III, of this Ordinance.
In addition to all other provisions of this Ordinance, developments within the highland park neighborhood form based overlay district shall comply with the specified provisions of Chapter 8, Article IV, of this Ordinance.
In addition to all other provisions of this Ordinance, developments within any historic or commercial revitalization district shall comply with the specified provisions of the Design Guidelines for the City.
In addition to all other provisions of this Ordinance, developments that require a special exception shall meet the conditions of the specified use as described in Chapter 4, Article III and comply with the specified provisions of Chapter 9, Article V of this Ordinance.
In addition to all other provisions of this Ordinance, non-conforming uses shall comply with the specified provisions of Chapter 9, Article VII of this Ordinance.
In addition to all other provisions of this Ordinance, site plans for development shall comply with the specified provisions of Chapter 9, Article III of this Ordinance.
In addition to all other provisions of this Ordinance, when a property owner requests a variance from the regulations contained in this Ordinance, they shall comply with the specified provisions of Chapter 9, Article VI of this Ordinance.
Cottage Developments and Conservation Subdivisions are alternative development patterns that may be applied to single-family development as described in Chapter 3, Article II.
In addition to all other provisions of this Ordinance, when a property owners requests a rezoning of property, they shall comply with the specified provisions of Chapter 9, Article II of this Ordinance.
In addition to all other provisions of this Ordinance, signs shall be regulated by the provisions of Chapter 4, Article IV, Section 11.
In addition to all other provisions of this Ordinance, all developments shall comply with the general regulations of Chapter 1, Article II of this Ordinance.

Title 1 – Zoning Ordinance
Chapter 3: District Area and Dimensional Regulations

Article I. Lot Area, Setbacks, Required yards, Accessory Building Area and Building Height

Section 1. Purpose and general provisions.

A. Purpose and Intent. The purpose of this chapter is to establish appropriate standards relating to the size and placement of structures within each of the zoning classifications created by this title in order to assist in the achievement of the goals established in the comprehensive plan for the development of the city.

B. General Provisions. The required specifications for lot area, density, setbacks, building heights and separation between buildings are specified in this chapter on the basis of zoning district classification. Lots shall be created, and building permits shall be issued only in compliance with these area and dimensional regulations, except when a measurement regarding lot area, building height or setback is within 5% of what is required, the Director or his designee may allow an administrative exception.

Section 2. Street setbacks.

A. Measurement: For all lots the street setback shall be measured from the street right-of-way line.

B. In all cases minimum lot width shall be measured at the front yard setback line.

C. No side yard setback is required for common walls for any dwelling, but exterior side yards for buildings are as shown in Table 1.03.102 and Table 1.03.103.

D. Street Setbacks.

1. The minimum setback of a structure from the property line shall be established by Table 1.03.101 or Table 1.03.102 according to the zoning of the property.

2. When the established development pattern in any block face is residential in character, the minimum required street setbacks shall be the average of the street setback of the lots immediately adjacent on either side of the lot, or the front yard setback provided in Table 1.03.101, whichever is greater.

   a. If the average setback is greater than the front yard setback of Table 1.03.101, the required setback shall not be more than twice that required by that table.

   b. When the adjacent lot is vacant, or the subject lot abuts a side street, the front yard setback provided in Table 1.03.101 shall be used for that side.

3. When the rear setback of a corner lot is oriented towards the rear setback of a neighboring lot, the required street setback along the street common to those two lots may be reduced by 50%.

4. When the rear setback of a corner lot is oriented towards the side setback of a neighboring lot, the required street setback for the corner lot along the street common to those two lots may be reduced by 40%.

5. Through lots are required to have a buffer subject to Chapter 6, Article I, Section 6, Item B.

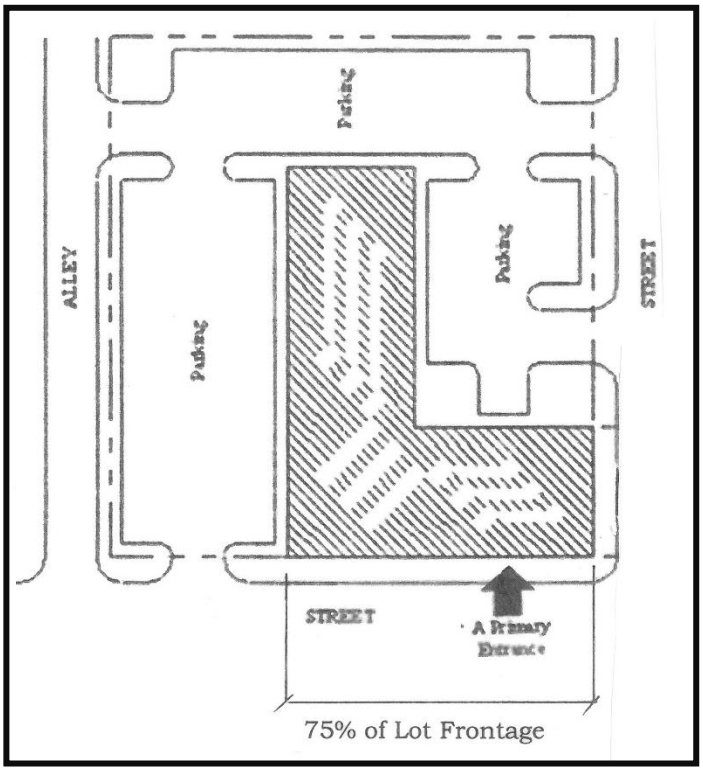
6. The front façade (that part of the building that fronts on the required front yard) of a principal structure on a corner lot that has lot lines of unequal length abutting the streets shall be oriented to the shorter lot line, except where the Director determines that the longer lot line is more appropriate based on one or more of the following criteria:
   a. The proposed structure will contain multiple businesses with outside entrances;
   b. The predominant character or pattern of adjoining development is or will be oriented to the street on which the longer lot line is located.
7. The front façade (that part of the building that fronts on the required front yard) of a principal structure: on a corner lot that has two sides of equal length; a lot fronts on three or four streets; or a through lot; the Director shall use the following guidelines to determine which lot line constitutes the front yard:
   a. The prevailing building orientation and setback patterns of buildings located on the same block face as the subject lot.
   b. Block and lot shape.

Section 3. Street setbacks and building orientation in mixed use districts.

A. This section establishes street setbacks within all mixed use districts regardless of the minimum street setback requirements described in Tables 1.03.101 or 1.03.102.

B. For the purposes of this section, lots that are 60 feet wide or greater shall have the front facade of the building extend across at least 75 percent of the lot frontage or be at least 45 feet in width, whichever is greater. Lots that are less than 60 feet wide shall have the building extend across the full width of the lot unless a driveway is required to access required parking, except that one or two family dwellings may have side yards a minimum of three feet in width. If a driveway is needed for service to accessory parking, an opening of up to 26 feet wide shall be permitted. Parking shall be permitted only at the sides and rears of buildings, and at the fronts of the buildings to the extent shown in Figure 1.03.101. The primary entrance to a building shall be located at the front setback line, and shall be located as close to street crosswalks as practical.

Figure 1.03.101



C. The following regulations shall be used to determine the street setback, as applicable.

1. The maximum setback of a structure from the property line shall be established by Table 1.03.103 according to the zoning of the property, unless one of the following items applies:
2. No minimum front setback is required.
3. The maximum front building setback may not exceed the average front yard depth of the nearest lot on either side of the subject lot or setback listed in Table 1.03.103, whichever is less.
   a. If one or more of the lots required to be included in the averaging calculation are vacant, such vacant lots will be deemed to have a yard depth of zero feet.
   b. Lots separated from the subject lot by a street or alley may not be used in computing average.
4. The following exceptions to the maximum front yard building setbacks apply:
   a. A portion of the building may be setback from the maximum setback line in order to provide an articulated façade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one square foot for every linear foot of building frontage.

b. A building may be setback further than the maximum setback in order to accommodate an outdoor plaza, arcade or eating area. In order to preserve the continuity of the street wall, the building may be setback no more than 10 feet from the front or at least 40 percent of the building façade must be located at the maximum setback line. The total area of an outdoor plaza, arcade or eating area that is located between a public sidewalk and the building façade may not exceed 10 square feet per linear feet of the building's street frontage.

c. In the MU-L and MU-M districts, the average street setback of existing structures along the same block, up to 20 feet, may be applied to new single-family or duplex construction on that block if determined by the Director to be appropriate to maintain or reinforce an established form or character of development.

5. The minimum rear setback is 0 except when the lot is adjacent to a dwelling district, and in that case the rear setback shall be 20 feet.
6. The minimum side setback is 0 except when the lot is adjacent to a dwelling district, and in that case the side setback shall be five feet.

Section 4. Other setbacks.

A. Setbacks for Irregular-Shaped Lots. Wherever a lot is of such irregular shape that the setback provisions cannot be readily applied, the Director shall interpret the application of the setback provisions.
B. Common Walls. The side setback requirements shall be waived only when attached dwelling units are subdivided for sale along common party walls in the dwelling and mixed-use districts.
C. Building Separation. In dwelling districts the minimum distance between two buildings on the same lot shall be 10 feet or the minimum required by the building code, whichever is greater.
D. Permitted Setback Obstructions. The following structures or building components may be located within required setbacks, provided that it does not cover more than 30 percent of the required yard or conflict with building code, fire code, technical code or general city code. Except for screening walls, fences and hedges, the following features shall not be permitted within a required buffer.

1. Accessory buildings.
   a. Accessory buildings, when located to the rear of a principal structure on a lot where the rear lot line abuts an alley, shall provide a minimum rear setback of three feet, except when garage doors open directly to an alley, in which case the minimum rear setback shall be five feet;
   b. Accessory buildings (including above-ground swimming pools extending more than twelve inches above ground level) of 700 square feet or less, when located to the rear of a principal structure, shall provide a minimum rear setback equal to one-half of that required for the district (but not less than three feet);
2. Arbors and trellises;
3. Awnings, patio covers, or canopies projecting not more than six feet from a building wall over a required setback, and having no supports other than provided by the wall or its integral parts;
4. Chimneys projecting not more than three feet into the required setback, area provided that a minimum setback of three feet to any property line shall be provided;
5. Clothes poles or clothes lines in rear setbacks of residential districts;
6. Within mixed use districts, covered or enclosed porches, between thirty inches and eight feet in height above grade, in the side and rear setback areas (but not closer than three feet from the property line);
7. Curbs and sidewalks;
8. Eaves, gutters or downspouts, projecting into or over required yards not more than 24 inches;
9. In nonresidential districts, elevated pedestrian walkways that cross lot lines or public ways;
10. Fire escapes or staircases, the riser shall be at least fifty percent open, subject to the following conditions:
    a. In residential districts the encroachment may be up to three feet into the required yard as long as a minimum setback of two feet from the property is maintained,
    b. In mixed-use and nonresidential districts, the total area of stairway coverage shall not exceed thirty percent of the area of such required yard;
11. Flagpoles having only one structural ground member;
12. Heating, ventilation and air conditioning units (including compressors and condensers) for D-1, D-2, D-3, D-4, D-5 and D-6 zoning districts, provided exhaust air is directed vertically or otherwise away from the adjacent property line and is setback from property line a minimum of three feet;
13. Mailboxes;
14. Open terraces, including natural plant landscaping up to five feet above grade and no closer than two feet from property line;
15. Open, uncovered stoops, including handicap ramps up to five feet above grade and no closer than two feet from property line;
16. Recreational equipment in the rear setback in residential districts;
17. Signs, subject to the provisions of Chapter 7.

18. Steps to the principal entrance and necessary landings, together with a railing no more than four feet high, and extending no more than six feet into the setback;
19. In all mixed use and commercial districts, street furniture such as benches, drinking fountains, trash receptacles (not dumpsters), ash trays, light standards or directional signs. Dumpsters may encroach on the required rear setback;
20. In-ground swimming pools extending twelve inches or less above ground level in side or rear setback areas provided that the pool shall be enclosed by a four foot fence and mechanical pool equipment shall not be closer than three feet from any property line;
21. Trees, shrubs, flowers, hedges or other features of natural growth;
22. Vehicular parking areas only in rear and side yards;
23. Driveways, except within landscape buffer yards;
24. Walls or Fences pursuant to Chapter 4, Article V, Section 5;
25. An uncovered deck that is located at least 10 feet from the rear property line, does not encroach on required side setbacks and is no more than five feet above grade;
26. Utility transmission lines and associated structures, such as poles;
27. Satellite dishes not exceeding 18 inches in diameter in rear or side yards; and,
28. Yard and service lighting fixtures and poles;
29. Barbecue grills and fire pits in the rear yard only.

Section 5. District area and dimensional tables.
The area and dimensional standards of this ordinance are established by the district area and dimensional tables of this Article. The standards contained in these tables apply uniformly to all uses within the same zoning district classification. Alternative standards may be imposed by any planned unit development, historic, commercial revitalization or form base code overlay district as long as the standards are consistent with the purpose and intent of the overlay district.

A. District area and dimensional Table 1.03.101 establishes the area and dimensional requirements for one-family dwellings in residential districts.
B. District area and dimensional Table 1.03.102 establishes the area and dimensional requirements for multifamily and nonresidential structures in residential and commercial districts.
C. District area and dimensional Table 1.03.103 establishes the area and dimensional requirements for all structures in AG, mixed-use and nonresidential districts.
D. If a lot of record at the time of the effective date of this Ordinance had less area or less width than described in Table 1.03.101, then said lot may nonetheless be used for a single-family dwelling.

Table 1.03.101
SINGLE-FAMILY-DETACHED AND MANUFACTURED HOMES

Zoning District	**Minimum Lot Area (in square feet per unit)**	**Minimum Lot Width (in feet)**	**Minimum Front Setback (in feet)**	**Minimum Rear Setback (in feet)**	**Minimum Side Setback (in feet one side/ total of both)**	**Maximum Building Height (in feet)**
AG	1 Acre	100	40	40	15	35*(4)*
D-1*(5)*	15,000	90	40*(1)*	40*(2)*	8/18*(3)*	35*(4)*
D-2*(5)*	10,000	75	30*(1)*	30*(2)*	7/16*(3)*	35*(4)*
D-3*(5)*	6,000	50	25*(1)*	25*(2)*	5/14*(3)*	35*(4)*
D-4*(5)*	4,500	40	20*(1)*	15*(2)*	5/14*(3)*	35*(4)*
D-5*(5)*	4,500	40	20*(1)*	15*(2)*	5/14*(3)*	35*(4)*
D-6*(5)*	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	35*(4)*

(1) Established setback. See Article I, Section 2 (D) (2) of this chapter.
(2) If the rear yard area abuts an alley, ½ of the alley's right-of-way width may be used in calculating this dimension, provided that a minimum setback of at least three feet is maintained.
(3) If the side yard area abuts an alley, ½ of the alley's right-of-way width may be used in calculating this dimension, provided that a minimum setback of at least three feet is maintained.
(4) For guidelines to determine building height, see Section 7 of this chapter.
(5) For site plan requirements see Chapter 9, Article III.

Table 1.03.102
MULTIFAMILY, TOWNHOUSE AND NONRESIDENTIAL USES

Zoning District	Minimum Lot Area (in square feet per unit)	Minimum Lot Width (in feet)	Minimum Front Setback (in feet)	Minimum Rear Setback (in feet)	Minimum Side Setback (in feet)	Maximum Building Height (in feet)
D-4*(5)* Duplex	2,500	50*(4)*	25*(1)*	20*(2)*	5/14*(3)*	35*(4)*
D-4*(5)* Townhouse	2,000	18*(4)*	15*(1)*	20*(2)*	5/14*(6)*	35*(4)*
D-4*(5)* Triplex, Quadplex max. 4 units)	2,000	50*(4)*	25*(1)*	20*(2)*	5/14*(3)*	35*(4)*
D-5*(5)* Duplex	2,000	50*(4)*	25*(1)*	20*(2)*	5/14*(3)*	45*(4)*
D-5*(5)* Townhouse	1,800	16*(4)*	15*(1)*	20*(2)*	5/14*(6)*	45*(4)*
D-5*(5)* M. F.	1,000	50*(4)*	25*(1)*	25*(2)*	5/14*(3)*	45*(4)*
D-6*(5)*	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	See chp.4, Article V, Section 2	45*(4)*
C-2*(5)* Duplex	2,500	50*(4)*	0*(1)*	0*(1) (2)*	0*(1) (3)*	45*(4)*
C-2*(5)* Multi Family	500	50*(4)*	0*(1)*	0*(1) (2)*	0*(1) (3) (6)*	75*(4)*

(1) Established setback. See Article I, Section 2 (D) (2) of this chapter.
(2) If the rear yard area abuts an alley, ½ of the alley's right-of-way width may be used in calculating this dimension, provided that a minimum setback of at least three feet is maintained.
(3) If the side yard area abuts an alley, ½ of the alley's right-of-way width may be used in calculating this dimension, provided that a minimum setback of at least three feet is maintained.
(4) For guidelines to determine building height, see Section 7 of this chapter.
(5) For site plan requirements see Chapter 9, Article III.

(6) No side yards are required for interior walls; exterior side yards are as listed above.

Note 1: For all zoning districts permitting multi-family uses, the rear and side setbacks for single-family cottage developments shall be a minimum of three feet. This note shall not apply to any Mixed Use district.

Note 2: When a lot has a width of 100 feet or less and is used for a multiple family dwelling, such multiple family dwelling shall be constructed in a manner that the front of the structure and all front doors shall face and open toward a dedicated street and all rear doors shall face and open toward the rear yard.

Note 3: In the D-4 district, minimum lot width for townhouses shall be no less than 18 feet with an average of 20 feet in an attached row, and in the D-5 district no less than 16 feet with an average of 18 feet in an attached row.

Table 1.03.103
MIXED-USE AND NONRESIDENTIAL DISTRICTS

Zoning District	Minimum Lot Area (in square feet/unit)	Minimum Lot Width (in feet)	Minimum Front Setback (in feet)	Minimum Rear Setback (in feet)	Minimum Side Setback (in feet)	Maximum Building Height (in feet)
MU-L*(5)* *Single-Family*	3,750	40	18 Max*(1)*	0*(2)*	5*(3)*	45*(4)*
MU-L*(5)* *Duplex*	2,500	40	18 Max*(1)*	0*(2)*	5*(3)*	45*(4)*
MU-L*(5)* *Townhouse*	1,800	18	18 Max*(1)*	0*(2)*	5*(3)*	45*(4)*
MU-L*(5)* *Multi-Family*	1,000	40	18 Max*(1)*	0*(2)*	5*(3)*	45*(4)*
MU-M*(5)* *Single-Family*	3,750	40	18 Max*(1)*	0*(2)*	5*(3)*	45*(4)*
MU-M*(5)* *Duplex*	2,500	40	18 Max*(1)*	0*(2)*	5*(3)*	60*(4)*
MU-M*(5)* *Townhouse*	1,500	16	18 Max*(1)*	0*(2)*	5*(3)*	60*(4)*
MU-M*(5)* *Multi-Family*	500	40	18 Max*(1)*	0*(2)*	5*(3)*	60*(4)*
MU-H*(5)*	250	25	15 Max*(1)*	0*(2)*	0*(3)*	125 *(4)(6)(7)*
MU-D*(5)*	0	25	12 Max*(1)*	0*(2)*	0*(3)*	No limit*(6)(7)*
C-1*(5)*	5,000	50	0*(1)*	0*(2)*	0*(3)*	35*(4)*
C-2*(5)*	5,000	50	0*(1)*	0*(2)*	0*(3)*	75*(4)(7)*
I-1*(5)*	None	None	None*(1)*	None*(2)*	None*(3)*	100*(4)(7)*
I-2*(5)*	None()	None()	None*(1)*	None*(2)*	None*(3)*	None*(6)(7)*
I-3*(5)*	None	150	30*(1)*	15	25	100*(6)(7)*
I-4*(5)*	See Chapter 4	See Chapter 4	See Chapter 4	See Chapter 4	See Chapter 4	None*(6)(7)*
PRD*(8)*	20 Acres	None	50	50	25	100*(4)*
MXD	See Chapter 4, Article V, Section 7	See Chapter 4, Article V, Section 7	See Chapter 4, Article V, Section 7	See Chapter 4, Article V, Section 7	See Chapter 4, Article V, Section 7	See Chapter 4, Article V, Section 7
HID*(9)*	None	50	25	20	10()	120*(4)(10)*

(1) For mixed use districts maximum setback shall be determined by Article I, Section 3, item C. of this chapter, except that corner lots in MU-L and MU-M shall be 6 feet maximum and corner lots in MU-H and MU-D shall be 0 feet, and for commercial, manufacturing and industrial districts established setbacks may apply as described in Article I, Section 2 (D)(2).
(2) None, except on the rear of a lot abutting a dwelling district, in which case there shall be a rear yard of not less than 20 feet. If the rear yard area abuts an alley, ½ of the alley's right-of-way width may be used in calculating this dimension.
(3) None, except on the side of a lot abutting a dwelling district, in which case there shall be a side yard of not less than five feet. If the side yard area abuts an alley, ½ of the alley's right-of-way width may be used in calculating this dimension, provided that a minimum setback of at least three feet is maintained.
(4) For guidelines to determine building height, see Section 7 of this chapter.
(5) For site plan requirements see Chapter 9, Article III.
(6) None except where Federal Aviation Administration (FAA) Restrictions apply, in which case a waiver must be granted by the FAA to exceed FAA limitations.
(7) Where a structure is located upon a lot abutting any residential district, that portion of the structure exceeding 35 feet shall be set back from the required yards abutting the residential district an additional distance of one foot for each foot of structure height above 35 feet up to 10 feet.
(8) When a PRD district abuts a dwelling district, all buildings shall be setback from dwelling district 100 feet.
(9) These regulations shall be used, unless a master plan has been approved.
(10) Maximum height of structure is 120 feet when 500 or more feet from dwelling district, and 45 feet when within 500 feet of a dwelling district, unless a master plan has been approved.

Note 1: When a lot has a width of 100 feet or less, such dwelling shall be constructed in a manner that the front of the structure, all doors for ground floor units and doors for common areas shall face and open toward a dedicated street and all rear doors shall face and open toward the rear yard.

Section 6. Accessory building floor area controls.

A. Accessory buildings and structures may be built in a required rear yard, but such accessory buildings and structures shall not occupy more than thirty percent of the required rear yard and shall not be nearer than three feet to any side or rear lot line within dwelling districts, except that when a garage is entered from an alley it shall not be located closer than five feet to the alley line, except in mixed use, commercial or agriculture districts.

B. These floor area controls shall not apply to accessory structures proposed on lots where agricultural activities and livestock are permitted.

Section 7. Building height controls.

A. Height Controls Established. No building or other structure shall be permitted that is designed to be built higher than what is allowed in Tables: 1.03.101, 1.03.102 or 1.03.103 except as permitted by this section.

B. Height is determined by measuring the vertical distance from the grade level at the front façade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height between the eaves and highest ridge of a gable, hip, or gambrel roof.

C. Permitted Height Exceptions. In all districts, the following structures or part of a structure shall be exempt from the height control standards of this section, except in dwelling districts such structures shall be limited to 25 feet above the maximum height of a structure allowed in a dwelling district.

1. Chimneys or flues;
2. Elevator or stair bulkheads, roof water tanks, or cooling towers shall not exceed 10% of the building height or 20 feet whichever is greater;
3. Flagpoles shall not exceed 20%of the building height;
4. For religious institutions, ornamental towers, religious iconography, spires or belfries having no floor area within that portion of the tower exceeding the height limit shall not exceed 120% of the building height;
5. Parapet walls not more than four feet high;

D. Special Height Restrictions in Vicinity of Municipal Airport.

1. Applicability. The regulations set forth herein modify height controls and shall apply to all property included within the Airport Height Control Zones shown on the zoning district maps. Within the Airport Height Control Zones no structure or building shall be erected without the prior review of the Federal Aviation Administration or other appropriate federal or local government agency if either one of the following is met:

   a. The structure or building will be higher than 150 feet above the site ground level;

   b. The structure or building will exceed an imaginary surface extending outward and upward at a slope of 100 feet horizontal to one foot vertical for a horizontal distance of 20,000 feet from the nearest point of the nearest runway.

2. Height Limitations. The zones and restrictions established in this section are designed to limit the height of structures surrounding the Birmingham-Shuttlesworth International Airport. No structure or portion thereof shall be erected in excess of the elevations of any of the zones described below:

   a. Approach Zones.

      i. Southwest and Northeast approach zones - Runway 6-24:
      Approach zones shall be established at each end of a runway used for landings and take-offs. The approach zones shall have a length of 50,000 feet beginning at a point 200 feet outward from the end of each runway and extending outward to a point 50,200 feet from the end of the runway on the extended center line of the runway. The width of each approach

zone shall be 1,000 feet at a distance of 200 feet from the end of the runway, uniformly widening thereafter to a width of 16,000 feet at a distance of 50,200 feet beyond each end of the runway. The upper surface of an approach zone shall be an inclined plane sloping one foot in height for 50 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the runway, extending to a distance of 10,200 feet from the end of the runway and then one foot in height for each 40 feet in horizontal distance to a point 50,200 feet from the end of the runway.

ii. North and South approach zones - Runway 18-36:
Approach zones shall be established at each end of a runway used for landings and take-offs. The approach zones shall have a length of 10,000 feet beginning at a point 200 feet outward from the end of each runway and extending outward to a point 10,200 feet from the end of the runway on the extended center line of the runway. The width of each approach zone shall be 500 feet at a distance of 200 feet from the end of the runway, uniformly widening thereafter to a width of 3,500 feet at a distance of 10,200 feet beyond each end of the runway. The upper surface of an approach zone shall be an inclined plane sloping one foot in height for each 34 feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the runway, extending to a distance of 10,200 feet from the end of the runway.

b. Primary Zone – A surface longitudinally centered on the runway for the length of the runway plus 200 feet beyond each end of the runway. The width of the surface is as follows:

I. Runway 6-24: 1,000 feet wide centered on the runway centerline

II. Runway 18-36: 500 feet wide centered on the runway centerline

c. Transitional Zone - The Transitional surfaces extend outward and upward at right angles to the runway centerline at a slope of seven feet horizontal to one foot vertical from the primary surface and the sides of the approach surface.

d. Horizontal Zone - The horizontal surface is a plane that is oval in shape. The plane is constructed by scribing an arc with a radius of 10,000 feet about the centerline at the end of each runway and interconnecting these arcs with tangents. The approach surface and the transition surface included within the area of that circle are not included in the horizontal surface. The upper surface of the horizontal zone is a level surface at a height of 150 feet above the airport elevation or a height of 800 feet above mean sea level.

e. Conical Zone - The Conical surface is a ring shaped surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 feet horizontal to one foot vertical for a horizontal distance of 4,000 feet.

3. Additional Use Restrictions. Notwithstanding any other provisions of these regulations, no use shall be made of land within any zone established by this

Section in such a manner as to create electrical interference with radio communications between the airport and aircraft, make it difficult for airmen to distinguish between airport lights and other lights, result in glare in the eyes of airmen using the airport, impair visibility in the vicinity of the airport, create wildlife hazard with aircraft, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

4. Overlap of control zones. Where airport height control zones overlap, the most restrictive height limitation shall prevail. In no case shall the requirement of this Section prevent the construction of a structure not exceeding 20 feet in height.
5. If either standard listed in (D) (1) of this Section is met, then the applicant shall submit a site plan that includes: building height, lighting, use, and list of equipment to be used at site that may cause electrical interference to the FAA for review at https://oeaaa.faa.gov, and follow the instructions through the "Click Here for Instructions on How to E-file Your Proposal with the FAA" link.

   Once a proposal is submitted, the FAA will begin their review and notify the applicant. When the FAA completes the study, they will submit a letter to the applicant on their findings, or determination.

   The applicant shall be required to submit a copy of the FAA's written determination response as part of their building permit application.

Section 8. Affordable housing density bonus.

A. In the D-5, MU-M, MU-H and C-2 districts an affordable housing bonus may apply to lot density and building height.

1. Amount of affordable housing. If an applicant provides affordable housing at a rate of 10% of all units after density bonus is applied, then the developer shall be allowed to increase lot density and building height by zoning district as follows in Table 1.03.104:

Table 1.03.104
Affordable Housing Density Bonus

Zoning District	Minimum Lot Area (sq. feet per unit)	Maximum Building Height (in feet)
D-5	750	65
MU-M	350	70
MU-H	200	150
C-2	350	100

2. Agreement. The City and the affordable housing owner shall enter into an agreement specifying the affordable housing requirements under this subsection. This agreement shall be executed and recorded prior to issuance and as a condition to issuance of any permit after the first building permit for the development using the bonus residential floor area and before any permit for any construction activity other than excavation and shoring for the development using the bonus residential floor area is issued.

3. Duration. Affordable housing shall serve only income-eligible households for a minimum period of 50 years from the later of the date when the agreement between the housing owner and the City is recorded, or the date when the affordable housing becomes available for occupancy as determined by the City.

4. Unit size and distribution. Affordable housing shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

5. Additional standards for rental housing. For rental housing:
   a. monthly rent shall not exceed 30 percent of Low to Moderate Income as defined by HUD, for a minimum period of 50 years; and
   b. the housing owner shall submit a report to the Office of Community Development annually that documents how the affordable housing meets the terms of the recorded agreement.
6. Additional standards for on-site performance. The affordable housing shall be completed and ready for occupancy at or before the time when a certificate of occupancy is issued for any other units in the development, and as a condition to any right of the applicant to such a certificate of occupancy.

Article II. Conservation Subdivision and Cottage Development

Section 1. Conservation Subdivision.
In order to provide for flexibility of design and the preservation of natural features or unique or significant vegetation; such as but not limited to steep slopes, flood plain, single-family subdivisions in D-1, D-2, D-3 districts may cluster lots subject to the following restrictions:

A. The preliminary plat of subdivision shall establish that clustering is proposed and display the layout and area of all lots, undisturbed natural features to be held in a natural state and all phasing boundaries. Within a preliminary plan of subdivision, large contiguous areas may be proposed for development of single-family lots that contain less land area than normally required by Table 1.03.101 for the associated zoning classification of the subdivision. Conservation subdivisions shall clearly delineate on the preliminary plan of subdivision the alternative lot size standards to be employed and describe those land areas that will be preserved as undisturbed natural features, and any proposed common open space or recreation facilities. A Soil and Erosion Permit and grading permit shall be reviewed and approved by the Director to verify that undisturbed common features as shown on the subdivision plat are preserved.

B. The minimum area within the conservation subdivision shall be no less than ten times the minimum lot area for the zoning district as established by Table 1.03.101. For example, in the D-2 district the minimum area for the subdivision would be 100,000 square feet. (10,000 feet minimum lot size times ten).

C. Lots may be reduced in area the equivalent of one smaller zone districts, except that no single-family lot shall be less than 3,500 square feet. As an example, a subdivision in the D-2 district may utilize the conservation subdivision option to create lots equivalent in size to the D-3 district. The area and dimensional regulations shall be the alternative lot sizes chosen for any given phase of development and shall be employed for that phase of the subdivision. Perimeter lot sizes shall adhere to the following standards:

   1. The minimum size of perimeter lots oriented towards an existing street shall be at least 90 percent of the minimum size required by Table 1.03.101 for the actual zoning of the property. If, however, the property on the opposite side of the street has previously developed with smaller lot sizes, or has a currently approved plan of development with smaller lots sizes, the perimeter lots may be allowed to be of a comparable size to those opposite lots within the overall size limitations established by this section.

   2. Perimeter double-frontage lots oriented to an internal street may be reduced in size the equivalent of one zoning district provided that a landscape buffer yard is provided within common open space along that boundary as described in Chapter 6, Article I, Section 6, Item B of this Ordinance.

   3. Perimeter lots otherwise abutting a conventional D districts subdivision may be reduced in size the equivalent of one zoning district with the installation of a

landscape buffer yard located within common open space and be located between the perimeter lots and the abutting subdivision as described in Chapter 6, Article I, Section 6, Item B of this Ordinance.

D. Utilization of alternative minimum lot sizes shall result in the creation of common undisturbed natural areas that will be designated as a conservation easement that restricts all development from occurring within this area, except for passive amenities and stormwater detention facilities. At a minimum, common undisturbed natural areas shall be provided for in each phase of a development employing alternative lot sizes at the rate of 15 percent of that phase's gross land area. If 20 percent of the site is preserved, then the applicant can reduce the density requirement by an additional 500 feet, and if 25 percent of the site is preserved, then the applicant can reduce the density requirement by an additional 1,000 feet.

1. Passive amenities or stormwater detention facilities are the only development that can occur within a common undisturbed natural area, but in no case shall the passive amenity or stormwater detention facility reduce the minimum required undisturbed natural area.
2. All conservation subdivisions shall maintain all required undisturbed natural areas as a conservation easement in perpetuity. Prior to any permits being issued for a conservation subdivision, the conservation easement shall be recorded with Jefferson County Probate Judge and presented to the Director.

E. Passive Amenities. Any property owner or developer of a subdivision utilizing the conservation subdivision option shall maintain a minimum of 15% of the gross area as undisturbed natural area, but may include passive amenities within undisturbed area.

1. For purposes of this section, "passive amenities" mean walking trails, picnic shelters or gazebos, shared docks, and similar passive recreation amenities. Proposed passive amenities shall be defined on the preliminary plat of a subdivision and shall be demonstrated appropriate to the intended demographics of the conservation subdivision option.

F. Standards for the development of single-family lots in floodplain areas shall be as set out in Chapter 8, Article II.

G. For all common areas within a conservation subdivision, an association shall be established pursuant to *Article III, Section 10 of the Subdivision Regulations of the City of Birmingham* with the express purpose of permanently maintaining the common areas as a conservation easement and any recreation facilities contained therein.

Section 2. Single-family cottage developments.
In order to provide opportunities for individual ownership of small residential lots oriented onto a common open space, lots in cottage subdivisions shall be arranged subject to the following:

A. Applicability. Single-family cottage developments are permitted in the following zoning districts D-4, R-4, R-5, R-6, D-5, R-4A, D -6, MU-L and MU-M.

B. Density. Single-family cottage subdivisions shall be developed at a minimum rate of one unit per 2,500 square feet of lot area. Each individual single-family cottage development within a subdivision shall contain four to ten cottage units in small lots around a common open space.

C. Orientation. Cottage units shall be oriented to front and have a main entry onto the common open space. However, cottage lots abutting a street shall front the street, and shall not have the rear of the unit facing the street. Cottage units fronting the street shall have a secondary entrance onto the common open space.

D. Bulk Standards. The following area and dimensional regulations shall apply:

1. Minimum lot sizes shall be waived. See Table 1.03.102 for other standards.
2. The common open space shall total at least 350 square feet per cottage unit, and shall have cottages abutting on at least two sides.
3. The common open space shall be accessible to all cottage units in the development, and an association shall be established pursuant to *Article III, Section 10 of the Subdivision Regulations of the City of Birmingham* with the purpose of maintaining the common areas and establishing legal rights to the common areas to all cottages in the development.
4. Only one dwelling unit per lot shall be permitted.
5. All cottage units shall be designed to include a covered porch fronting the common open space and shall be no less than 200 square feet.
6. The maximum building coverage, excluding covered porches, shall be 1,000 square feet.
7. The maximum height of a cottage shall be 35 feet.
8. Front, rear and side setbacks from the property lines shall be a minimum of five feet.
9. Cottage units abutting a public street shall meet the setback requirements of Table 1.03.101.
10. Where a proposed development cannot comply with the standards of this section, the Director may approve other standards provided that the intent of this section is met.

E. Parking Requirements. The requirements for the provision of parking for single-family cottage developments shall be as follows:

1. Parking shall be located on the cottage development property.

2. Parking shall meet the requirement for single-family residential units established in Chapter 5.
3. Parking shall be provided on each cottage lot, or in the form of shared parking cluster(s) in commonly owned space, or a combination of the two.
4. Parking clusters shall not exceed six adjoining spaces and shall not be visible from a public street. Parking shall be screened from adjacent residential uses with an opaque evergreen landscaping strip.
5. Parking may be permitted between, or to the side of structures, only when it is setback a minimum of 10 feet from the leading edge of the front facade of a cottage unit and is accessed by a side or rear alley. When cottages front a public street, driveways shall be limited to 1 per public street frontage.
6. Parking shall not be permitted in an established front yard setback or required common open space.

Article I. Purpose and intent.

Section 1. Generally.

A. In addition to the zone area and dimensional, landscaping, parking and other regulatory provisions of this Ordinance, supplemental development standards may apply to specific land uses when located in certain zone districts. The zoning district land use table references those specific uses which must comply with supplemental development standards as:

P	-	Permitted by right
PC	-	Permitted with conditions
SE	-	Permitted by special exception
PAC	-	Permitted as accessory to another principal use
AR	-	Administrative Review
X	-	Not permitted
PCP	-	Permitted with approved Conceptual Plan
PMP	-	Permitted with approved Master Plan

B. Land use development standards are necessary because certain land uses are more unique or impacting than other uses in the same zone district and therefore conditions are established to insure compatibility with surrounding land uses. Other uses require large land areas, have unique operating characteristics, or tend to dominate the area more intensely than do other uses permitted in the same zone district. Some uses are socially and economically necessary in a particular zone district even though the potential may exist for the use to be incompatible with existing and future development. The development standards are intended to lessen and minimize incompatible land use relationships. Because the potential impacts cannot be satisfactorily predetermined for every location, some land uses are permitted in a zone district only as a special exception. Finally, other uses are uniquely incidental to other principal land uses and are appropriate when certain minimum standards are satisfied.

C. No zoning approval shall be granted for any development or use of land listed as PC, PAC, PMP, PCP, SE or AR in the zoning district land use table unless the use is in compliance with all applicable land use development standards. Where development standards of this chapter are in conflict with the minimum area and dimensional regulations of Chapter 3 of this Ordinance, the more restrictive standard shall apply.

D. Throughout the following chapter, the conditions applied to any zoning district in this chapter shall also apply to zoning districts listed in Title 2 of this ordinance as follows:

D-1 shall equate to E-1 and R-1	D-2 shall equate to R-2	D-3 shall equate to R-3	D-4 shall equate to R-4 and R-4A	D-5 shall equate to R-5, R-6 and R-7	D-6 shall equate to R-8
C-1 shall equate to B-1 and O&I	C-2 shall equate to B-2	MU-H shall equate to B-3	MU-D shall equate to B-4	HID shall equate to B-6	AG shall equate to A-1 and A-2
I-1 shall equate to M-1	I-2 shall equate to M-2	I-3 shall equate to M-3	I-4 shall equate to M-4.		

Article II. Uses Permitted With Conditions (PC)

Section1. Applicability.
The land use development standards in this article apply to uses permitted with conditions, referenced as "PC" in the Permitted Use Table 1.02.201 in Chapter 2, Article II, Section 5 of this Ordinance.

Section 2. Dwelling uses.

A. **Single-family, Townhouse, Duplex/Triplex/Quadplex, Multiple-family.** In the D-6 district single-family, townhouse, duplex/triplex/quadplex, multiple-family shall be permitted provided that all conditions of Chapter 4, Article V, Section 2, and Item B below of this Ordinance are met.

B. **Townhouse.** In the D-4, D-5, D-6, MU-L and MU-M districts townhouse development shall be permitted provided that the following conditions are met:

1. For the purposes of this Section, all new construction shall be constructed on a lot of record, showing separate ownership for each lot.
2. Recreational facilities and parking facilities shall be permitted when constructed as an accessory use to the entire development.
3. Undeveloped open space, and/or outdoor recreation shall account for 35 percent of the total development in D-5 and D-6 dwelling districts, and 50 percent of the total development in D-4 dwelling district. In any case, not less than 25 percent of the total area percentages shall remain as undeveloped and/or landscaped open space.
4. Front building lines shall vary a minimum of three feet or more for every two dwelling units.
5. The front doors of all dwelling units must be a minimum of 10 feet from any paved surface, except walkways. Private walkways, having a destination of a public walkway or street or private drive, or parking lot shall be provided.
6. All dwellings shall be serviced by utilities and other wiring from the rear or side of the dwelling unless underground.
7. No structure shall contain any more than eight attached dwelling units.

Section 3. Educational/Institutional/Civic uses.

A. **Adult Care Center.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, PRD, MXD AND AG, an adult care center shall be permitted provided the following conditions are meet:

1. Each Adult Care Center operator shall apply for a Zoning Certificate of Operation (ZCO), which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, on a form provided by the Department of Planning, Engineering and Permits (Department). A copy of such application shall be forwarded

to the appropriate neighborhood association for their information at least four weeks prior to the final determination as to approval of a ZCO. Applicant shall comply with all current provisions of this ordinance and receive said ZCO from the Department prior to beginning operation. Any Child Care facility which is currently registered or licensed by Department of Human Resources, Jefferson County (DHR) as of the effective date of this Ordinance, shall apply for said ZCO within 45 days as of the effective date of this Ordinance.

2. The ZCO shall be conspicuously posted inside the entrance or reception area of the facility.
3. The ZCO of any Adult Care Center operator whose DHR license becomes inactive or which facility becomes inactive and ceases to operate, will be revoked immediately, and must apply as a new applicant and facility to resume operation. In this case all then current regulations must be met.
4. No changes in operation beyond the scope outlined in the ZCO of any Adult Care Center may be made prior to application for a new ZCO. Any Adult Care Facility found to be operating beyond the terms of their ZCO must come into compliance immediately or their ZCO will be revoked.
5. All Adult Care Centers must submit to inspection by the Department's zoning enforcement personnel during normal hours of operation.
6. Lot size, setbacks, and all other aspects of the premises must conform to those applicable to the zoning district in which the facility is located.
7. All state, county and city licensing requirements shall be met including business licenses and those pertaining to building, fire safety and health codes.
8. Off street parking as required by Chapter 5 of this Ordinance must be met, unless otherwise specified in this Ordinance. A site plan indicating the required parking shall be submitted for approval by the Department.
9. When located in a dwelling district, no identification signs shall be permitted.
10. Required off street pick-up/drop off site plan must be approved by the Department.
11. When located in or abutting dwelling districts hours of operation shall be limited to 13 hours per day.
12. Each Adult Care Center shall have 50 square feet of usable space for each adult being kept and cared for in the facility. Areas in the facility not considered in the calculation of usable space are kitchens, bathrooms, isolation rooms, halls or passageways, stairs and stairways, offices, and storage areas.

13. There shall be not less than one care giver for each six adults under care in each Adult Care Center.

14. No Adult Care Center shall be permitted to be located in a multiple family dwelling unit.

B. **Child Care Center.** In the following districts: D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, PRD, MXD AND AG, a child care center shall be permitted provided the following conditions are meet:

1. Each Child Care Center operator shall apply for a ZCO, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, on a form provided by the Department. A copy of such application shall be forwarded to the appropriate neighborhood association for their information at least four weeks prior to the final determination as to approval of a ZCO. Applicant shall comply with all current provisions of this ordinance and receive said ZCO from the Department prior to beginning operation. Any Child Care Facility which is currently registered or licensed by DHR as of the effective date of this Ordinance, shall apply for said ZCO within 45 days as of the effective date of this Ordinance.

2. The ZCO shall be conspicuously posted inside the entrance or reception area of the facility.

3. The ZCO of any Child Care Facility operator whose DHR license becomes inactive or which facility becomes inactive and ceases to operate, will be revoked immediately, and must apply as a new applicant and facility to resume operation. In this case all then current regulations must be met.

4. No changes in operation beyond the scope outlined in the ZCO of any Child Care Facility may be made prior to application for a new ZCO. Any Child Care facility found to be operating beyond the terms of their ZCO must come into compliance immediately or their ZCO will be revoked.

5. All Child Care facilities must submit to inspection by the Department's zoning enforcement personnel during normal hours of operation.

6. Lot size, setbacks, and all other aspects of the premises must conform to those applicable to the zoning district in which the facility is located.

7. All state, county and city licensing requirements shall be met including business licenses and those pertaining to building, fire safety and health codes.

8. Off street parking as required by Chapter 5 of this Ordinance must be met, unless otherwise specified in this Ordinance. A site plan indicating the required parking shall be submitted for approval by the Department.

9. When located in a dwelling district signage shall not exceed 18 square feet in area and no ground sign shall exceed four feet in height. All signage

shall be lighted with only indirect, non-intermittent light. All signage shall be subject to approval by the Department.

10. Required off street pick-up/drop off site plan must be submitted for approval by the Department.
11. When located in a dwelling district, playground equipment shall be restricted to:
    a. the rear yard,
    b. occupy no more than 30 percent of the required rear yard,
    c. and shall not be nearer than 10 feet to any lot line.
12. When located in a non- dwelling district, playground equipment shall:
    a. be in a rear or side yard,
    b. occupy no more than 30 percent of the required yard,
    c. and be no closer than three feet to any side or rear lot line, except when adjacent to a dwelling zone district, in which case playground equipment shall be no closer than 10 feet to any lot line.
13. No Child Care Center shall be permitted to be located in a multiple family dwelling unit.
14. When located in or abutting dwelling districts hours of operation shall be limited to 13 hours per day.

C. **Family Day/Night Care Home and Family Group Day/Night Care Home.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, MXD AND AG, a Family Day/Night Care Home shall be permitted provided the following conditions are meet, and in the following districts: D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2 AND AG, a Family Group Day/Night Care Home shall be permitted provided the following conditions are meet:

1. Each Family Day/Night Care Family Group Day/Night Care Home operator shall apply for a ZCO, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, on a form provided by the Department. A copy of such application shall be forwarded to the appropriate neighborhood association for their information at least four weeks prior to the final determination as to approval of a ZCO. Applicant shall comply with all current provisions of this ordinance and receive said ZCO from the Department prior to beginning operation. Any Family Day/Night Care Family Group Day/Night Care Home which is currently registered or licensed by DHR as of the effective date of this Ordinance, shall apply for said ZCO within 45 days as of the effective date of this Ordinance.

2. The ZCO shall be conspicuously posted inside the entrance or reception area of the facility.
3. The ZCO of any Family Day/Night Care Family Group Day/Night Care Home operator whose DHR license becomes inactive or which facility becomes inactive and ceases to operate, will be revoked immediately, and must apply as a new applicant and facility to resume operation. In this case all then current regulations must be met.
4. No changes in operation beyond the scope outlined in the ZCO of any Family Day/Night Care Family Group Day/Night Care Home may be made prior to application for a new ZCO. Any Family Day/Night Care Family Group Day/Night Care Home found to be operating beyond the terms of their ZCO must come into compliance immediately or their ZCO will be revoked.
5. All Family Day/Night Care Family Group Day/Night Care Homes must submit to inspection by the Department's zoning enforcement personnel during normal hours of operation.
6. Lot size, setbacks, and all other aspects of the premises must conform to those applicable to the zoning district in which the facility is located.
7. All state, county and city licensing requirements shall be met including business licenses and those pertaining to building, fire safety and health codes.
8. When located in a dwelling district, no Family Day/Night Care or Family Group Day/Night Care Home shall be permitted to be located within 1,000 feet of another Family Day/Night Care or Family Group Day/Night Care Home
9. Family Day / Night Care Homes shall be located in a dwelling. Family Group Day / Night Care Homes shall be located in a single family detached dwelling. Its use as a Family Care Home or Family Group Care Home shall be clearly incidental to the use of the premises for dwelling purposes by the care giver and shall be carried on wholly within the main building, except for the outside play area.
10. Family Day / Night Care Home and Family Group Day / Night Care Home operators shall provide the Department with the names, dates of birth and sex of their own children for the purpose of determining the number of children which may be received for care. The ZCO obtained from the Department shall specify the number of children which may be cared for.

11. When located in a dwelling district, employment shall be limited to:
    a. Family Day / Night Care Homes: The Child Care Provider who resides at the dwelling, and the substitute/alternate, who is on record at the DHR.
    b. Family Group Day / Night Care Homes: The Child Care Provider who resides at the residence, and no more than one full time and one part time employee, and the substitute/alternate, who is on record at the DHR.
12. When located in a dwelling district, no structural or decorative alterations shall be made or permitted that will alter the single family character of an existing dwelling structure.
13. When located in a dwelling district, no identification signs shall be permitted.
14. Off-street drop-off/pick-up area may be determined necessary. If determined necessary, a site plan must be submitted for approval by the Department. No pick-up/drop-off or parking shall be permitted in the required front yard except upon a paved surface providing access to a carport or garage.
15. When located in a dwelling district, hours of operation shall be restricted to 13 hours daily. The ZCO obtained from the Department shall specify the approved hours of operation.
16. Playground equipment is restricted to the rear yard only. No equipment may be located closer than 10 feet to any lot line when located in a dwelling district. Outside activities shall be restricted to daylight hours.
17. For all Family Group Day / Night Care Homes off street parking as required by Chapter 5 of this Ordinance must be met, unless otherwise specified in this Ordinance. Spaces must not be located in the required front yard and must be improved with a suitable hard surface permanent type of pavement. A site plan indicating the required parking shall be submitted for approval by the Department.

D. **College or University.** In the following districts: HID a college or university shall be permitted provided that the following conditions are met:

1. An approved master plan has been approved pursuant to Chapter 4, Article V, Section 3 of this Ordinance.

E. **Institutional Office.** In the following districts: MU-L, MU-M, MU-D, MU-H, C-1, C-2, I-1, MXD AND HID shall be permitted provided that the following conditions are met:

1. The only events allowed on the premises shall be of a charitable nature for the benefit of the organization utilizing the premises, and only allowed on a quarterly basis.

F. **Fraternity/Sorority House.** In the following districts: HID a fraternity or sorority house shall be permitted provided that the following conditions are met:

1. An approved master plan has been approved pursuant to Chapter 4, Article V, Section 3 of this Ordinance.

G. **Personal Instruction.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, and PRD personal instruction shall be permitted provided that the following conditions are met:

1. All the conditions of a Home Occupation pursuant to Article IV, Section 2, Item F are met.

H. **Place of Worship.** In the following districts: AG, D-5, D-6, MU-M, MU-H, MU-D, C-2, I-1, I-2 AND MXD a place of worship shall be permitted provided that the following conditions are met:

1. Any building is setback 25 feet from side and rear lot lines.
2. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.
3. Screening and buffering in the form of a landscape buffer yard Standard "A" per Chapter 6, Article III, Section 6 of this Ordinance, shall separate all structures and parking areas from all abutting property zoned for dwellings.
4. Accessory structures (including Family Life Centers, Classrooms, etc.) may be constructed on property adjacent to the place of worship, subject to the following conditions:
   a. There shall be no vacant property that is owned by the applicant adjacent to the place of worship on the same block face that can accommodate the accessory structure;
   b. The accessory structure shall abut a street or alley upon which the lot of the place of worship abuts and at least a portion of the accessory structure shall be opposite the zone lot containing the place of worship;
   c. On any given block, accessory structures associated with a place of worship shall be limited to a contiguous area.

I. **Elementary or Middle School.** In the following districts: D-5, D-6, MU-M, MU-H, MU-D, C-2 AND MXD an elementary or middle school shall be permitted provided that the following conditions are met:

1. Any building is setback 25 feet from residentially zoned lots.

2. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.
3. Screening and buffering in the form of a landscape buffer yard Standard "A" per Chapter 6, Article III, Section 6 of this Ordinance, shall separate all structures and parking areas from all abutting property zoned for dwellings.

J. **High School.** In the following districts: D-5, D-6, MU-M, MU-H, MU-D, C-2 AND MXD a high school shall be permitted provided that the following conditions are met:

1. Any building is setback 25 feet from side and rear lot lines.
2. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City
3. Screening and buffering in the form of a landscape buffer yard Standard "A" per Chapter 6, Article III, Section 6 of this Ordinance, shall separate all structures and parking areas from all abutting property zoned for dwellings.

Section 4. Medical uses.

A. **Clinic.** In the following districts: MU-L and C-1 a clinic shall be permitted provided that the following conditions are met:

1. Clinics shall be limited in size to no more than 7,500 square feet.

B. **Veterinarian Clinic**. In the following districts: AG, MU-H, MU-D, C-2, I-1, I-2 AND PRD a veterinarian clinic shall be permitted provided that the following conditions are met:

1. Outdoor exercise yards shall be permitted provided that they are completely fenced and used only between 7a.m. and 7p.m., when a staff person of the clinic is present in the exercise yard. Where such outdoor activities abut a dwelling zone district or district permitting dwelling use, a 50 foot setback is required.
2. Boarding of animals either undergoing medical treatment or not are permitted as an accessory use subject to the following conditions.
   a. Accessory animal boarding shall occur within completely enclosed structures.
   b. No more than thirty percent of the gross floor area of the veterinary clinic may be used as a boarding facility.
   c. No outdoor kennels or runs are permitted.
   d. No part of any building or structure in which animals are housed shall be closer than 50 feet from any existing residence located on an adjacent parcel.
   e. All on-site waste shall be housed either within the boarding facility or an accessory structure, and all waste shall be disposed of in a sanitary

fashion no less frequently than one time per week. The drainage of all liquid by-products from the kennel shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams, or rivers.

Section 5. Commercial uses.

A. **Animal Boarding Facility.** In the following districts: AG, MU-H, MU-D, C-2, I-1, I-2, I-3 and PRD an animal boarding facility shall be permitted provided that the following conditions are met:

1. Outdoor exercise yards shall be permitted provided that they are completely fenced and used only between seven a.m. and seven p.m. when a staff person of the facility is present in the exercise yard. Where such outdoor activities abut a dwelling zone district or district permitting dwelling use, a 50 foot setback is required.
2. No outdoor kennels or runs are permitted.
3. No part of any building or structure in which animals are housed shall be closer than 50 feet from any existing residence located on an adjacent parcel.
4. All on-site waste shall be housed either within the boarding facility or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

B. **Animal Day Care.** In the following districts: AG, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3 AND PRD an animal day care shall be permitted provided that the following conditions are met:

1. Building size is limited to 7,500 square feet in the MU-L and C-1 districts.
2. Outdoor exercise yards shall be permitted provided that they are completely fenced and used only between seven a.m. and seven p.m. when a staff person of the day care is present in the exercise yard. Where such outdoor activities abut a dwelling zone district or district permitting dwelling use, a 50 foot setback is required.
3. No outdoor kennels or runs are permitted.
4 No part of any building or structure in which animals are housed shall be closer than 50 feet from any existing residence located on an adjacent parcel.
5. All on-site waste shall be housed either within the day care building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products shall be discharged into a permitted sanitary sewer line

or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

C. **Animal Kennel.** In the: AG, I-1, I-2, I-3, and PRD districts an animal kennel shall be permitted provided that the following conditions are met:

1. No part of any building, structure or run in which animals are housed or kept shall be less than 500 feet from any existing residence located on an adjacent parcel.
2. Enclosures must be provided which shall allow adequate protection against weather extremes and are covered to prevent waste from entering storm drains. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting.
3. All on-site waste shall be housed either within the kennel building or an accessory structure, and all waste shall be disposed of in a sanitary fashion no less frequently than one time per week. The drainage of all liquid by-products shall be discharged into a permitted sanitary sewer line or septic tank and shall not be disposed of by way of storm sewers, creeks, streams or rivers.

D. **Appliance Repair.** In the following districts: MU-H, MU-D and C-2 an appliance repair shop shall be permitted provided that the following conditions are met:

1. All storage of items to be repaired and all materials used to make repairs must be stored either within the primary building or an accessory structure.

E. **Automobile Parking.** In the following districts: MU-M, MU-H, MU-D, I-1, and I-2, automobile parking structures over one story shall be permitted provided that the following conditions are met:

1. In the MU-M, MU-H, and MU-D districts, all automobile parking structures must meet the following conditions:

   a. Either the parking structure shall be screened with a liner building or the first floor of the structure must have a minimum of 50% floor area at ground level for retail space or the first floor height shall be a minimum of 14 feet with the ability to be converted into retail space.

   b. Frontage Façade Standards:

      1. Frontage Façade Buildout – 60% minimum
      2. Main entrance must be in frontage façade or of principal frontages
      3. Building must be parallel to frontage lines
      4. Blank walls are not permitted at frontage
      5. Frontage façade void area – 20% to 60% of total frontage façade Area

6. Frontage façade openings – windows and/or doors spaced less than or equal to 20 feet apart

7. Frontage façade glazing – 20% minimum to 70% maximum for non-shopfront; 70% for shopfront

8. Upper floor windows and other features must be aligned with those of first floor

9. To maintain urban fabric and context, frontage facades shall be designed utilizing materials that are compatible to adjacent buildings.

10. Frontage Façade Articulation

a. Option 1 – For frontage facades between 100 and 180 feet in width shall be articulated with building offsets every 18-60 feet. Offset depth shall be either (a) between 10 and 12 inches; or (b) between 4 and 6 feet; or two (2) articulation treatments from Frontage Façade Option 2. The entire Frontage Façade shall be placed within the front setback range.

b. Option 2 – For frontage facades greater than 180 feet in width shall be differentiated so that is appears to be comprised of two or more adjacent buildings, by dividing such façade into 18-100 foot segments each of which (1) differs from each of the other segments with respect to all of the following items (a) – (g): (a) a change in shape, sill and header height, detail, size, spacing, rhythm, and muntin pattern of windows; (b) a change of building or cornice height; (c) a change in cornice details; (d) a change of wall material or wall color; (e) a change in trim courses and other horizontal elements; (f) a change in dormer or balcony design, if any; and (g) providing or changing pilasters, columns, or other façade elements; and (2) is composed with a defined center and edges.

2. In the I-1 and I-2 districts, any automobile parking structure located in a Commercial Revitalization District or Historic District must meet the following conditions:

a. Either the parking structure shall be screened with a liner building or the first floor of the structure must have a minimum of 50% floor area at ground level for retail space or the first floor height shall be a minimum of 14 feet with the ability to be converted into retail space.

b. Frontage Façade Standards:

1. Frontage Façade Buildout – 60% minimum

2. Main entrance must be in frontage façade or of principal frontages

3. Building must be parallel to frontage lines

4. Blank walls are not permitted at frontage

5. Frontage façade void area – 20% to 60% of total frontage façade Area

6. Frontage façade openings – windows and/or doors spaced less than or equal to 20 feet apart

7. Frontage façade glazing – 20% minimum to 70% maximum for non-shopfront; 70% for shopfront

8. Upper floor windows and other features must be aligned with those of first floor

9. To maintain urban fabric and context, frontage facades shall be designed utilizing materials that are compatible to adjacent buildings.

10. Frontage Façade Articulation

a. Option 1 – For frontage facades between 100 and 180 feet in width shall be articulated with building offsets every 18-60 feet. Offset depth shall be either (a) between 10 and 12 inches; or (b) between 4 and 6 feet; or two (2) articulation treatments from Frontage Façade Option 2. The entire Frontage Façade shall be placed within the front setback range.

b. Option 2 – For frontage facades greater than 180 feet in width shall be differentiated so that is appears to be comprised of two or more adjacent buildings, by dividing such façade into 18-100 foot segments each of which (1) differs from each of the other segments with respect to all of the following items (a) – (g): (a) a change in shape, sill and header height, detail, size, spacing, rhythm, and muntin pattern of windows; (b) a change of building or cornice height; (c) a change in cornice details; (d) a change of wall material or wall color; (e) a change in trim courses and other horizontal elements; (f) a change in dormer or balcony design, if any; and (g) providing or changing pilasters, columns, or other façade elements; and (2) is composed with a defined center and edges.

F. **Automobile Service.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, PRD and MXD an automobile service shop shall be permitted provided that the following conditions are met:

1. No visibly disabled, abandoned or inoperable vehicles shall be stored on the premises.
2. No vehicle to be serviced shall remain on the premises more than fifteen days.

F. **Automobile/Light Truck Repair.** In the following districts: MU-H, MU-D, C-2, I-1, I-2, I-3, PRD AND MXD an automobile service shop shall be permitted provided that the following conditions are met:

1. No visibly disabled, abandoned or inoperable vehicles shall be stored on the premises.
2. No vehicle to be repaired shall remain on the premises more than thirty days.
3. In the MU-H, MU-D, C-2, PRD and MXD districts no auto repair activity shall occur outdoors.
4. In MXD districts an automobile/light truck repair shall only be allowed, when a conceptual plan has been approved that allows for the use within a designated subarea and Commercial Use Group 3.

G. **Bed and Breakfast Inn.** In the following districts: MU-L, MU-M and C-1 a bed and breakfast inn shall be permitted provided that the following conditions are met:

1. In the MU-L district a bed and breakfast inn shall be limited to 35 feet in height, five or fewer furnished sleeping rooms shall be provided, and no receptions, meetings or other functions shall be allowed on the premises.
2. In the MU-M district a bed and breakfast inn shall be limited to 55 feet in height.
3. Meals may be provided to overnight guests only.
5. Parking shall be provided in a side or rear yard.
6. Signage is limited to one 6 square foot sign that is either attached to the building or a freestanding sign that is a maximum of four feet in height.

H. **Bed and Breakfast Inn, Historic.** In the following districts: D-4, D-5 and D-6 a bed and breakfast inn shall be permitted provided that the following conditions are met:

1. Five or fewer furnished sleeping rooms shall be provided.
2. The bed and breakfast inn is an owner-occupied dwelling and a contributing property in a local historic district or is another historically

significant structure that is listed on the National Register of Historic Places.

3. Meals may be provided to overnight guests only.
4. Parking shall be provided in a side or rear yard, and all required off-street parking spaces shall be screened by landscaping or other suitable opaque barrier from adjacent residences.
5. Signage is limited to one 6 square foot sign that is either attached to the building or a freestanding sign that is a maximum of four feet in height.
6. No retail sale of goods or merchandise will be allowed on the premises.
7. No receptions, meetings or other functions shall be allowed on the premises.
8. No required off-street parking shall be allowed in the required front yard.

I. **Carwash, Automated.** In the following districts: MU-H, MU-D, C-2, I-1, I-2, I-3, PRD AND MXD an automated carwash shall be permitted provided that the following conditions are met:

1. All vacuum and blower equipment shall be located 50 feet from any dwelling district.
2. All washing facilities shall be located within a building which is enclosed except those openings necessary for vehicular and pedestrian access. Such openings shall not face any adjacent property zoned for dwellings.
3. If located within 100 feet of a dwelling zone district, operation of the establishment shall be prohibited prior to eight a.m. or after nine p.m. on any day of the week.
4. There shall be no outdoor loudspeakers or public address systems.
5. All waste water resulting from car wash activities shall be either directed to the sanitary sewer system or be recycled on-site to the satisfaction of the Director.

J. **Carwash, Manual.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, PRD AND MXD a manual carwash shall be permitted provided that the following conditions are met:

1. If manual carwash does not have a recycling system for water reuse or can not direct their waste water to the sanitary sewer, it shall be demonstrated to the Director that either all water used is properly treated or biodegradable soaps are being used at all times or car wash activities are performed on a pervious surface.
2. An inspection report has completed by a City Plumbing Inspector that approves the location for a manual carwash.

3. There shall be no outdoor loudspeakers or public address systems.
4. In the MU-L. MU-M AND C-1 districts, no vehicles may be stored or parked on the premises for the purpose of offering for sale.

K. **Convenience Store.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, PRD AND MXD a convenience store shall be permitted provided that the following conditions are met:

1. All pumps shall not be closer than 50 feet to any dwelling district, and not closer than 15 feet to a right-of-way line.
2. Any building shall be setback 25 feet from a dwelling district.
3. Automated carwashes in the MU-L, MU-M and C-1 districts shall be allowed as an accessory use by special exception pursuant to Chapter 4, Article III, Section 6, Item C of this Ordinance, and allowed as an accessory use with conditions in the MU-H, MU-D, C-2, I-1, I-2, I-3, PRD AND MXD districts pursuant to Chapter 4, Article IV, Section 5, Item B of this Ordinance.

L. **Fitness Center.** In the following districts: MU-L, and C-1 a fitness center shall be permitted provided that it shall not exceed 7,500 square feet of gross floor area.

M. **Home Improvement Center.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3 AND MXD home improvement centers shall be permitted provided that the following conditions are met:

1. In the following districts: MU-L, MU-M, and C-1 a home improvement center shall be permitted provided that it shall be limited to 7,500 square feet of gross floor area.
2. Outside display of finished product or packaged materials is allowed, provided that all chemicals, fertilizers and pesticides are stored and covered so that rain cannot wash over them and then drain into the storm sewer system.

N. **Hotel.** In the following districts: MU-M a hotel shall be permitted provided that the following conditions are met:

1. In the MU-M district a hotel shall be limited to 55 feet in height.

O. **Mini Storage Warehouse.** In the following districts: MU-H, MU-D and C-2 a mini storage warehouse shall be permitted provided that the following conditions are met:

1. The individual units are used for the storage of surplus property accumulated in the maintenance or operation of a dwelling, or storage of commercial records and information.

2. No commercial, manufacturing or industrial functions or activities (or related functions or activities) occur or are conducted on the premises, such as, but not limited to: storage and retrieval of equipment or product that is needed on a frequent (often daily) basis, office visitation of clients and/or customers to review or obtain product, goods, or services offered from an individual storage unit.
3. No storage of highly combustible, flammable or explosive products or materials is allowed.

P. **Mobile Grocery Store.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, PRD, MXD, HID and AG a mobile grocery store shall be permitted provided that the following conditions are met:

1. Sales occur between 7:00am and 10:00pm.
2. Operator must demonstrate that adequate parking is available on the lot being used by the mobile grocery store or a parking arrangement has been made for a non-dwelling lot that is within 500 feet and is not in use during operation.
3. A letter or document verifying landowners' permission for the mobile grocery store to operate on the property.
4. A letter stating that the mobile grocery store complies with any applicable Jefferson County Department of Health regulations or a letter stating that the mobile grocery store does not require approval by the Jefferson County Department of Health.
5. Mobile grocery stores shall not be located on vacant or undeveloped lots.
6. Mobile grocery stores shall not be located within 1,000 feet of the front door of a brick and mortar business selling the same or similar products.
7. Signage is limited to 60 square feet and is limited to signs permanently affixed to or painted on the exterior of the mobile grocery store. Signs shall not be illuminated nor project from the mobile grocery store.
8. A mobile grocery store may have no more than two tables and/or two chairs for customer check-in and processing.
9. No more than one mobile grocery store shall be permitted to operate, per day, at a site/location.
10. No audio or amplification is allowed.

Q. **Nursery.** In the following districts: AG, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, PRD AND MXD a nursery shall be permitted provided that the following conditions are met:

1. In MU-L and C-1 any buildings on-site shall be limited to 7,500 square feet of gross floor area.
2. Outside display shall be limited to finished product or packaged materials, provided that all chemicals, fertilizers and pesticides are stored and covered so that rain cannot wash over them and then drain into the storm sewer system.
3. Sale and display of power equipment shall be limited to typical household gardening and lawn maintenance equipment.

R. **Office, Leasing/Sales.** In the following districts: AG, D-1, D-2, D-3, D-4 AND PRD a leasing/sales office shall be permitted provided that the following conditions are met:

1. The office use is limited to one unit or dwelling as a leasing and or sales office for other units within that development.
2. Signage is limited to one attached or monument sign of no more than six square feet that is on the same lot as the leasing/sales office.

S. **Outdoor Market, Farmer's.** In the following districts: AG, D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, PRD, MXD AND HID an outdoor farmers market shall be permitted provided that the following conditions are met:

1. In dwelling districts, sales may occur on a temporary basis no more than 156 days per year and between the hours of 7:00am and 7:00pm.
2. In non-dwelling districts, sales may occur between the hours of 7:00am and 10:00pm.
3. Market cannot operate for more than three consecutive days in a dwelling district.
4. Market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non- dwelling lot that is within 500 feet and is not in use during market hours.
5. Items made from kits, used or mass produced items are prohibited.
6. Every vendor in any market shall, within one hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, and all rubbish to be removed from the vendor stall.
7. A letter or document verifying landowners' permission for the outdoor farmer's market to operate on the property and identifying Market Manager is submitted to PEP.

8. A letter stating that the outdoor farmer's market complies with any applicable Jefferson County Department of Health regulations or a letter stating that the outdoor farmer's market does not require approval by the Jefferson County Department of Health.
9. A Farmers Market Permit, valid for one year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:
   a. Name of all persons or entities that govern the market
   b. Name, signature and contact information of Market Manager.
   c. List of all vendors and a list of items to be sold by vendor.
   d. Copy of State of Alabama Farmers Market Authority Certificate.
   e. List of market clean-up procedures.
   f. Detailed explanation of location of market and days/hours of operation.
   g. Address of the market location.
   h. Parking plan.
10. In the following districts, D-1, D-2, D-3, D-4, D-5, and D-6 the following conditions also apply to outdoor farmers markets:
   a. The farmers market shall occur only on lots where the primary use is a school, place of worship, a public park, public housing community or on an abutting lot that is owned by one of the aforementioned primary uses.
   b. A letter or document verifying landowners' permission for the outdoor farmer's market to operate on the property and identifying Market Manager is submitted to PEP.

T. **Outdoor Market, Public.** In the following districts: AG, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, PRD, MXD AND HID an outdoor public market shall be permitted provided that the following conditions are met:

1. At least one vendor must sell produce or value-added agricultural products.
2. Used clothing, mass produced items and appliances are prohibited.
3. Market cannot operate for more than two consecutive days.
4. Market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non- dwelling lot that is within 500 feet and is not in use during market hours.

5. Sales only occur between the hours of 7:00am and 10:00pm.
6. Every vendor in any market shall, within one hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, all rubbish to be removed from the vendor stall.
7. A letter or document verifying landowners' permission for the outdoor public market to operate on the property and identifying Market Manager is submitted to PEP.
8. A letter stating that the outdoor public market complies with any applicable Jefferson County Department of Health regulations or a letter stating that the outdoor public market does not require approval by the Jefferson County Department of Health.
9. Public Market Permit, valid for one year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:
   a. Name of all persons or entities that govern the market
   b. Name, signature and contact information of Market Manager.
   c. List of all vendors, the products they will sell and their grower's permits or City of Birmingham business licenses number.
   d. List of market clean-up procedures.
   e. Detailed explanation of location of market and days/hours of operation.
   f. Parking plan.

U. **Payday Loan.** In the following districts: MU-H, MU-D, C-2, I-1 and I-2 a payday loan establishment shall be permitted provided that the following conditions are met:

1. The purpose of this condition is to:

   a. Reduce traffic congestion that is reported to be associated with these types of businesses;
   b. Reduce the concentration of these types of businesses in certain areas in an effort to encourage and enhance economic development within that area by promoting business diversity in the offering of other goods and/or services in the area;
   c. Provide for zoning protection of existing residential and commercial real estate values from possible economic impairment by these types of businesses; and,
   d. In general to provide for the protection of the health, safety, comfort and general welfare of the citizens of the City of Birmingham.
2. Finding of fact. Based upon the evidence and information submitted to the Council, the governing body of the city of Birmingham, Alabama,

including statements of citizens submitted to the Council, expert opinions submitted to and considered by this Council, and the knowledge and experience gained by Council members both prior to and while serving as members of this Council, this Council hereby makes the following findings of fact:

a. There are a disproportionate number of these types of businesses within the corporate limits of the City of Birmingham based upon the number per resident compared to the other cities within Jefferson County and within unincorporated Jefferson County.

b. According to public statements made by real estate developers, real estate agents, community leaders, clergy, and members of the general public, a "negative community reputation" has been created by these businesses because of the extraordinarily high interest rates for these loans. Consumers of the services offered by these businesses have also made statements that terms and conditions associated with these types of loans are confusing and very difficult to understand.

c. Real estate developers and agents have stated that this "negative community reputation" has a detrimental effect on the location of other commercial developments within the area and that these businesses tend to diminish nearby real estate values.

3. Locational Requirements. In order to provide for more economic opportunities within certain areas of the City of Birmingham, the following spacing requirements are required:

a. No payday loans (deferred presentment) established after the enactment of this ordinance shall be located within 2000 linear feet of another such business. The method of measurement that shall be used is a straight line measured from the closest portion of a lot or property that is occupied by these businesses.

b. Any properly licensed payday loan (deferred presentment) existing at the time of the enactment of this section that is within 2000 feet of another such business (as measured as described above) shall be considered to be a legal nonconforming use.

4. No payday loan (deferred presentment) business established after December 17, 2013 (Ordinance 13-178) shall be located within 2,000 linear feet of another such business. The method of measurement that shall be used is a straight line measured from the closest portion of a lot or property that is occupied by these businesses.

V. **Retail.** In the following districts: MU-L, and C-1 retail establishments shall be permitted provided that the following conditions are met:

1. The use shall be limited to 7,500 square feet of gross floor area per lot except in the Healthy Food Overlay District where grocery stores may have up to 20,000 square feet of gross floor area.

W. **Shopping Center.** In the following districts: MU-L, and C-1 shopping centers shall be permitted provided that the following conditions are met:

1. The use shall be limited to 7,500 square feet of gross floor area per lot.

X. **Title Loan/Pawnshop.** In the following districts: MU-H, MU-D, C-2, I-1 and I-2 a title loan establishment shall be permitted provided that the following conditions are met:

1. 1. The purpose of this condition is to:

   a. Reduce traffic congestion that is reported to be associated with these types of businesses;

   b. Reduce the concentration of these types of businesses in certain areas in an effort to encourage and enhance economic development within that area by promoting business diversity in the offering of other goods and/or services in the area;

   c. Provide for zoning protection of existing residential and commercial real estate values from possible economic impairment by these types of businesses; and,

   d. In general to provide for the protection of the health, safety, comfort and general welfare of the citizens of the City of Birmingham.

2. Finding of fact. Based upon the evidence and information submitted to the Council, the governing body of the city of Birmingham, Alabama, including statements of citizens submitted to the Council, expert opinions submitted to and considered by this Council, and the knowledge and experience gained by Council members both prior to and while serving as members of this Council, this Council hereby makes the following findings of fact:

   d. There are a disproportionate number of these types of businesses within the corporate limits of the City of Birmingham based upon the number per resident compared to the other cities within Jefferson County and within unincorporated Jefferson County.

   e. According to public statements made by real estate developers, real estate agents, community leaders, clergy, and members of the general public, a "negative community reputation" has been created by these businesses because of the extraordinarily high interest rates for these loans. Consumers of the services offered by these businesses have also made statements that terms and conditions associated with these types of loans are confusing and very difficult to understand.

f. Real estate developers and agents have stated that this "negative community reputation" has a detrimental effect on the location of other commercial developments within the area and that these businesses tend to diminish nearby real estate values.

3. Locational Requirements. In order to provide for more economic opportunities within certain areas of the City of Birmingham, the following spacing requirements are required:

   c. No title loan business established after the enactment of this ordinance shall be located within 2000 linear feet of another such business. The method of measurement that shall be used is a straight line measured from the closest portion of a lot or property that is occupied by these businesses.

   d. Any properly licensed title loan business existing at the time of the enactment of this section that is within 2000 feet of another such business (as measured as described above) shall be considered to be a legal nonconforming use.

4. No title loan business established after December 17, 2013 (Ordinance 13-178) shall be located within 2,000 linear feet of another such business. The method of measurement that shall be used is a straight line measured from the closest portion of a lot or property that is occupied by these businesses.

Section 6. Communication uses.

A. **Printing and Publishing.** In the following districts: MU-L, MU-M and C-1, a printing or publishing establishment shall be permitted provided that it shall be limited to 7,500 square feet and meets the following condition:

1. Only digital printing equipment shall be allowed and all off-set or large mechanical printing prohibited.

B. **Studio, Radio/TV.** In the following districts: MU-L, MU-M and C-1, a radio or TV studio establishment shall be permitted provided that it shall be limited to 7,500 square feet.

1. All antennas, towers and satellites shall be regulated pursuant to Chapter 4, Article V, Section 1 of this Ordinance.

C. **Wireless Communication.** In all districts wireless communication including, broadcast satellites, broadcast towers, cellular, microwave or two-way antennas and cellular, microwave, or two-way towers shall be regulated pursuant to Chapter 4, Article V, Section 1 of this Ordinance.

Section 7. Manufacturing & Industrial uses.

A. **Brew Pub.** In the following districts: MU-M, MU-H, MU-D and C-2 a brew pub shall be permitted provided that the following conditions are met:

1. No outdoor storage shall be permitted.
2. All beer production activities shall be within completely enclosed structures.
3. Total production of beer is limited to 10,000 barrels per year.
4. Two loading docks or service doors will be allowed, provided that:
   a. In the C-2 district they shall not face dwelling districts. If all sides abut dwelling districts, the loading docks or service doors must be screened with an opaque fence or evergreen planting of at least six feet.
   b. In MU-M, MU-H and MU-D districts, the loading docks or service doors shall be designed to limit disruptions to pedestrian or bicycle traffic and be located at the rear of the building or abut the alley or as near to the alley as possible.
5. Where such facilities are on a lot adjacent to a dwelling zone district, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

B. **Brewery, Micro.** In the following districts: MU-H and MU-D a microbrewery shall be permitted provided that the following conditions are met:

1. In the MU-H and MU-D a microbrewery shall be limited to 40,000 square feet.

2. No outdoor storage shall be permitted.
3. All beer production activities shall be within completely enclosed structures.
4. Total production of beer is limited to 40,000 barrels per year.
5. Two loading docks or service doors will be allowed, provided that:
   a. In MU-H and MU-D districts, the loading docks or service doors shall not designed to limit disruptions to pedestrian or bicycle traffic and be located at the rear of the building or abut the alley or as near to the alley as possible.
6. Where such facilities are on a lot adjacent to a dwelling zone district, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

C. **Distillery, Artisanal.** In the following districts: MU-H and MU-D an artisanal distillery shall be permitted provided that the following conditions are met:

1. In the MU-H and MU-D an artisanal distillery shall be limited to 40,000 square feet.
2. No outdoor storage shall be permitted.
3. All production activities shall be within completely enclosed structures.
4. Total production is limited to 1,000 barrels per year.
5. Two loading docks or service doors will be allowed, provided that:
   a. In MU-H and MU-D districts, the loading docks or service doors shall not designed to limit disruptions to pedestrian or bicycle traffic and be located at the rear of the building or abut the alley or as near to the alley as possible.
6. Where such facilities are on a lot adjacent to a dwelling zone district, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

D. **Junkyard, General and Vehicular.** In the I-2 district a general or vehicular junkyard shall be permitted provided that the following conditions are met:

1. The use is granted the appropriate license for operation by the Council.
2. An opaque fence is erected along the entire perimeter of the site that meets the following conditions:
   a. The fence design including materials and height is approved by the Director.
   b. The wall or fence (including gates) shall be of sound construction utilizing block, brick, stone, concrete, metal sheeting material,

reasonably smooth and uniform wood materials, or similar materials upon approval of the Director.

b. All materials used for wall or fence construction (including gates) shall be of sound and good condition, shall be protected against decay by the use of paint or other preservatives, and shall be uniform in height throughout.

c. The wall or fence (including gates) may be required to be erected higher than eight feet, but mot more than 12 feet, if the adjacent property is zoned dwelling or if the topography of the surrounding and nearby properties enable the junk and/or scrap materials to be readily viewed.

d. If the junkyard abuts any dwelling, mixed-use or commercial district, a landscape buffer shall be provided per Chapter 6, Article III of this Ordinance.

f. The fence requirement may be modified by the Director if the property's location, or location of the use on the property, is such that the site will not be viewable by the public or structures and/or dense vegetation is adequate to prevent viewing of the site by the public.

3. Removal of all fluids from any vehicle must be conducted in a structure with an impervious surface such that all fluids removed are contained and maintained so that they do not run-off with rain water into the storm drain system or enter the sanitary sewer system.

4. Any pile of material on-site shall not be higher than the screening fence approved for the site.

5. Any materials stored or that are the result of any process that are friable and potential airborne or can be washed away by stormwater shall be stored in an enclosed structure that prevents the materials from being blown on to any other lot.

E. **Manufacturing, Heavy.** In the I-2 district heavy manufacturing shall be permitted provided that the following conditions are met:

1. If a heavy manufacturing activity is storing materials outdoors and adjacent to any dwelling zoned district, an opaque fence shall be constructed to screen the ground-level view of the adjacent dwelling zoned district. Materials shall not be piled or stacked higher than the opaque fence.

2. Any materials stored or that are the result of any process that are friable and potential airborne or can be washed away by stormwater shall be stored in an enclosed structure that prevents the materials from being blown on to any other lot.

3. Landscape Buffer Yard. Where such facilities are on a lot adjacent to a dwelling district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

F. **Manufacturing, Light.** If a light manufacturing activity is storing materials outdoors and adjacent to any dwelling zoned district, an opaque fence shall be constructed to screen the ground-level view of the adjacent dwelling zoned district. Materials shall not be piled or stacked higher than the opaque fence.

1. Loading Docks. Where the site abuts a dwelling zone district or district permitting dwelling use, the building wall facing such lot shall not have any service door openings or loading docks oriented toward the dwelling zone district unless they are screened with an opaque fence or evergreen planting of at least six feet.
2. Landscape Buffer Yard. Where such facilities are on a lot adjacent to a dwelling district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

G. **Manufacturing, Specialized.** In the following districts: MU-H, MU-D, and C-2 a specialized manufacturer shall be permitted provided that the following conditions are met:

1. In the MU-H, and C-2 a specialized manufacturing shall be limited to 50,000 square feet and in the MU-D to 100,000 square feet.
2. No outdoor storage shall be permitted.
3. All production activities shall be within completely enclosed structures.
4. Two loading docks or service doors will be allowed, provided that:
   i. In the C-2 district it shall not face dwelling districts. If all sides abut dwelling districts, the loading docks or service doors must be screened with an opaque fence or evergreen planting of at least six feet.
   ii. In the MU-H and MU-D districts, the loading docks or service doors shall not designed to limit disruptions to pedestrian or bicycle traffic and be located at the rear of the building or abut the alley or as near to the alley as possible.
5. Where such facilities are on a lot adjacent to a dwelling zone district, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

H. **Resource Extraction.** In the I-4 district resource extraction shall be permitted provided that the following conditions are met:

1. Before any permits may be used or work begins for strip or surface mining, the owner or operator must have applied for and received a Clearing and Earthwork permit and/or a permit from the City Engineer of the City as herein provided. Any person lawfully engaged in strip or

surface mining shall immediately secure such permit or cease operation of such strip mine. Applicants for a permit shall file an application with the City Engineer which shall contain the following information and comply with the Soil Erosion and Sediment Control Code of the City:

a. The name of applicant and whether individual, partnership, corporation or other legal entity.

b. Legal address of the applicant for process of legal service or notice and the address of each mining operation.

c. The name and address of the agent, subsidiaries or independent contractors who may be engaged in strip surface mining on behalf of the applicant on the land or premises to be affected. Any agent, subsidiary or independent contractor engaged by the applicant subsequent to issuance of a permit shall be identified by written notice to the City Engineer within thirty days of such engagement; however such engagement shall not relieve the permittee of responsibility hereunder.

d. A statement of whether the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, has ever had a strip or surface mining permit suspended or revoked by the City, Jefferson County, the State of Alabama, or any other state, or has ever had a surface mining bond, or security deposited in lieu of bond, forfeited.

e. All names under which the applicant previously operated or is now engaging in surface mining within the City.

f. A legal description of the land or premises upon which the applicant proposes to engage in strip or surface mining including a map at a suitable scale noting the date prepared and showing:

   i. The areas of proposed operation under the said permit, if issued.
   ii. The names of owners of surface and mineral rights.
   iii. The location of all existing and proposed structures.
   iv. A 500 foot setback line or buffer from all adjacent property, public road rights-of-way, rivers, streams, or public lakes. The two hundred foot setback from an adjacent property may be excepted provided the adjacent property has a legally existing strip or surface mine in operation thereon or provided the owner(s) of the surface rights to such adjacent property has provided the applicant with written consent for such mining.
   v. The total acreage of land or premises proposed for strip or surface mining.
   vi. The existing and proposed surface drainage plans for the area of land or premises proposed for strip or surface mining noting

approvals or requirements by the ADEM, the Environmental Protection Agency or other governmental agencies. If said plans have been approved by said agencies, they shall be sufficient.

vii. A land surveyor registered in the State of Alabama certification which shall read as follows: ("I (land surveyor's name and State of Alabama registration number), hereby certify that this is a true and accurate map and shows to the best of my knowledge and according to my survey all information required by Appendix A, General Code of the City of Birmingham, Alabama (Zoning Ordinance)." The certification shall be signed and notarized. The failure to include the required certificate shall void said application for permit.

viii. A statement by the applicant that he has obtained, or before commencing mining will obtain, from the surface and mineral owners, the legal right to mine by strip or surface mining methods, the land to be affected by each permittee and if not already obtained, a statement of intent, from the legal surface and mineral owner, to deliver said rights upon issuance of said permit.

ix. Evidence of permits under the current Alabama Surface Mining Act.

x. Evidence of liability insurance in the amount required herein.

xi. Evidence of reclamation bond in the amount required herein.

xii. Evidence that the affected lands or premises are zoned M-4 Special Mining and Lumbering District in the form of a zoning certificate issued by the appropriate agency of the City.

g. The fee for a permit shall be in accordance with the Erosion Control Code and shall be submitted with the application. All sums received through payment of application fees shall be paid through the City Engineer.

h. If a permittee succeeds another at any uncompleted operation by sale, assignment, lease, or otherwise, the City Engineer may release the first permittee from all liability requirements of this regulation after the successor has filed a completed application, and the successor permittee assumes full liability for mining, conservation, and reclamation procedures established therein. Any agent, subsidiary or independent contractor engaged by the applicant or permittee subsequent to issuance of a permit shall be identified to the City Engineer within thirty days of its engagement. The utilization of an agent, subsidiary or subcontractor shall not relieve the permittee of its responsibility hereunder except as hereinabove provided.

i. Each permit shall remain in effect for twelve months unless previously revoked or otherwise terminated as provided herein. Request for

additional permits or extensions of permits shall be submitted in the same manner as the first application.

2. Operational regulations.

   a. No pit, spoil, tailings, waste or material incidental or accessory to surface mining shall be located closer to adjacent property lines, public road rights-of-way, lakes or rivers than 200 feet, and not closer than 500 feet to a private residence or public building. This setback may be excepted provided the adjacent property has a legally existing strip or surface mine in operation thereon and further provided the owner(s) or the surface mineral rights has provided the operator or permittee with a consent for same in writing.

   b. The operator or permittee shall divert water from the active pit areas in a manner designed to reduce siltation, erosion or other damage to streams and natural watercourses. As mining begins, all drainage ways which flow from the active pit areas must be protected.

   c. All roads must be maintained in a manner approved by the City Engineer to reduce dust.

   d. The general operation of the dumping of pit, soil, tailings, waste or other materials, shall be in a manner that pollution of streams or lakes are controlled in conformance with regulations of the Environmental Protection Agency and ADEM.

   e. The use of explosives for the purpose of blasting in connection with surface mining shall be done in accordance with the rules, regulations, and standards as set forth by the U.S. Bureau of Mines, the coal mining laws of the State of Alabama and the open pit and quarry safety rules of the State of Alabama. No blasting shall be performed before 7 am or after 7 pm, except as required, to comply with the above regulations.

   f. The City Engineer or any member of his staff, or a person designated by the City, may enter upon the affected lands at any reasonable time for the purpose of inspection to determine whether the provisions of this Section are being complied with.

3. Insurance and bonds.

   a. The application for permit shall be accompanied by a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized or licensed to do business in the State of Alabama covering all strip or surface mining operation of the applicant on lands or premises affected by such application and affording personal injury and property damage protection. The insurance shall cover the operator, all of its

agents and employees, and shall not be less than $1,000,000 for personal injury and $1,000,000 for property damage. The City Engineer may waive the provisions of this subsection upon the operator posting securities, in the amount of $1,000,000, of the same type and in the same manner as specified in this section.

b. Each application for a permit shall be accompanied by a bond in accordance with the Soil Erosion and Sediment Control Code per acre of affected land. State bonding requirements shall be credited toward the bond per acre required herein. No bond however, shall be for less than five thousand dollars ($5,000). Any bond herein required to be filed with the City Engineer by the applicant shall be payable to the City for the surface mining and reclamation fund and conditioned that the operator shall faithfully perform all applicable requirements of the permit. Such bonds shall be signed by the operator, as principal, and by a good and sufficient corporate surety authorized or licensed to do business in the State of Alabama, as surety.

c. In lieu of the hereinabove required bond, the operator may elect to submit to the City Engineer cash or negotiable bonds of the United States government, or the State of Alabama, or any municipality within the state. The amount of cash or market value of such securities shall be equal at least to the amount of the bond. The City Engineer shall, upon receipt of any such cash or securities, immediately deposit the same with the Finance Director of the City, whose duty it shall be to receive and hold the same in the name of the City, in trust, for the purposes for which such a deposit is made. The Finance Director shall at all times be responsible for the custody and safekeeping of such deposits. The operator making the deposit of securities shall be entitled from time to time to demand and receive from the Finance Director, on the written order of release of the City Engineer, the whole or any portion of any securities so deposited, upon depositing with the City Engineer in lieu thereof cash or other negotiable securities of the classes herein specified having a market value at least equal to the sum of said securities; provided, however, that where securities, deposited as aforesaid, mature or are called, the Finance Director, at the request of the operator, shall convert such securities into such other negotiable securities of the classes herein specified as may be designated by the operator. The total coverage of the bond or amount of cash and securities shall be increased or reduced from time to time as land is added or withdrawn from the area covered by the permit as provided in this section.

d. Whenever an operator shall have completed all applicable requirements under the permit for part or all of the affected land, he shall notify the

City Engineer thereof. The bond may be released as specified in the Soil Erosion and Sediment Control Code.

e. A bond filed as above prescribed shall be conditioned so that it cannot be canceled by the surety with less than ninety days written notice to the City Engineer. If a bond is canceled after such notice, the operator shall on or before the effective date of such cancellation, substitute another bond or cash or securities as provided herein.

f. If the authorization or license to do business with the State of Alabama of any surety upon a bond filed with the City Engineer pursuant to this Ordinance shall be suspended or revoked, the operator, shall substitute for such surety a good and sufficient corporate surety licensed to do business in the State of Alabama, or another bond, or cash or securities in lieu thereof as provided hereinabove.

g. The failure of the operator to make substitution of surety bond, cash or securities, as provided above, shall result in the suspension of the permit of the operator to conduct any operation on the affected land in such permit in accordance with this section. If such permit is revoked, the operator shall not conduct further mining of the affected land or premises until substitution as provided hereinabove has been made.

h. All sums received through the forfeiture of bonds, the recovery of civil penalties, or otherwise for the reclamation of disturbed lands shall be placed in the general fund of the City and credited to an account designated as the surface mining and reclamation fund. This fund, which is hereby established, shall be available to the Council of the City for expenditures only for the purpose of reclamation and revegetation of the land affected, subsequent to the enactment of this Section. Defaulted bond funds shall be first applied to reclaiming the lands covered by the surface mining and reclamation fund of the City.

4. Reclamation. The permittee shall notify the City Engineer within thirty days after termination of the operation, or prior to the termination at any time, and shall reclaim the affected lands in accordance with the following provisions:

a. The operator or permittee shall backfill the final pit by sloping the last spoil pile toward the high wall to a minimum depth of seven feet above the bottom mineral seam.

b. If any of the affected lands are toxic, deficient in plant nutrients, composed of sand, gravel, shale or stone to such extent as to prohibit plant growth, the applicant shall be required to cover such area with overburden material or fertilizers to promote revegetation. To establish the condition of soil or affected lands, the City Engineer may require the permittee or operator to submit test results or documentation.

c. A permittee with legal title or right may construct dams of earth or other materials in cuts of all operations when lakes may be formed, and cause lakes to be formed, provided that the formation of said lakes will not interfere with underground or other mining operations or cause damage to adjoining property, or establish a stagnant lake or pond. If permittee elects to form lakes or ponds as part of his reclamation efforts, he shall cover any toxic seam on the bottom of the open pit to a depth of two feet. The permittee is encouraged to make such lake or pond accessible to wildlife.

d. The permittee may elect to reclaim the affected land for range, agricultural or horticultural, home site, recreational, industrial or commercial uses but no such election shall result in grading to a lesser extent than set forth in this Subsection or establish a vested interest to a rezoning for such uses.

e. The permittee shall complete the contouring of all spoil piles within twelve months from the date of expiration of the surface mining operations.

f. The permittee shall perform planting and revegetation during the first planting season after regrading is complete; however, the outer slope shall be revegetated as soon as possible to provide quick growth cover and reduce erosion.

g. The operator or permittee shall cover the face of any toxic material left exposed in the bottom of the pit by surface mining with overburden material to a depth of two feet.

h. The operator or permittee shall eliminate all high walls except the final high wall of each pit and construct two access ways to the area above the high wall for each horizontal mile of said final high wall.

i. When final reclamation is assumed, if affected lands are being developed for forestry, the operator will, in addition to trees, establish a protective covering of some other type plant, such as grass, to assist in preventing excessive erosion pending the development of forest tree seedlings into trees.

5. Revocation of permits.

a. The City Engineer may revoke any permit upon:

i. Revocation of state permit.

ii. Expiration or cancellation of liability insurance.

iii. Expiration or cancellation of reclamation bond.

iv. Violation of any regulation herein provided, however, no permit shall be revoked until the City Engineer shall, in writing, advise the

permittee of the reason for such revocation, and allow such permittee or operator a reasonable period of time not exceeding sixty days to correct such violation or other defect. If after this period, the permittee or operator so notified remains in violation, the City Engineer may cause to have issued and served upon the permittee or operator alleged to be committing such violation, a written notice which shall require the permittee or operator so complained against to answer the charges of such formal complaint at a hearing before the City Engineer at a time not less than ten days nor more than thirty days after the service of such notice. The charged permittee or operator may appear in person or by representative or counsel at such hearing. After such hearing the City Engineer shall enter such order as deemed appropriate on the basis of the facts presented and forthwith mail a copy thereof to the charged permittee or operator or its attorney of record and to the Council of the City. If such order of the City Engineer is not complied with and is then not the subject of an appeal to the Council of the City or appropriate Court as herein provided, the City Engineer may cause to have instituted a civil action in any Court of a competent jurisdiction to forfeit the bond of the permittee or operator as to land affected by the permittee or operator's violation of this regulation, or for injunctive or other appropriate relief to prevent any further or continued violation of such final order.

b. Any permittee or operator may appeal any order of the City Engineer to the Council of the City and hence, to the Circuit Court of Jefferson County as prescribed by law. During the period of appeal by such permittee or operator, the City Engineer shall not commence separate legal proceedings as herein authorized nor shall any permit be revoked until final adjudication of the appeal.

c. Nothing in this regulation shall prevent the City Engineer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. This regulation specifically directs and encourages the City Engineer to exhaust conciliatory efforts before taking formal action against permittee or operator as provided herein.

I. **Salvage Yard or Scrap Metal Processor.** In the M-2 district a salvage yard or a scrap metal processor shall be permitted provided that the following conditions are met:

1. The use is granted the appropriate license for operation by the Council.
2. An opaque fence is erected along the entire perimeter of the site that meets the following conditions:

   a. The fence design including materials and height is approved by the Director.

b. The wall or fence (including gates) shall be of sound construction utilizing block, brick, stone, concrete, metal sheeting material, reasonably smooth and uniform wood materials, or similar materials upon approval of the Director.

c. All materials used for wall or fence construction (including gates) shall be of sound and good condition, shall be protected against decay by the use of paint or other preservatives, and shall be uniform in height throughout.

d. The wall or fence (including gates) may be required to be erected higher than eight feet, but mot more than 12 feet, if the adjacent property is zoned dwelling or if the topography of the surrounding and nearby properties enable scrap materials to be readily viewed.

e. If the salvage yard or scrap metal processor abuts any dwelling, mixed-use or commercial district, a landscape buffer shall be provided per Chapter 6, Article III of this Ordinance.

f. The fence requirement may be modified by the Director if the property's location, or location of the use on the property, is such that the site will not be viewable by the public or structures and/or dense vegetation is adequate to prevent viewing of the site by the public.

3. Removal of all fluids from any vehicle must be conducted in a structure with an impervious surface such that all fluids removed are contained and maintained so that they do not run-off with rain water into the storm drain system or enter the sanitary sewer system.

4. Any pile of material on-site shall not be higher than the screening fence approved for the site.

5. Any materials stored or that are the result of any process that are friable and potential airborne or can be washed away by stormwater shall be stored in an enclosed structure that prevents the materials from being blown on to any other lot.

J. **Timbering.** In the I-4 district timbering shall be permitted provided that the following conditions are met:

1. The minimum lot area for timbering shall be 40 acres.

2. All timbering operations shall be in accordance with the approved forest management plan. A forest management plan shall include:

a. a detailed description of the property to be timbered including its current condition, characteristics of adjacent property, influence on water quality, identification of cultural and historical resources, and the presence of any environmentally sensitive features;

b. a narrative description of all harvesting procedures, techniques for harvesting in sensitive areas, the location of main haul roads, skid trails, potential log landings and stream or drainage crossings, and timing of harvest;

c. a reforestation plan;

d. a depiction of all required buffer areas.

3. Streamside management zones at least 50 feet in width, within which no timbering may occur, shall be preserved on each side of all perennial and intermittent streams.

4. All property which is forested or timbered shall be replanted with seedling trees at a rate of 400 per acre, within one year or the next growing season after the forestry operation is completed.

5. If trees are removed from the buffer areas in excess of the provision of (3), the property owner shall be responsible for replanting the number removed with two and one-half inch (2 ½") caliper trees.

6. At a minimum, these uses shall have driveway access on nonresidential collector streets.

7. Where the site abuts a residential zone district or district permitting residential use, screening in the form of a buffer yard shall be applied per Chapter 6, Article III of this Ordinance or maintained continuously within the setback area where the best opportunity exists to screen the operation, placed either on the property boundary, along the perimeter of operation, or both.

8. Reforestation Plan. The application shall include plans for the re-planting of the site after the operation is terminated. The applicant shall execute a performance bond in an amount necessary for restoration of the property to assure the stability, and drainage, including the removal of all structures and machinery.

9. Before any permits may be used or work begins for timbering, the owner or operator must have applied for and received a Clearing and Earthwork permit and/or a permit from the City Engineer of the City as herein provided. Any person lawfully engaged in timbering shall immediately secure such permit or cease operation of timbering. Applicants for a permit shall file an application with the City Engineer which shall contain the following information and comply with the Soil Erosion and Sediment Control Code of the City:

   a. The name of applicant and whether individual, partnership, corporation or other legal entity.

b. Legal address of the applicant for process of legal service or notice and the address of each mining operation.

c. The name and address of the agent, subsidiaries or independent contractors who may be engaged in strip surface mining on behalf of the applicant on the land or premises to be affected. Any agent, subsidiary or independent contractor engaged by the applicant subsequent to issuance of a permit shall be identified by written notice to the City Engineer within thirty days of such engagement; however such engagement shall not relieve the permittee of responsibility hereunder.

d. A statement of whether the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, has ever had a permit suspended or revoked by the City, Jefferson County, the State of Alabama, or any other state, or has ever had a bond, or security deposited in lieu of bond, forfeited.

e. All names under which the applicant previously operated or is now engaging in timbering within the City.

f. A legal description of the land or premises upon which the applicant proposes to engage in timbering including a map at a suitable scale noting the date prepared and showing:

   i. The areas of proposed operation under the said permit, if issued.

   ii. The location of all existing and proposed structures.

   iii. A 500 foot setback line or buffer from all adjacent property, public road rights-of-way, and a 200 foot setback line or buffer from all rivers, streams, or public lakes.

   iv. The total acreage of land or premises proposed for timbering.

   v. The existing and proposed surface drainage plans for the area of land or premises proposed for timbering noting approvals or requirements by ADEM, the Environmental Protection Agency or other governmental agencies.

   vi. A land surveyor registered in the State of Alabama certification which shall read as follows: ("I (land surveyor's name and State of Alabama registration number), hereby certify that this is a true and accurate map and shows to the best of my knowledge and according to my survey all information required by Appendix A, General Code of the City of Birmingham, Alabama (Zoning Ordinance)." The certification shall be signed and notarized. The failure to include the required certificate shall void said application for permit.

   vii. Evidence of liability insurance in the amount required herein.

viii. Evidence of reclamation bond in the amount required herein.

ix. Evidence that the affected lands or premises are zoned I-4 Mining, Timbering and Landfill District in the form of a zoning certificate issued by the appropriate agency of the City.

g. The fee for a permit shall be in accordance with the Erosion Control Code and shall be submitted with the application. All sums received through payment of application fees shall be paid through the City Engineer.

h. If a permittee succeeds another at any uncompleted operation by sale, assignment, lease, or otherwise, the City Engineer may release the first permittee from all liability requirements of this regulation after the successor has filed a completed application, and the successor permittee assumes full liability for timbering, conservation, and reclamation procedures established therein. Any agent, subsidiary or independent contractor engaged by the applicant or permittee subsequent to issuance of a permit shall be identified to the City Engineer within thirty days of its engagement. The utilization of an agent, subsidiary or subcontractor shall not relieve the permittee of its responsibility hereunder except as hereinabove provided.

i. Each permit shall remain in effect for twelve months unless previously revoked or otherwise terminated as provided herein. Request for additional permits or extensions of permits shall be submitted in the same manner as the first application.

11. Operational regulations.

a. No cut timber or waste or material incidental or accessory to timbering shall be located closer to adjacent property lines, public road rights-of-way, lakes or rivers than 50 feet, and not closer than 200 feet to a private residence or public building.

b. The operator or permittee shall divert water from the timbering areas in a manner designed to reduce siltation, erosion or other damage to streams and natural watercourses. As timbering begins, all drainage ways which flow from active timbering areas must be protected.

c. All roads must be maintained in a manner approved by the City Engineer to reduce dust.

d. The general operation of the dumping of timbering waste or other materials, shall be in a manner that pollution of streams or lakes are controlled in conformance with regulations of the Environmental Protection Agency and ADEM.

e. The City Engineer or any member of his staff, or a person designated by the City, may enter upon the affected lands at any reasonable time

for the purpose of inspection to determine whether the provisions of this Section are being complied with.

12. Insurance and bonds.

    a. The application for permit shall be accompanied by a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized or licensed to do business in the State of Alabama covering all timbering operation of the applicant on lands or premises affected by such application and affording personal injury and property damage protection. The insurance shall cover the operator, all of its agents and employees, and shall not be less than one million dollars ($1,000,000) for personal injury and one million ($1,000,000) for property damage. The City Engineer may waive the provisions of this subsection upon the operator posting securities, in the amount of one million dollars ($1,000,000), of the same type and in the same manner as specified in this section.

    b. Each application for a permit shall be accompanied by a bond in accordance with the Soil Erosion and Sediment Control Code per acre of affected land. State bonding requirements shall be credited toward the bond per acre required herein. No bond however, shall be for less than five thousand dollars ($5,000). Any bond herein required to be filed with the City Engineer by the applicant shall be payable to the City for the timbering reclamation fund and conditioned that the operator shall faithfully perform all applicable requirements of the permit. Such bonds shall be signed by the operator, as principal, and by a good and sufficient corporate surety authorized or licensed to do business in the State of Alabama, as surety.

    c. In lieu of the hereinabove required bond, the operator may elect to submit to the City Engineer cash or negotiable bonds of the United States government, or the State of Alabama, or any municipality within the state. The amount of cash or market value of such securities shall be equal at least to the amount of the bond. The City Engineer shall, upon receipt of any such cash or securities, immediately deposit the same with the Finance Director of the City, whose duty it shall be to receive and hold the same in the name of the City, in trust, for the purposes for which such a deposit is made. The Finance Director shall at all times be responsible for the custody and safekeeping of such deposits. The operator making the deposit of securities shall be entitled from time to time to demand and receive from the Finance Director, on the written order of release of the City Engineer, the whole or any portion of any securities so deposited, upon depositing with the City Engineer in lieu thereof cash or other negotiable securities of the classes herein specified having a market value at least equal to the sum

of said securities; provided, however, that where securities, deposited as aforesaid, mature or are called, the Finance Director, at the request of the operator, shall convert such securities into such other negotiable securities of the classes herein specified as may be designated by the operator. The total coverage of the bond or amount of cash and securities shall be increased or reduced from time to time as land is added or withdrawn from the area covered by the permit as provided in this section.

d. Whenever an operator shall have completed all applicable requirements under the permit for part or all of the affected land, he shall notify the City Engineer thereof. The bond may be released as specified in the Soil Erosion and Sediment Control Code.

e. A bond filed as above prescribed shall be conditioned so that it cannot be canceled by the surety with less than ninety days written notice to the City Engineer. If a bond is canceled after such notice, the operator shall on or before the effective date of such cancellation, substitute another bond or cash or securities as provided herein.

f. If the authorization or license to do business with the State of Alabama of any surety upon a bond filed with the City Engineer pursuant to this Ordinance shall be suspended or revoked, the operator, shall substitute for such surety a good and sufficient corporate surety licensed to do business in the State of Alabama, or another bond, or cash or securities in lieu thereof as provided hereinabove.

g. The failure of the operator to make substitution of surety bond, cash or securities, as provided above, shall result in the suspension of the permit of the operator to conduct any operation on the affected land in such permit in accordance with this section. If such permit is revoked, the operator shall not conduct further timbering of the affected land or premises until substitution as provided hereinabove has been made.

h. All sums received through the forfeiture of bonds, the recovery of civil penalties, or otherwise for the reclamation of disturbed lands shall be placed in the general fund of the City and credited to an account designated as the timbering and reclamation fund. This fund, which is hereby established, shall be available to the Council of the City for expenditures only for the purpose of reclamation and revegetation of the land affected, subsequent to the enactment of this Section. Defaulted bond funds shall be first applied to reclaiming the lands covered by the surface mining and reclamation fund of the City.

13. Reclamation. The permittee shall notify the City Engineer within thirty days after termination of the operation, or prior to the termination at any time, and shall reclaim the affected lands in accordance with the following provisions:

a. Permittee shall enact their reforestation plan.

b. The permittee shall perform planting and reforestation during the first planting season after timbering is complete.

c. Prior to reforestation, the operator will, in addition to trees, establish a protective covering of some other type plant, such as grass, to assist in preventing excessive erosion pending the development of forest tree seedlings into trees.

14. Revocation of permits.

a. The City Engineer may revoke any permit upon:

i. Expiration or cancellation of liability insurance.

ii. Expiration or cancellation of reclamation bond.

iii. Violation of any regulation herein provided, however, no permit shall be revoked until the City Engineer shall, in writing, advise the permittee of the reason for such revocation, and allow such permittee or operator a reasonable period of time not exceeding sixty days to correct such violation or other defect. If after this period, the permittee or operator so notified remains in violation, the City Engineer may cause to have issued and served upon the permittee or operator alleged to be committing such violation, a written notice which shall require the permittee or operator so complained against to answer the charges of such formal complaint at a hearing before the City Engineer at a time not less than ten days nor more than thirty days after the service of such notice. The charged permittee or operator may appear in person or by representative or counsel at such hearing. After such hearing the City Engineer shall enter such order as deemed appropriate on the basis of the facts presented and forthwith mail a copy thereof to the charged permittee or operator or its attorney of record and to the Council of the City. If such order of the City Engineer is not complied with and is then not the subject of an appeal to the Council of the City or appropriate Court as herein provided, the City Engineer may cause to have instituted a civil action in any Court of a competent jurisdiction to forfeit the bond of the permittee or operator as to land affected by the permittee or operator's violation of this regulation, or for injunctive or other appropriate relief to prevent any further or continued violation of such final order.

b. Any permittee or operator may appeal any order of the City Engineer to the Council of the City and hence, to the Circuit Court of Jefferson County as prescribed by law. During the period of appeal by such permittee or operator, the City Engineer shall not commence separate

legal proceedings as herein authorized nor shall any permit be revoked until final adjudication of the appeal.

c. Nothing in this regulation shall prevent the City Engineer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. This regulation specifically directs and encourages the City Engineer to exhaust conciliatory efforts before taking formal action against permittee or operator as provided herein.

K. **Truck Repair, Heavy.** In the I-3 district, a truck service shop shall be permitted provided that the following conditions are met:

1. No visibly disabled, abandoned or inoperable trucks shall be stored on the premises.
2. No truck to be repaired shall remain on the premises more than sixty days.
3. Submittal of a site development plan, to be approved by the ZAC.

L. **Warehouse.** In the following districts: MU-H and MU-D a warehouse shall be permitted provided that the following conditions are met:

1. In the MU-H a warehouse shall be limited to 50,000 square feet and in the MU-D to 100,000 square feet.
2. No outdoor storage shall be permitted.
3. Two loading docks or service doors will be allowed, provided that in the MU-H and MU-D districts, the loading docks or service doors shall be designed to limit disruptions to pedestrian or bicycle traffic and be located at the rear of the building or abut alley or as near to the alley as possible.
4. Where such facilities are on a lot adjacent to a dwelling zone district, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

M. **Warehouse, Office.** In the MU-H, MU-D AND C-2 district an office/warehouse shall be permitted provided that the following conditions are met:

1. In the MU-H an office/warehouse shall be limited to 50,000 square feet and in the MU-D to 100,000 square feet.
2. An office/warehouse shall be limited to 50,000 square feet.
3. No outdoor storage shall be permitted.
4. At least sixty percent of the gross floor area is used as office.
5. Two loading docks or service doors shall be allowed provided that they shall not face dwelling districts and be located at the rear of the building and does not face a dwelling district. If all sides abut dwelling districts,

the loading dock or service door must be screened with an opaque fence or evergreen planting of at least six feet.

6. Where such facilities are on a lot adjacent to a dwelling zone district, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

N. **Wrecker Service with outside storage of disabled vehicles.** In the I-2 district a wrecker service that stores disabled vehicles shall be permitted provided that the following conditions are met:

1. The use is granted the appropriate license for operation by the Council.
2. A nontransparent fence is erected along the entire perimeter of the site that meets the following conditions:
   a. The fence design including materials and height is approved by the Director.
   b. The wall or fence (including gates) shall be of sound construction utilizing block, brick, stone, concrete, metal sheeting material, reasonably smooth and uniform wood materials, or similar materials upon approval of the Director.
   c. All materials used for wall or fence construction (including gates) shall be of sound and good condition, shall be protected against decay by the use of paint or other preservatives, and shall be uniform in height throughout.
   d. The wall or fence (including gates) may be required to be erected higher than eight feet if the adjacent property is zoned dwelling or if the topography of the surrounding and nearby properties enable scrap materials to be readily viewed.
   e. If the salvage yard or scrap metal processor abuts any dwelling, mixed-use or commercial district, a landscape buffer shall be provided per Chapter 6, Article III of this Ordinance.
   f. The fence requirement may be modified by the Director if the property's location, or location of the use on the property, is such that the site will not be viewable by the public or structures and/or dense vegetation is adequate to prevent viewing of the site by the public.
3. No vehicles shall remain on the lot more than 90 days.

O. **Wrecker Impound Lot.** In the I-2 district a wrecker impound lot shall be permitted by the Board provided that the following conditions are met:

1. Where a wrecker impound lot is adjacent to a dwelling district, screening in the form of a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.

2. No vehicles shall remain on the lot more than 90 days.
3. A nontransparent fence is erected along the entire perimeter of the site that meets the following conditions:
   a. The fence design including materials and height is approved by the Director.
   b. The wall or fence (including gates) shall be of sound construction utilizing block, brick, stone, concrete, metal sheeting material, reasonably smooth and uniform wood materials, or similar materials upon approval of the Director.
   c. All materials used for wall or fence construction (including gates) shall be of sound and good condition, shall be protected against decay by the use of paint or other preservatives, and shall be uniform in height throughout.
   d. The wall or fence (including gates) may be required to be erected higher than eight feet if the adjacent property is zoned dwelling or if the topography of the surrounding and nearby properties enable scrap materials to be readily viewed.
   e. The fence requirement may be modified by the Director if the property's location, or location of the use on the property, is such that the site will not be viewable by the public or structures and/or dense vegetation is adequate to prevent viewing of the site by the public

Section 8. Agricultural uses.

A. **Community Garden.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, AND MXD, a community garden shall be permitted provided the following conditions are met:
   1. No dwelling structure is located on the same lot as the community garden.
   2. A community garden permit application has been completed and approved by the Department that contains the following:
      a. Name of all persons or entities that govern the garden;
      b. Name, signature and contact information of Garden Manager;
      c. Description of garden use and purpose;
      d. Detailed explanation of location of garden including address;
      e. Site plan depicting all structures, compost piles, proposed screening and garden installations of the proposed garden;
      g. Results of soil testing for soil condition and contamination.
   3. Garden use excluding all accessory structures is allowed in any yard.
   4. A community benefit is demonstrated in two of the following ways:

a. Garden space is provided for area neighbors.

b. Provide healthy food access to area neighbors.

c. Local Neighborhood Association sponsorship.

d. Provide gardening education to area neighbors.

e. Provide gardening internships to area neighbors.

f. Provide community events that support food access or healthy eating habits.

5. Accessory structures are limited to storage sheds, water cisterns, cold frames, hoophouses and greenhouses, and they must be built of standard uniform materials that are either new or in sound condition not showing signs of decay, and can be located anywhere on site other than the required front yard or as required as an accessory structure in rear or side yard.

6. For the purposes of this section, a greenhouse or market stand is not subject to the accessory structure requirements in Title 1, Chapter 3, Article I of this Ordinance.

7. All compost and organic matter stored on site shall be of materials, generated on-site by the owner or tenant and shall not cover more than 10% of the total lot area, and shall be screened from view of adjacent property and public right-of-way with fencing built of standard uniform materials that are either new or in sound condition not showing signs of decay or an evergreen landscape buffer.

8. All compost must be maintained to prevent rodents and pests, and shall be maintained to prevent odors and drainage from compost onto adjacent sites.

9. All gardening equipment shall be limited to household gardening/lawn equipment.

10. The maximum lot size for a community garden shall be no more than 50,000 square feet.

B. **Urban Farm, Outdoor.** In the I-1, I-2 and I-3 district an outdoor urban farm shall be permitted provided that the following conditions are met:

1. All compost and organic matter used on site shall be produced on site and shall be for use solely on site, and is screened from lots and is more than 500 feet from any adjacent residential dwelling, which shall not cover more than 20% of the total area, shall be managed to prevent rodents and pests, prevent odors and drainage from compost onto adjacent sites.

2. All farming equipment shall be screened from view with fencing or landscaping of adjacent lots.

3. Accessory structures are limited to storage sheds, greenhouses, hoophouses, cold frames and cisterns built of standard uniform materials that are either new or in sound condition not showing signs of decay.
4. Apiaries are setback from property lines by 25 feet and 50 feet from any adjacent dwelling lots, a continuous water source is available, 1 hive allowed per 2,500 square feet with maximum of 40 hives.
5. If any accessory structure is not maintained in sound condition free from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.
6. It is a requirement that soil testing be conducted prior to gardening activities. Test for both soil condition and possible soil contamination, to determine at minimum constraints to food production, shall be conducted. Information on acquiring Soil testing kits and analysis can be found in the Appendix to this Ordinance.

Section 9. Transportation uses.

A. **Bus Station.** In the MU-M, MU-H, MU-D, C-2 AND I-1 districts a bus station shall be permitted provided that the following conditions are met:

1. All buildings and passenger loading areas, excluding passenger car parking lots, shall be located a minimum of 50 feet from any dwelling zone district.
2. When adjacent to dwelling zone districts, a landscape buffer yard shall be applied along common property lines per Chapter 6, Article III of this Ordinance.

B. **Railroad Station.** In the MU-D, I-1 AND I-2 districts railroad station shall be permitted provided that the following conditions are met:

1. Where railroad stations, excluding passenger car parking lots, abut a dwelling district, there shall be a minimum setback of 500 feet.
2. When adjacent to dwelling districts, a landscape buffer yard shall be applied along common property lines per Chapter 6, Article III of this Ordinance.

Section 10. Utility uses.

A. **Power Plant**. In the I-2 a power plant shall be permitted provided that following conditions are met:

1. All buildings and vehicle loading areas shall be located a minimum of 1,000 feet from any dwelling zone district or district permitting dwelling use.

2. Along all dwelling zone districts and districts permitting dwelling use, a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.

B. **Solar Panel Building Mounted**. In the D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, PRD, HID AND AG districts building mounted solar panels shall be permitted provided that the following conditions are met:

1. Solar Panels shall be documented by the manufacturer as being non-reflective pursuant to recognized engineering standards showing reflectivity of less than 30 percent or shall be placed such that concentrated sunlight or glare shall not be directed onto nearby properties or streets.

2. Solar Panels shall not project vertically above the peak of a sloped roof to which it is attached.

4. Solar Panels shall be mounted in such a manner that the device is not more than one foot above the roof surface to which it is attached, and mounted so that the device plane is in a plane which is parallel to the surface of the roof to which it is attached, and mounted so that the edge of the device is at least two feet from the edge of the roof to which it is attached.

6. Solar Panels installed on a flat roof or parking facility that is more than 40 feet in height may exceed the height of the building up to five feet, except for buildings located in the MU-H AND MU-D and measuring at least 75 feet tall, for which no height restriction above the roof is required.

7. All exterior electrical or plumbing lines must be painted in a color scheme that matches as closely as possible the color of the structure and the materials adjacent to the lines when visible from the street.

8. Solar panels that are integrated into building materials, including but not limited to, windows, awnings, roof tiles or skylights will not be subject to conditions.

9. If a Solar Panel is to be attached to a building in a local historic or commercial revitalization or redevelopment district, it must be placed such that it faces a rear or side yard and must meet any design guidelines of the district.

C. **Solar Panel Ground-mounted.** In the AG, D-5, D-6, MU-M, MU-H, MU-D, C-1, C-2, PRD AND MXD districts ground mounted solar panels shall be permitted provided that the following conditions are met:

1. Solar Panels shall be documented by the manufacturer as being non-reflective pursuant to recognized engineering standards showing reflectivity of less than 30 percent or shall be placed such that

concentrated sunlight or glare shall not be directed onto nearby properties or streets.

2. Solar Panels shall only be located in the side or rear yard of a property, when located in a dwelling district.
3. In commercial districts with no such requirement, a maximum height of 20 feet is hereby established. Height shall be measured from average grade at the base of the supporting structure to the highest edge of the system.
4. In dwelling districts, solar panels must be screened from public view (including adjacent properties and public rights-of-way) by fencing, walls, plantings or other architectural feature or any combination thereof; provided, however, that screening shall not be required to be so dense, so tall or so located as to render the equipment essentially non-functional.

Section 11. Waste management uses.

A. **Composting Facility.** In the I-4, AND AG districts a composting facility shall be permitted provided that the following conditions are met:

1. A solid waste permit from the Council of the City is approved.
2. No composting facility may receive, store or process solid waste for composting without being properly permitted by ADEM and the City.
2. A site plan that depicts any clearing and grubbing, stormwater control structures, leachate collection systems, access roads, screening, fencing, buildings, and compost pads shall be provided.
3. A composting facility shall not be located in the 100 year floodplain.
4. A composting facility shall not cause a discharge of pollutants into

   waters of the State, including wetlands, that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 and/or section 404 of the Clean Water Act, as amended.
5. A composting facility shall not cause non-point source pollution of waters of the State, including wetlands, that violates any requirements of an area wide and State wide water quality management plan that has been approved under the Alabama Water Pollution Control Act.
6. A composting facility shall not be permissible in wetlands.
7. The bottom elevation of the composting facility shall be a minimum of five feet above the highest measured groundwater level, as determined by the methodology outlined in ADEM Administrative Code **335-13-14-.05 (7).**

8. A composting pad, as defined by ADEM Administrative Code 335-13-14-.02, shall be provided for the receiving and storage areas, and the processing and curing areas.
9. The raw material receiving and storage areas shall be covered in a manner to minimize exposure of the material to the elements.
10. A stormwater control system shall be constructed to control at least the water volume from a 24-hour, 25-year storm. Stormwater or other water that comes in contact with the solid waste received, being stored, processed or composted, or which mixes with leachate shall be considered leachate.
11. The composting facility shall have a leachate collection and removal system designed to collect and remove leachate from the waste receiving and storage areas and the processing area.
12. Buffer zones around the perimeter of the composting facility shall be a minimum of 100 feet measured in the horizontal plane. No composting, storage practices, stormwater controls or leachate collection shall take place in the buffer zone.
13. Compost offered for use must be produced by a process that encompasses turning on a regular basis to aerate the waste, maintain temperatures, and/or reduce pathogens. Compost may be produced by other composting techniques as approved by ADEM.
14. Used oil, hazardous waste, treated or untreated medical waste, treated wood, and asbestos containing waste shall not be accepted at a composting facility.
15. Household hazardous waste shall not be accepted at a composting facility.
16. Solid waste received at the composting facility shall be confined to a designated delivery or storage area until processed. Any solid waste not introduced into the processing operation within 72 hours shall be removed and disposed of at a municipal solid waste landfill.
17. The site shall be graded to prevent ponding of water in the active composting area.
18. Surface water drainage shall be diverted around and away from the Composting area to prevent any washing or escape of waste from the property.
19. Leachate shall be collected and disposed of in a manner approved by the Department.
20. The composting facility shall be operated in a manner that controls vectors.

21. The composting facility shall be operated in a manner that controls and minimizes odors. Should obnoxious odors arising from the composting facility operations be verified by ADEM or the City, measures to abate the odor shall be taken upon a determination by ADEM or the City or Jefferson County Health Department that such measures are technically feasible.
22. The composting facility shall be operated in a manner that prevents fires in accordance with the fire prevention plan.
23. Open burning at any composting facility is prohibited except for burning resulting from land clearing activities at the site, if prior written approval is received from Jefferson County Health Department.
24. Access to the facility shall be controlled so as to minimize the potential for scavenging of materials and unauthorized disposal of wastes.
25. A sign shall be posted which identifies the composting facility owner or operator, hours of operation, waste that may be accepted, and the permit number.

B. **Landfill.** In the I-2 and I-4 district a construction landfill shall be permitted provided that the following conditions are met:

1. A solid waste permit from the Council of the City is approved.
2. Lot Size. The minimum lot area shall be ten acres.
3. Driveway access can be from any local street, provided that street is not bounded by any dwelling zoning district from the driveway access point to the street's intersection with a collector street or a street designated on the major street plan.
4. All buildings, structures, storage containers and areas, and vehicle loading/unloading areas shall be located a minimum of 100 feet from any property line, 250 feet from any dwelling zoning district boundary, and 500 feet from any dwelling structure, and further, the facility shall not be located less than 2,000 feet from the property line of any school or park.
5. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.
6. The use is granted the appropriate license for operation by the Council.
7. Any materials stored or that are the result of any process that are friable and potential airborne or can be washed away by stormwater shall be stored in an enclosed structure that prevents the materials from being blown on to any other lot.
8. Where natural hydrogeologic conditions may be determined by ADEM to be insufficient to minimize the impact of leachate on waters, the use of

an appropriate liner(s) shall be used as approved by ADEM, as defined in ADEM Admin. Code r. 335-13-1-.03, or an alternate design as specified in 335-13-4-.18(3)(h).

9. If a linear is required by ADEM, then a leachate collection system shall be required that is designed and constructed to maintain less than a 30 cm depth of leachate over the liner.

C. **Landfill, Sanitary (Private or Public).** In the I-4 district a sanitary landfill shall be permitted provided that the following conditions are met:

1. Lot Size. The minimum lot area shall be 10 acres.
2. Driveway access can be from any local street, provided that street is not bounded by any dwelling zoning district from the driveway access point to the street's intersection with a collector street or a street designated on the major street plan.
3. All buildings, structures, storage containers and areas, and vehicle loading/unloading areas shall be located a minimum of 100 feet from any property line, 250 feet from any dwelling zoning district boundary, and 1,000 feet from any dwelling structure, and further, the facility shall not be located less than 2,000 feet from the property line of any school or park.
4. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.
5. The use is granted the appropriate license for operation by the Council.
6. Any materials stored or that are the result of any process that are friable and potential airborne or can be washed away by stormwater shall be stored in an enclosed structure that prevents the materials from being blown on to any other lot.
7. All new Solid Waste Landfill units and lateral expansions, as a minimum, shall be constructed with a composite liner, as defined in ADEM Admin. Code r. 335-13-1-.03, or an alternate design as specified in 335-13-4-.18(3)(h).
8. A leachate collection system shall be required that is designed and constructed to maintain less than a 30 cm depth of leachate over the liner.

D. **Recycling Collection Center.** In the MU-H, MU-D, C-2 AND MXD districts a recycling collection center shall be permitted provided that the following conditions are met:

1. During collection of materials, a staff person must be on-site.
2. The site is fenced or screened with a landscape buffer.

3. The site is used for the temporary assemblage of small recovered materials or recyclable consumer items, such as food and beverage containers, fabrics and paper.
4. Covered waste receptacles are on-site for storage of materials and are open to the public.

E. **Recycling Facility.** In the I-2 and I-4 district a recycling facility shall be permitted provided that the following conditions are met:

1. The minimum lot area shall be one acre.
2. All buildings, structures, storage containers and areas, and vehicle loading/unloading areas shall be located a minimum of 150 feet from any zoning district boundary that permits dwelling uses or a legally occupied dwelling structure.
3. Along all dwelling zoning districts, opaque fencing at least eight feet in height shall be constructed and a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.
4. Driveway access can be from any local street, provided that street is not bounded by any dwelling zoning district from the driveway access point to the street's intersection with a collector street or a street designated on the major street plan.
5. All compacting, sorting, processing or storage shall take place within a completely enclosed building. The enclosed area(s) of a recycling facility shall have concrete floors or floors made of some other hard material that is easily cleanable. All loading and unloading shall take place:
   a. On a partially enclosed loading dock when the loading dock connects directly to the completely enclosed building in which compacting, sorting, processing or storage takes place; or
   b. Within a Completely Enclosed Building. If a recycling facility utilizes a loading dock for loading and unloading, the loading dock shall not be used for storage and shall be cleaned of all materials at the close of each business day. The areas around loading docks and other high-traffic areas shall be paved.
6. Hours of Operation. The hours of operation for any recycling facility located adjacent to a zoning district that permits dwelling uses shall be limited to 7:00 a.m. to 8:00 p.m.
7. Any recycling facility located adjacent to a zoning district that permits dwelling uses, shall direct all light and glare on-site to ensure that surrounding properties are not adversely impacted by increases in direct or indirect ambient lighting levels.

8. Where such facilities are on a lot adjacent to a dwelling district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

F. **Solid Waste Transfer Facility.** In the I-4 district a solid waste transfer facility shall be permitted provided that the following conditions are met:

1. The minimum lot area shall be one acre.
2. All buildings, structures, storage containers and areas, and vehicle loading/unloading areas shall be located a minimum of 150 feet from any zoning district boundary that permits dwelling uses or a legally occupied dwelling structure.
3. Along all dwelling zoning districts, opaque fencing at least eight feet in height shall be constructed and a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.
4. Driveway access can be from any local street, provided that street is not bounded by any dwelling zoning district from the driveway access point to the street's intersection with a collector street or a street designated on the major street plan.
5. All compacting, sorting, processing or storage shall take place within a completely enclosed building. The enclosed area(s) of a recycling facility shall have concrete floors or floors made of some other hard material that is easily cleanable. All loading and unloading shall take place:
   a. On a partially enclosed loading dock when the loading dock connects directly to the completely enclosed building in which compacting, sorting, processing or storage takes place; or
   b. Within a Completely Enclosed Building. If a recycling facility utilizes a loading dock for loading and unloading, the loading dock shall not be used for storage and shall be cleaned of all materials at the close of each business day. The areas around loading docks and other high-traffic areas shall be paved.
6. Hours of Operation. The hours of operation for any recycling facility located adjacent to a zoning district that permits dwelling uses shall be limited to 7:00 a.m. to 8:00 p.m.
7. Any recycling facility located adjacent to a zoning district that permits dwelling uses, shall direct all light and glare on-site to ensure that surrounding properties are not adversely impacted by increases in direct or indirect ambient lighting levels.
8. Where such facilities are on a lot adjacent to a dwelling district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

Section 12. Recreation and entertainment uses.

A. **Adult Establishment.** In the MU-H, MU-D, C-2, I-1 AND I-2 district an adult establishment shall be permitted provided that the following conditions are met:

1. All distance limitations shown below are measured from the closest lot line between items listed. In accordance with *Alabama State Code – Section 13A-12-200.5*, it shall be unlawful for any person to operate, construct, or establish an adult establishment within:

   a. 1,000 feet of any "D", or "AG", or MXD zoning district, public park, place of worship, child care facility, kindergarten, elementary, middle or high school, college, university, or similar type of school, whether public or private or any property, regardless of its zoning classification, that contains a single family or two family detached dwelling, or multiple family dwelling,

   b. 1,500 feet of another adult establishment.

   c. Those areas that are considered registered and listed on the National Register of Historic Places as Historic Districts, or areas within 1,000 feet of those districts. The boundaries of said historic districts are on file in the Department.

   d. Within a Commercial Revitalization District, Urban Renewal and Redevelopment Project Area, or within 1,000 feet of those districts, as established by the Council of the City. The boundaries of such districts are on file in the Department (Ord. 10-81)

3. Signs for adult establishments shall conform to the following:

   a. Signs shall pertain to goods, products or services sold or offered on the premises.

   b. Signs shall be attached to a vertical surface of the building and shall not extend more than eighteen inches from the building.

   c. Signs shall not exceed in the aggregate 40 square feet of gross surface area for any lot having 40 feet or less of street frontage. On lots having a frontage greater than 40 feet, such sign or signs shall not exceed in the aggregate one square foot in area for each linear foot of principal street frontage, but in no case shall the aggregate area of such sign or signs exceed 100 square feet.

   d. Signs or exterior displays of any kind shall be limited to words, phrases and numbers and shall not include live, animated or pictorial displays or any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" that may permit the observation of such display of materials from any public way. This

provision shall apply to any display, decoration, sign, show window or other openings.

B. **Amphitheater.** In MU-H, MU-D and C-2 districts an amphitheater shall be permitted provided that the following conditions are met:

1. If the amphitheater utilizes amplification or has capacity for 30 or more patrons, it must be setback 200 feet from any dwelling district.
2. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

C. **Amusement, Indoor.** In the following districts: MU-L, and C-1 an indoor amusement uses shall be permitted provided that it shall be limited to 7,500 square feet of gross floor area per lot.

D. **Amusement, Outdoor.** In the C-2, MU-H, MU-D, I-1, I-2, I-3 and PRD districts an outdoor amusement use shall be permitted provided that the following conditions are met:

1. When the use abuts a residential district, a special exception for the use shall be required.

E. **Arena/Convention Center/Stadium.** In the MU-H, MU-D, C-2, I-1 and PRD districts an arena, convention center or a stadium shall be permitted provided that the following conditions are met:

1. The minimum lot area shall be 5 acres.
2. Where the structure and related facilities, excluding passenger car parking lot, abut a dwelling zone district there shall be a minimum setback of 250 feet.
3. Along all dwelling zone districts screening a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.
4. A traffic impact study shall be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

F. **Driving Range Free-Standing.** In the C-2, I-1, I-2 and PRD districts free-standing driving range shall be permitted provided that the following conditions are met:

1. The driving range shall be located so that it is 100 feet away from any dwelling zoning district boundary or the property line of any property containing a dwelling use.
2. When a driving range is adjacent to a dwelling district, all light and glare shall be directed on-site to ensure surrounding properties are not adversely impacted by increases in direct or indirect ambient lighting levels.

3. A snack-bar and pro-shop shall be permitted on the same parcel as the principal use provided it is contiguous to the area where people stand to drive golf balls. The combined area of the snack-bar and pro-shop shall not exceed 1,500 square feet.
4. Adequate fencing shall be provided to ensure golf balls do not fly into abutting or adjacent properties and streets.

G. **Racetrack.** In the PRD district a racetrack shall be permitted provided that the following conditions are met:

1. Any building or structure, such as, but not limited to, racetrack, grandstand, garage, stable shall be setback from any dwelling 500 feet.

Article III. Uses Permitted by Special Exception (SE)

Section 1. Applicability.
The land use development standards in this article apply to uses permitted by special exception, referenced as "SE" in the Permitted Land Use Table 1.02.201, Chapter 2, Article II, Section 5 of this Ordinance, or as otherwise provided in this title. Special exceptions are land uses subject to review by the Zoning Board of Adjustment (Board) pursuant to Chapter 9, Article V of this Ordinance.

Section 2. General provisions.

A. A special exception shall not be considered an entitlement, and may be granted by the Board only after the applicant has demonstrated to the satisfaction of the board that all of the required review standards are met.

B. Any special exception granted by the Board shall comply with all applicable regulations including any specific standards for the proposed use set forth in this Ordinance. All conditions of approval by the Board and those required in this chapter must be complied with in perpetuity or a zoning violation will be issued, unless the conditions or special exception use is changed by the Board or Ordinance. If a special exception is granted and the applicant needs to vary from the requirements of this ordinance, the applicant shall be required to request a variance as part of the special exception case or as a separate case before the Board. In no case shall the granting of a special exception by the Board be considered approval of any variance requested by an applicant. All variances shall require separate approval by the Board in pursuant to Chapter 9, VI of this Ordinance. If a use is accessory to a primary use that has been granted a special exception by the Board, the accessory use shall be required to seek a special exception from the Board.

C. A special exception may be granted provided that the board finds that the use is so designed, located and proposed to be operated that the health, safety and welfare will be protected. The board may determine from its review that adequate public facilities are available to accommodate the proposed use, and that approval of the special exception or variance will not adversely affect other property in the area to the extent that it will impair the reasonable long-term use of those properties.

D. The physical characteristics of the special exception shall not adversely impact abutting properties, including those located across street frontages. Site design which contribute to compatibility include, but are not limited to, landscaping, drainage, access and circulation, and height, bulk, scale, setbacks, open areas, building orientation,.

F. When a special exception is requested for a property containing a historic structure, the structure shall not be adversely affected by the granting of any special exception or variance. The City Historic Preservation Officer shall be consulted regarding those features essential to preserve the historical integrity of a building or site of historical significance.

G. The applicant shall demonstrate how the proposed use will not adversely affect the safety and convenience of vehicular and pedestrian circulation in the area. The Board may require a traffic impact study for any special exception land use.

H. Notwithstanding a finding by the Board that a special exception application satisfies the minimum development standards of this article, the Board may establish permit expiration dates, require additional setbacks and impose other reasonable conditions necessary to protect the public health, safety and welfare.

Section 3. Dwelling special exceptions.

A. **Duplex/Triplex/Quadplex.** In the C-2 district a special exception may be granted by the Board provided that the following conditions are met:

1. A landscape buffer is installed along all adjacent property zoned for commercial uses per Chapter 6, Article III of this Ordinance.

B. **Manufactured Housing.** In the D-1, D-2, D-3, D-4, D-5, D-6 and PRD districts a special exception may be granted by the Board provided that the following conditions are met:

1. Application for a manufactured home must include a site development plan to be reviewed and approved by the Department. The site plan must depict yard setbacks, parking areas, driveways, porches, patios, landings, decks, garages, roofs, mechanical units, gas tanks, and any other accessory structures.
2. Manufactured homes may only be placed upon a legal lot of record.
3. Before any Certificate of Occupancy and utility connections are approved all manufactured homes must have the following:
   a. Federal Manufactured Home Construction and Safety Standards label.
   b. HUD label of approval and manufactured date not older than June 15, 1976.
   c. Alabama Manufactured Housing Commission insignia and date plate.
4. The installer must be state certified by the Alabama Manufactured Housing Commission and install their installation decal. The installer must have a City foundation permit and install a permanent perimeter foundation. The installation must conform to the manufacturer's installation manual recommendations.
5. A City Building Inspector must confirm the foundation, porches and exterior steps, and any accessory structures meet Building Code requirements. These requirements include code compliant footings providing a perimeter foundation of concrete, concrete block, or brick

extending all around the building with adequate venting and access. The foundation must be flush with the structure's exterior material. The foundation must provide at least an 18 inch crawl space or a finished floor elevation equal to the elevation of surrounding housing, (should they exist) whichever is higher. Permanent code compliant steps must be provided at all exits or approved porches.

6. Verification from the Director that all Board approved Special Exception design requirements for this site is compliant prior to issuance of a Certificate of Occupancy.
7. All hitches and tow bars, axles, and wheels must be removed upon installation. Foundation shall be brick or concrete. Concrete or concrete block skirting walls shall be painted.
8. Minimum Size and Width Generally speaking, the minimum size of a manufactured home should be 1,200 square feet, with a minimum width of 24 feet. The Board recognizes that in certain instances smaller units may be desirable; however, these should be the exception, rather than the rule.
9. Front Doors. The main entry door should face the required front yard and the primary street on which the unit is located. When more than one front yard exists, the entry should face the yard with the narrowest dimension.
10. Walkways A paved concrete walkway at least 30 inches in width, minimum 3.5 inches thick, flush with ground, and connecting the front entry way or porch to the driveway or fronting street should be reflected in the plan and built.
11. Roof and Overhang The roof pitch should have at least a 4-foot rise to a 12-foot run, and a roof overhang of 7 to 12 inches (*not including rain gutters*), to ensure compatibility with surrounding residences. The roof should have fiberglass or asphalt composite shingles or comparable materials; roll roofing is not permitted.
12. Exterior Finish Siding should be made of lapped hardboard, lapped fiber-cement board, lumber clapboard; cedar shingles; fiberglass or asphalt composite siding shingles; brick; vinyl lap siding; or aluminum lap siding; rolled or solid sheet siding is not permitted. The siding color's gloss must be in a flat or satin finish, therefore not highly reflective gloss.
13. Garages, Carports and other Additions If the site plan proposes additions to the manufactured house, its roof should have the same roof pitch, material, and color as the main structure. In addition the same exterior material and color should be used as the main structure. If site built, the addition must meet all building codes.
14. Soil Stabilization All yards shall have a grass ground cover to stabilize the soil after installation of the manufactured home is completed, in

compliance with the Soil Erosion and Sediment Control Code.

15. Other Utility meters must be placed on the side or rear wall of the building and shall not face the street.
16. All propane and other fuel tanks must be code compliant, placed on a concrete pad and located underground or in the rear yard.
17. HVAC and other mechanical units must not be in the front yard.
18. Front Porch A covered, but unenclosed front porch with the same roof pitch as the structure, is desirable. The porch roof should be of the same materials and color as the main roof of the structure. The size of the porch may not be less than 30 square feet. If site built, it must be self-supporting and meet all building codes. The porch's design should match that of conventional site built houses in the neighborhood. The color of all supports and railings on the porch and steps shall match the main structure's trim or be primed and painted to match.

C. **Communal Living Facility.** Communal living facility in any D-4, D-5, D-6, MU-M, MU-H, MU-D and C-2 district a special exception may be granted by the Board provided the following conditions are met:

1. A statement from the State Department of Health or the State Department of Mental Health and/or the Jefferson County Department of Health that the proposed facility meets all requirements for the appropriate license, if applicable.
2. A statement from the City Housing Code Enforcement Division that the proposed facility meets all provisions of the City of Birmingham Property Maintenance Code.
3. A certification from the owner and operator that approval under this section shall not be transferable without prior approval by the Board of the City.
4. Any communal living facility shall not be closer than 1,000 feet from another communal living facility. This spacing requirement does not include multi-family dwellings used for on or off campus student housing within 1 mile of the main campus.
5. Communal Living Facilities are not meant to include child foster care facilities nor facilities housing the mentally handicapped or mentally ill, where there are no more than 10 such people plus 2 unrelated persons to either the occupants of the facility or to each other. (Code of Alabama 11-52-75.1 and Zoning Board of Adjustment Case No. 84-95)

D. **Temporary Handicap Parking.** Temporary handicap parking in a required front yard in the D-1, D-2, D-3, D-4, D-5, D-6 and MU-L districts a special exception may be granted by the Board provided the following conditions are met:

1. The primary use of the lot is single-family or duplex.
2. Applicant demonstrates need for handicap parking.
3. Applicant demonstrates no other permitted parking area is practical for a disabled person to use.
4. If allowed, any parking area in a front yard shall be designed so that it can be readily removed when the temporary use is not necessary.
5. When the temporary parking is no longer necessary, it shall be removed.
6. A covenant is recorded that states that the temporary parking area shall be removed by the owner, when it is not needed for a disabled person living on the property.

Section 4. Educational/Institutional/Civic special exceptions.

A. **Adult Care Center.** In the D-5 and D-6 districts a special exception may be granted by the Board provided that the following conditions are met:

1. Adult Care Center complies with the requirements of Chapter 4, Article II, Section 3, Item A of this Ordinance.
2. A certification from the owner and operator that approval under this Section shall not be transferable without prior approval by the Board of the City is submitted to the Department.

B. **Family Group Day/Night Care.** In the D-4 district a special exception may be granted by the Board provided that the following conditions are met:

1. Family Group Day/Night Care complies with the requirements of Chapter 4, Article II, Section 3, Item C of this Ordinance.
2. A certification from the owner and operator that approval under this Section shall not be transferable without prior approval by the Board of the City is submitted to the Department.

C. Accessory Use Child Care Center. In the MXD district an accessory child care center shall be permitted provided the following conditions are meet:

1. Complies with the requirements of Chapter 4, Article IV, Section 3, Item A of this Ordinance.
2. A certification from the owner and operator that approval under this Section shall not be transferable without prior approval by the Board of the City is submitted to the Department.

D. **Cemetery.** In the D-1, D-2, D-3, D-4, D-5, D-6, AG and MXD districts a special exception may be granted by the Board provided that the following conditions are met:

1. Prior to submitting an application to the Board, an applicant must obtain approval to locate or expand a cemetery as required by Ala. Code, 1975, Sec. 22-20-4, as amended:

   a. An application for a new cemetery or extension of an existing cemetery must be submitted to the Mayor and City Council, including a description of the location and boundaries of the proposed cemetery or extension of a cemetery.

   b. The Mayor and City Council shall refer the application to the County Health Department. The County Health Department shall take into consideration the proximity of the proposed cemetery or extension of a cemetery to human habitations, the nature of the soil, the drainage of the ground, the danger of pollution of valuable springs and streams of water and such other conditions and surroundings as would bear upon the sanitary aspect of the situation. After its investigation, the County Health Department shall submit a report to the Mayor and City Council and either approve or disapprove the application.

   c. After receiving the report from the County Health Department, the Mayor and City Council shall either grant or deny the application.

2. The minimum site area shall be ten acres. Cemeteries accessory to a religious institution shall be on a one-acre lot, minimum.

3. For cemetery developments of twenty-five acres or greater, primary access shall be from a collector or arterial street.

4. Where the perimeter of a cemetery abuts a dwelling zone district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article I, Section 6, Item I of this Ordinance.

5. The following accessory uses shall be permitted: mausoleums, columbariums, chapels, and other facilities incidental to the cemetery use.

E. **Place of Worship.** To ensure compatibility with nearby dwelling uses, in the D-1, D-2, D-3, D-4, MU-L, and C-1 districts, a special exception may be granted by the Board provided that the following conditions are met:

1. On the effective date of the Ordinance codified in this Title a pre-existing place of worship, in the dwelling districts listed above, shall be a legal non-

conforming use. They may expand if a special exception is granted by the Board subject to demonstrating compliance with the general provisions of Chapter 4, Article III, Section 2 and the off-site parking requirements of Chapter 5 of this Ordinance.

2. Any Place of Worship constructed after the effective date of the Ordinance codified in this Title shall be subject to the following standards.

   a. Minimum Site Size. Land area shall be provided at the rate of .005 acre for every seat in the sanctuary/assembly area. In areas considered by the board of zoning appeals to be predominately developed, and where assembling land to satisfy this site size standard is not practical, the Board may waive the minimum site size requirement, based on a determination that the proposed facility can be designed and operated in a manner which will not adversely impact abutting properties or the surrounding neighborhood.

   b. Screening and buffering in the form of a landscape buffer yard shall separate all structures and parking areas from all abutting property zoned for dwellings pursuant to Buffering Standard B, Chapter 6 of this Ordinance.

   c. A cemetery, including columbariums, may be permitted by the board as an accessory use to a religious institution.

3. If Off-Site Parking is requested, approval of an off-site parking lot shall be contingent upon a demonstration that the following standards have been met:

   a. The appellant shall demonstrate by a parking plan, reviewed by the Director, that the minimum number of parking spaces required by Chapter 5, of this Ordinance cannot be developed on the same lot containing the place of worship;

   b. The amount of off-site parking shall not exceed the actual needs of the place of worship as demonstrated by the parking plan;

   c. There shall be no vacant property that is owned by the applicant adjacent to the place of worship on the same block face;

   d. The off-site parking area shall abut a street upon which the lot of the place of worship abuts and at least a portion of the off-site parking area shall be opposite the zone lot containing the place of worship;

   e. Vehicular access shall be restricted to a street upon which the lot of the place of worship abuts;

   f. All off-site parking spaces shall be within 200 feet of the lot boundary of the place of worship;

g. On any given block, off-site parking associated with a place of worship shall be limited to a contiguous area;

h. All lighting shall be shielded so that substantially all directly emitted light falls within the property. No illumination in excess of one-half foot candle shall be permitted across the boundary of any dwelling property or a public street or alley. The parking area shall only be illuminated when in use.

4. Where structures abut dwelling districts, there shall be a minimum setback of 25 feet.

5. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

6. Accessory structures (including Family Life Centers, Classrooms, etc.) may be constructed on property adjacent to the place of worship, subject to the following conditions:

a. There shall be no vacant property that is owned by the applicant adjacent to the place of worship on the same block face that can accommodate the accessory structure;

b. The accessory structure shall abut a street or alley upon which the lot of the place of worship abuts and at least a portion of the accessory structure shall be opposite the zone lot containing the place of worship;

c. On any given block, accessory structures associated with a place of worship shall be limited to a contiguous area.

F. **Elementary or Middle School.** To ensure compatibility with nearby dwelling uses, in the D-1, D-2, D-3, D-4, MU-L and C-1 districts, a special exception may be granted by the Board provided that the following conditions are met:

1. Screening and buffering in the form of a landscape buffer yard Standard "A" per Chapter 6, Article III, Section 6 of this Ordinance, shall separate all structures and parking areas from all abutting property zoned for dwellings.

2. Where school structures and outdoor activity grounds abut dwelling districts, there shall be a minimum setback of 25 feet.

3. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

G. **School, High.** To ensure compatibility with nearby dwelling uses, in the D-1, D-2, D-3, D-4, MU-L and C-1 districts, a special exception may be granted by the Board provided that the following conditions are met:

1. Screening and buffering in the form of a landscape buffer yard Standard "A" per Chapter 6, Article III, Section 6 of this Ordinance, shall separate all structures and parking areas from all abutting property zoned for dwellings.
2. Where high school structures and outdoor activity grounds abut dwelling districts, there shall be a minimum setback of 25 feet.
3. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

H. **School, Vocational.** In the MU-H, MU-D and C-2 districts, a special exception may be granted by the Board provided that the following conditions are met:

1. When a vocational school abuts a dwelling district, screening in the form of a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.
2. Whenever a vocational school structure intended for vehicle repair, truck driving, manufacturing, production, or industrial equipment abuts a dwelling district there shall be a minimum setback of 50 feet.

Section 5. Medical use special exceptions.

A. **Hospital.** In the MU-M district, a special exception may be granted by the Board provided that the following conditions are met:

1. When a hospital abuts a dwelling district, screening in the form of a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.
2. When a hospital structure abuts a dwelling district there shall be a minimum setback of 50 feet.
3. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

B. **Medical Lab.** In the MU-M and C-1 districts, a special exception may be granted by the Board provided that the following conditions are met:

1. Medical Labs in the MU-M and C-1 shall be limited to 7,500 square feet.

C. **Opioid Replacement Therapy Treatment.** In the MU-H, MU-D, C-2, I-1 and I-2 district, a special exception may be granted by the Board provided that the following conditions are met:

1. The applicant submits a statement from the State Department of Health, State Health Planning and Development Agency, or the State Department of Mental Health and/or the Jefferson County Department of Health that the proposed facility meets all requirements for operation and that all applicable and/or appropriate license or licenses have been obtained. If no license or licenses are needed or required for operation from the above listed agencies, a letter stating that fact from these agencies must be

provided.

2. The applicant submits a certification from the owner and operator that approval under this section shall not be transferable without prior approval by the Board of the City.
3. No opioid replacement therapy treatment facility may be located:
   a. within 1,000 linear feet of the lot line of a "E" or "R" zoned property,
   b. within 1,000 linear feet of the lot line of a church or other place of worship,
   c. within 1,000 linear feet of the lot line of a public park,
   d. within 1,000 linear feet of the lot line of a kindergarten, elementary, high school, college, university, or other similar type of school, whether public or private,
   f. within 3,000 linear feet of the lot line of another medical controlled substance dispensing facility,
   g. within areas that are registered and listed on the National Register of Historic places as Historic Districts, or areas within 1,000 linear feet of the lot line of those districts. The boundaries of said historic districts are on file in the Department, and
   h. within areas designated as Commercial Revitalization Districts as established by the Council of the City. The boundaries of such districts are on file in the Department.

D. **Scientific Lab.** In the MU-H, MU-D and C-2 districts, a special exception may be granted by the Board provided that the following conditions are met:

1. No smoke, dust or vibration shall be detectable at the property line.
2. No scientific lab shall be permitted that is required by ADEM to have a permit for release of any kind.
3. When adjacent to a dwelling district, a landscape buffer yard is required per Chapter 6, Article III of this Ordinance and the scientific lab shall be set back from the property line no less than 50 feet.

Section 6. Commercial special exceptions.

A. **Automobile Parking.** In the D-1, D-2, D-3, D-4, D-5 and D-6 a special exception may be granted by the Board provided that the following conditions are met:

1. Parking area shall adjoin a commercial, manufacturing or industrial district.
2. All of the adjoining parking area is owned by and for the benefit of the adjoining commercial, manufacturing or industrial use only.

3. When a parking area is located adjacent to a dwelling district, a landscape buffer shall be required per Chapter 6, Article III of this Ordinance.

B. **Bed and Breakfast Inn, Historic.** In the D-1, D-2 and D-3 districts a special exception may be granted by the Board provided that the following conditions are met:

1. Three or fewer furnished sleeping rooms shall be provided.
2. The bed and breakfast inn is an owner-occupied dwelling and a contributing property in a local historic district or is another historically significant structure that is listed on the National Register of Historic Places.
3. Meals may be provided to overnight guests only.
4. Parking shall be provided in a side or rear yard.
5. Signage is limited to one 6 square foot sign that is either attached to the building or a freestanding sign that is a maximum of four feet in height.

C. **Car Wash, Automated.** In the MU-L, MU-M, and C-1 districts a special exception may be granted by the Board provided that the following conditions are met:

1. All buildings and vacuum equipment shall be located 50 feet from any dwelling district.
2. All washing facilities shall be located within a building which is enclosed except those openings necessary for vehicular and pedestrian access. Such openings shall not face any adjacent property zoned for dwellings.
3. If located within 100 feet of a dwelling zone district, operation of the establishment shall be prohibited prior to eight a.m. or after ten p.m. on any day of the week.
4. There shall be no outdoor loudspeakers or public address systems.
5. All waste water resulting from car wash activities shall be either directed to the sanitary sewer system or be recycled on-site to the satisfaction of the City Official responsible for stormwater.

D. **Event Center.** In the MU-H, MU-D, C-2 and PRD districts a special exception may be granted by the Board provided that the following conditions are met:

1. A traffic study may be required by the City Traffic Engineer.
2. If the event center is within 200 feet of a dwelling district, the hours of operation shall be limited to 7:00a.m.-12:00a.m.

Section 7. Communication special exceptions.

A. **Broadcast Satellite.** In the C-1, PRD, and MXD districts a special exception may be granted by the Board provided that the following conditions are met:

1. All requirements of Chapter 4, Article V are met.

B. **Broadcast Tower.** In the I-1, I-2, I-3, I-4, PRD, MXD AND AG districts a special exception may be granted by the Board provided that the following conditions are met:

1. All requirements of Chapter 4, Article V are met.

C. **Cellular, Microwave or Two-Way Towers.** In the D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, C-1, MXD and HID districts a special exception may be granted by the Board provided that the following conditions are met:

1. All requirements of Chapter 4, Article V are met.

Section 8. Manufacturing and Industrial special exceptions.

A. **Wrecker Impound Lot.** In the I-1 district a special exception shall be permitted by the Board provided that the following conditions are met:

1. Where a wrecker impound lot is adjacent to a dwelling district, screening in the form of a landscape buffer yard shall be applied per Chapter 6, Article III of this Ordinance.
2. No vehicles shall remain on the lot more than 90 days.
3. A nontransparent fence is erected along the entire perimeter of the site that meets the following conditions:
   a. The fence design including materials and height is approved by the Director.
   b. The wall or fence (including gates) shall be of sound construction utilizing block, brick, stone, concrete, metal sheeting material, reasonably smooth and uniform wood materials, or similar materials upon approval of the Director.
   c. All materials used for wall or fence construction (including gates) shall be of sound and good condition, shall be protected against decay by the use of paint or other preservatives, and shall be uniform in height throughout.
   d. The wall or fence (including gates) may be required to be erected higher than eight feet if the adjacent property is zoned dwelling or if the topography of the surrounding and nearby properties enable scrap materials to be readily viewed.
   e. The fence requirement may be modified by the Director if the property's location, or location of the use on the property, is such that the site will not be viewable by the public or structures and/or dense vegetation is adequate to prevent viewing of the site by the public.

Section 9. Agricultural special exceptions.

A. **Chicken Coop**. A chicken coop in only any C-2, I-1, I-2 and I-3 zoning district a special exception may be granted by the Board provided that the following conditions are met:

1. Roosters are prohibited.
2. It is accessory to an urban farm.
3. No more than 100 hens per property.
4. An enclosed predator-proof coop/run shall be provided that is no more than 2,000 square feet.
5. The minimum setback from any dwelling district shall be 200 feet and from street right-of-way lines the setback shall be 50 feet.
6. Slaughtering of animals is prohibited.

B. **Urban Farm, Outdoor.** In the C-2, districts a special exception may be granted by the Board provided that the following conditions are met:

1. All compost and organic matter used on site shall be produced on site and shall be for use solely on site, and is screened from adjacent lots and is more than 500 feet from any adjacent residential dwelling, which shall not cover more than five percent of the total area, shall be managed to prevent rodents and pests, prevent odors and drainage from compost onto adjacent sites.
2. All farming equipment shall be screened from view with fencing or landscaping of adjacent lots.
3. Accessory structures are limited to storage sheds, greenhouses, hoophouses, cold frames and cisterns built of standard uniform materials that are either new or in sound condition not showing signs of decay.
4. Apiaries are setback from property lines by 25 feet and 50 feet from any adjacent dwelling lots, a continuous water source is available, 1 hive allowed per 2,500 square feet with maximum of 40 hives.
5. If any accessory structure is not maintained in sound condition free from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.
6. It is a requirement that soil testing be conducted prior to gardening activities. Test for both soil condition and possible soil contamination, to determine at minimum constraints to food production, shall be conducted. Information on acquiring Soil testing kits and analysis can be found in the Appendix to this Ordinance.
7. The maximum lot area shall be 4 acres.

Section 10. Transportation special exceptions.

A. **Airport**. In the I-3 district a special exception may be granted by the Board provided that the following conditions are met:

1. Lot Size. The minimum lot area shall be one hundred acres.
2. Where transportation facilities, such as, but not limited to runways, hangers, taxi ways, mass transit parking, excluding passenger car parking lots, abut a dwelling zone district or district permitting dwelling use, there shall be a minimum setback of 500 feet.
3. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of landscape buffer yard shall be applied along common property lines per Chapter 6, Article III of this Ordinance.

B. **Heliport.** In the MU-H, MU-D, PRD, I-1, I-2 AND I-3 districts a special exception may be granted by the Board provided that the following conditions are met:

1. To the greatest extent feasible, a heliport pad should be located adjacent to the flight corridor established by the FAA.
2. Separation from dwelling districts. No heliport pad shall be located within 500 feet of a dwelling district.

Section 11. Utility special exceptions.

A. **Utility Substation.** In the D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, PRD, MXD, HID AND AG districts a special exception may be granted by the Board provided that the following conditions are met:

1. Where substations are located adjacent to dwelling districts, they shall be located 20 feet from any dwelling property line.
2. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of landscape buffer yard shall be applied along common property lines per Chapter 6, Article I of this Ordinance.

B. **Reservoir/Water Tank.** In the D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, PRD, MXD, HID AND AG districts a special exception may be granted by the Board provided that the following conditions are met:

1. Where water tanks are located adjacent to dwelling districts, they shall be located 20 feet from any dwelling property line.
2. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of landscape buffer yard shall be applied along common property lines per Chapter 6, Article I, Item H of this Ordinance.

C. **Wastewater Treatment Plant.** In the I-2 and I-4 districts a special exception may be granted by the Board provided that the following conditions are met:

1. The minimum lot area shall be ten acres.
2. The facility, excluding passenger car parking lots, shall not be located within 1,000 feet of any dwelling property line.
3. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of landscape buffer yard shall be applied along common property lines per Chapter 6, Article III of this Ordinance.

D. **Water Treatment Plant.** In the AG, I-1, I-2, I-3 and PRD districts a special exception may be granted by the Board provided that the following conditions are met:

1. The minimum lot area shall be ten acres.
2. The facility, excluding passenger car parking lots, shall not be located within 100 feet of any dwelling property line.
3. When abutting or adjacent to any dwelling zone districts and districts permitting dwelling use, screening in the form of landscape buffer yard shall be applied along common property lines per Chapter 6, Article III of this Ordinance.

E. **Water/Sewer Pumping Station.** In all zoning districts a special exception may be granted by the Board provided that the following conditions are met:

1. Where substations are located adjacent to dwelling districts, they shall be located 20 feet from any dwelling property line.
2. Along all dwelling zone districts and districts permitting dwelling use, screening in the form of landscape buffer yard shall be applied along common property lines per Chapter 6, Article I of this Ordinance.

Article IV. Uses Permitted as Accessory (PAC)

Section 1. Applicability.
The land use development standards in this article apply to uses which are accessory to a principal use on the same property, referenced as "PAC" in the Permitted Land Use Table 2.01.201, Chapter 2, Article II, Section_5. While not all accessory uses have land use development standards, those listed in this article have unique characteristics that warrant minimum restrictions on use.

Section 2. Dwelling accessory uses.

A. **Multi-Family.** In the PRD district**,** a multi-family dwelling shall be permitted provided the following conditions are met:

1. The multi-family dwelling is part of an approved development plan per subsection 7 of the PRD district, and meets the area and dimensional requirements of D-5 dwelling district.

B. **Dwelling, Accessory.** In the D-4, D-5, MU-L, and MU-M districts, an accessory dwelling shall be permitted provided the following conditions are met:

1. One parking space is provided for the accessory use.
2. Only one accessory structure per lot shall be utilized for a dwelling.
3. Access to the accessory dwelling shall be from an alley or an approved driveway.
4. The accessory dwelling shall be accessory to single-family dwelling, Historic Bed and Breakfast or Bed and Breakfast use.

C. **Dwelling, Caretaker.** In the MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3 and PRD districts, a caretaker dwelling shall be permitted provided the following conditions are met:

1. The residence is occupied by a security guard employed by the business owner.
2. The residence must be accessory to the principal use of the premises and be located on the same lot as business.

D. **Residential Compost Pile.** In the D-1, D-2, D-3, D-4, MU-L, and AG districts, a residential compost pile shall be permitted provided that the following conditions are met:

1. All compost and organic matter stored on site shall be of materials, including solid waste, generated on-site by the owner or tenant and shall not cover more than 5% of the total lot area, and shall be screened from view of adjacent property and public right-of-way with fencing built of standard uniform materials that are either new or in sound condition not showing signs of decay or an evergreen landscape buffer.
2. All compost must be maintained to prevent rodents and pests, and shall be maintained to prevent odors and drainage from compost onto adjacent sites.

E. **Garage/Yard Sale.** In the D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, PRD, MXD, AND AG districts, a garage/yard sale shall be permitted provided that the following conditions are met:

1. A garage/yard sale permit is approved by the Department.
2. Within any calendar year, a maximum of two garage/yard sale events may occur per lot. Any one garage/yard sale event will not occur for more than two days per event.
3. One auction per year of a decedent's personal estate and/or real property conducted by a licensed auctioneer shall not be counted as a garage/yard sale.
4. Shall be accessory to a dwelling.
5. Any sign associated with the garage sale shall be no more than six square feet, shall not be displayed prior to the date of the sale, shall not be illuminated or animated and shall be removed after the sale is completed.

F. **Home Occupation.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, PRD, MXD, AND AG**,** a home occupation shall be permitted provided the following conditions are met:

1. The home occupation must be accessory and secondary to the use of a dwelling for residential purposes, and the home occupation must not change the residential character of the premises that it occupies or adversely affect the character of the surrounding neighborhood.
2. Non-resident employees are not allowed to work or congregate on premise in conjunction with a home occupation. Except that, Family Care Homes may have one non-resident substitute employee on premise and Family Group Homes may have one non-resident employee and one non-resident substitute employee on premise, provided that they are not on premise at the same time.
3. No more than two patrons or clients may be present in the dwelling at any one time, and no more than 8 clients or patrons may be present in the dwelling during any 24-hour period, except that family care homes may have up to 6 patrons at one time.
4. There may be no external structural alterations or construction, either permanent or accessory, to the dwelling, and no separate entrance from the outside of the building may be added to the dwelling for the sole use of the home occupation.
5. The home occupation may not display or create any external evidence of the operation of the home occupation, such as, signs or advertising of any kind, except that one magnetic sign will be allowed to be placed on vehicle associated with the home occupation, provided that it is no more than four square feet.

6. The home occupation and all related activities, including storage, must be conducted completely within the dwelling unit or an accessory structure or garage, except that a family day care home or family group care home may include outdoor play and/or seating areas.
7. The total floor area of any home occupation may not occupy more than 20% of the gross floor area or more than 400 square feet of the dwelling and/or accessory structure, whichever is smaller, including use, storage, and all activities associated with home occupation.
8. No direct sale of any product is permitted on the premises of the home occupation.
9. No delivery via tractor trailer is permitted.
10. One vehicle and one trailer will be permitted in association with home occupation, provided that the vehicle does not exceed one-ton capacity and the trailer is no more than 14 feet, and both are either stored in a garage or are not used for storage when outside or are of a type that restricts view of the contents of the vehicle and trailer or are screened from view of adjacent lots with either an evergreen vegetative buffer or opaque fence. Commercial vehicles, as defined by this Ordinance shall not be allowed in association with a home occupation or in any residential district.
11. The use of hand tools is allowed. The use of mechanical equipment is limited to the use of electric motors for power, with a total limitation of not greater than 3 horsepower. Any equipment used and the operation of the home occupation shall not produce or emit, vibration, smoke, dust, any particulate matter, malodorous matter, heat, humidity, glare, at the property line, generate noise exceeding 60 decibels at the property line from 8:00a.m. to 8:00p.m., generate any noise discernable by the human ear at the property line form 8:00p.m. to 8:00a.m., or use and or store hazardous materials in excess of quantities permitted in residential structures.
12. Prior to a receiving a business license as a home occupation, an affidavit for a Home Occupation must be approved by the Department, which is to be included with the business license application.
13. Obtaining a City business license does not eliminate the need for compliance with other applicable licensing or codes, such as, but not limited to, Jefferson County Health Department regulations, fire and safety and/or building codes.

14. The following uses are examples of uses permitted as home occupations:
    a. Offices for such occupations as, but not limited to, architects, attorneys, brokers, draftspersons, cartographers, engineers, editors, publishers, journalist, graphic design, construction contractor, landscape design, massage therapists, physical therapists, surveyors, cleaning services, salespersons, manufacturer's representatives, travel agents.
    b. Personal instruction, limited to music, art, physical fitness and tutoring.
    c. Day care homes pursuant to Article II, Section 3, Item C.
    d. Studios for artists, sculptors, musicians, photographers, and authors.
    e. Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making and wood working.
    f. Repair services, including watches and clocks, small appliances, computers, and electronic devices.
    g. Catering or home baking for farmer's or public markets.
15. The following uses are examples of uses prohibited as home occupations:
    a. Any repair of motorized vehicles, including the painting or repair of automobiles, trucks, trailers, boats, and lawn equipment.
    b. Any animal care facility (boarding, day care, kennel or stable).
    c. Personal Care Services, such as but not limited to barbers and beauticians.
    d. Restaurant or Bar.
    e. Any facility or clinic used for examining and treating patients with medical, addictive, mental or physical problems on an outpatient basis, including ambulatory care or similar medical services that require a stay of less than twenty-four hours.
    f. Funeral Homes (including crematoria and mausoleums).
    g. Warehousing.
    h. Welding or machine shops.
    i. Adult Entertainment Use.

G. **Temporary Storage.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MXD and AG a temporary storage container shall be permitted provided the following conditions are met:

1. Container is placed on the lot of the principal use on a driveway or in a side or rear yard.

2. Container is used for storage of household items only, and only as the result of remodeling or recovery from damage to principal use.
3. Container is temporary only and may not be on site for more than 90 days.
4. An extension of the 90 day limit may be approved by the director.
5. The temporary container shall be no more than 150 square feet.
6. The Department shall issue a permit specifying on what date the temporary storage use will begin and end, prior to the temporary storage use commencing.

Section 3. Institutional accessory uses.

A. **Accessory Use Child Care Center.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, PRD AND AG, a child care center shall be permitted provided the following conditions are met:

1. Each Accessory Use Child Care Center operator shall apply for a ZCO, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, on a form provided by the Department. A copy of such application shall be forwarded to the appropriate neighborhood association for their information at least four weeks prior to the final determination as to approval of a ZCO. Applicant shall comply with all current provisions of this ordinance and receive said ZCO from the Department prior to beginning operation. Any Accessory Use Child Care Center which is currently registered or licensed by DHR as of the effective date of this Ordinance, shall apply for said ZCO within 45 days as of the effective date of this Ordinance.
2. The ZCO shall be conspicuously posted inside the entrance or reception area of the facility.
3. The ZCO of any Accessory Use Child Care Center operator whose DHR license becomes inactive or which facility becomes inactive and ceases to operate, will be revoked immediately, and must apply as a new applicant and facility to resume operation. In this case all then current regulations must be met.
4. No changes in operation beyond the scope outlined in the ZCO of any Accessory Use Child Care Center may be made prior to application for a new ZCO. Any Accessory Use Child Care Center found to be operating beyond the terms of their ZCO must come into compliance immediately or their ZCO will be revoked.
5. All Accessory Use Child Care Center must submit to inspection by the Department's zoning enforcement personnel during normal hours of operation.
6. Lot size, setbacks, and all other aspects of the premises must conform to those applicable to the zoning district in which the facility is located.

7. All state, county and city licensing requirements shall be met including business licenses and those pertaining to building, fire safety and health codes.
8. No additional off street parking is required; however primary use parking requirements must be met.
9. No additional signs shall be permitted for the accessory use.
10. Required off street pick-up/drop off site plan must be approved by the Department.
11. When located in a dwelling district, the Accessory Use Child Care Center must be contained within the primary structure or within another structure on the same lot as the primary structure, except as provided herein.
12. An Accessory Use Child Care Center shall not be permitted in a dwelling.
13. No Accessory Use Child Care Center shall be used as a residential dwelling.
15. When located in a dwelling district, playground equipment shall be restricted to:
    a. the rear yard,
    b. occupy no more than 30 percent of the required rear yard,
    c. and shall not be nearer than 10 feet to any lot line.
16. When located in a non- dwelling district, playground equipment shall:
    a. be in a rear or side yard,
    b. occupy no more than 30 percent of the required yard,
    c. and be no closer than three feet to any side or rear lot line, except, when adjacent to a dwelling zone district, in which case playground equipment shall be no closer than 10 feet to any lot line.
17. When located in a dwelling district, hours of operation shall be restricted to 13 hours daily. The ZCO obtained from the Department shall specify the approved hours of operation.

B. **Internment, Columbarium.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, MXD AND AG, a columbarium shall be permitted as an accessory use provided the following conditions are met:

1. It is accessory to a Church or a Cemetery.

C. **Internment, Mausoleum.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, I-1, I-2, I-3, MXD AND AG, a mausoleum shall be permitted as an accessory use provided the following conditions are met:

1. It is accessory to a Cemetery.

D. **Rummage Sale.** In the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, MXD, AND AG, a rummage sale shall be permitted as an accessory use provided the following conditions are met:

1. Rummage sale must be held or conducted in or upon real property operated by either a place of worship, charitable, civic or service organization, and must be accessory to the principal use of the land.
2. Within any calendar year, a maximum of two rummage sale events may occur per sponsoring entity per lot. Any one rummage sale event will not occur for more than two days per event.
3. A rummage sale permit is approved by the Department.

Section 4. Commercial accessory uses.

A. **Donation Box.** In the following districts: MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2 and MXD, a donation box shall be permitted as an accessory use provided the following conditions are met:

1. The donation box is located in a side or rear yard.
2. The area around donation box is maintained free of donated material, clutter and trash.
3. A donation box shall not be larger than 16 square feet or taller than eight feet.
4. No more than 3 donation boxes shall be located on any one lot.
5. If a parking lot is at least 125,000 square feet, an enclosed trailer may be used in association with donation boxes provided that:
   a. The trailer is located in a remote area of the parking lot that shall be approved by the Director.
   b. If the Director deems necessary, landscape screening shall be provided.
   c. The area around the trailer is maintained free of donated material, clutter and trash.
   d. Required parking is not reduced by placement of the trailer.

B. **Carwash, Automated.** In the following districts: MU-H, MU-D, C-2, I-1, I-2, I-3, PRD AND MXD an automated carwash shall be permitted as an accessory use provided that the following conditions are met:

1. All vacuum and blower equipment shall be located 50 feet from any dwelling district.
2. All washing facilities shall be located within a building which is enclosed except those openings necessary for vehicular and pedestrian access. Such openings shall not face any adjacent property zoned for dwellings.

3. If located within 100 feet of a dwelling zone district, operation of the establishment shall be prohibited prior to eight a.m. or after nine p.m. on any day of the week.
4. There shall be no outdoor loudspeakers or public address systems.
5. All waste water resulting from car wash activities shall be either directed to the sanitary sewer system or be recycled on-site to the satisfaction of the Director.

C. **Drive-in/Drive-through.** In the following districts: MU-L, MU-M, C-1, C-2, I-1, I-2, I-3 PRD AND MXD a drive-in or drive-through shall be permitted provided that any drive-in or drive-through shall be located 50 feet from any dwelling district, and in MU-H and MU-D the following conditions are met:

1. Any drive-in or drive-through shall be located 50 feet from any dwelling district.
2. Any drive-in or drive-through shall be accessed from an alley, if present.
3. Any drive-in or drive-through shall be located in a rear or side yard.
4. Any drive-in or drive-through shall be accessory to the principal use of the lot.

D. **Mobile Grocery Store**. In D-1, D-2, D-3, D-4, D-5 and D-6 a mobile grocery store shall be permitted as an accessory use on lots where the primary use is a school, place of worship, a public park, public building or non-profit office provided that the following conditions are met:

1. Sales occur on a temporary basis no more than 156 days per year and between the hours of 7:00am and 7:00pm.
2. Mobile grocery stores cannot operate for more than three consecutive days at the same location.
3. Operator must demonstrate that adequate parking is available on the lot being used by the mobile grocery store or a parking arrangement has been made for a non-dwelling lot that is within 500 feet and is not in use during operating hours.
4. A letter or document verifying landowners' permission for the mobile grocery store to operate as an accessory use on the property.
5. A letter stating that the mobile grocery store complies with any applicable Jefferson County Department of Health regulations or a letter stating that the mobile grocery store does not require approval by the Jefferson County Department of Health.
6. Mobile grocery stores shall not be located within 1,000 feet of the front door of a brick and mortar business selling the same or similar products.

7. Signage is limited to 60 square feet and is limited to signs permanently affixed to or painted on the exterior of the mobile grocery store. Signs shall not be illuminated nor project from the mobile grocery store.
8. A mobile grocery store may have no more than two tables and/or two chairs for customer check-in and processing.
9. No more than one mobile grocery store shall be permitted to operate, per day, at a site/location.
10. No audio or amplification is allowed.

Section 5. Communication accessory uses.

A. **Satellite Dish.** In all dwelling zone districts, a single satellite earth station antenna that is no more than two feet in diameter shall be permitted only as an accessory use to a dwelling. A ground-mounted antenna shall be located in the rear or side yard, shall comply with all minimum required setbacks and shall not exceed six feet in height from grade.

Section 6. Agricultural accessory uses.

A. **Apiary.** In all zoning districts, except the AG district, an apiary shall be permitted as an accessory use provided that the following conditions are met:

1. In D-1, D-2, D-3, D-4, D-5, D-6 and MU-L districts the following conditions shall be met:
   a. Apiaries shall be accessory to a single-family dwelling or community Garden.
   b. Located in a rear yard and hives are setback from property lines by 10 feet and have a continuous water source.
   c. If the hive opening faces a public right-of-way and the ground level of the hive is less than six feet above the grade of the right-of-way, a flyway barrier (fence or dense evergreen shrub) shall be provided that is six feet high and extends three feet either side of the hive opening.
   d. Two hives are allowed on lots less than 10,000 square feet and 1 additional hive per 4,000 square feet is allowed on lots larger than 10,000 square feet with a maximum of 20 hives per lot.
2. Outdoor Urban Farms shall comply with Chapter 4, Article II, Section 9 (B) (4) of this Ordinance.
3. In MU-M, MU-H, MU-D, C-1, C-2, I-1, I-3, I-4, PRD, MXD and HID districts the following conditions shall be met:
   a. Apiaries shall be accessory to a dwelling, community garden or another primary use.

b. Located in a rear yard or roof of a building and hives are setback from property lines by 10 feet and have a continuous water source.

c. If the hive opening faces a public right-of-way and the ground level of the hive is less than six feet above the grade of the right-of-way, a flyway barrier (fence or dense evergreen shrub) shall be provided that is six feet high and extends three feet either side of the hive opening.

d. Two hives are allowed on lots less than 10,000 square feet and 1 additional hive per 4,000 square feet is allowed on lots larger than 10,000 square feet with a maximum of 20 hives per lot.

B. **Chicken Coop.** In D-1, D-2 AND D-3 districts a chicken coop shall be permitted as an accessory use to a dwelling provided that the following conditions are met:

1. It is accessory to an occupied single-family detached residential structure.
2. Hens are not kept in residential structure and must be kept in coop/run at all times.
3. Roosters are prohibited.
4. No more than 6 hens per property.
5. An enclosed predator-proof coop/run shall be provided in a rear yards, and be built of uniform metal or wood that is either new or sound condition not showing signs of decay and treated to prevent decay and predator-proof wire, properly ventilated, clean, dry and kept in a manner that will not disturb the use or enjoyment of neighboring lots due to noise and odor, enclosed on all sides and has a roof and doors that are lockable, all ventilation openings must be covered with predator-proof wire, and the run must be built to prevent predators and rodents from entering either above or under the pen with the total area being no more than 80 square feet, no more than six feet tall, setback a minimum of 10 feet from property lines and 15 feet from residential structures on adjacent lots.
6. Slaughtering of animals is prohibited.
7. The chickens, coops and cages must be adequately maintained to control odor and prevent infestation, coop and pen will be kept free from accumulated manure, coop must be cleaned regularly and sprayed to control red mites, a dust bath must be provided for hens, feed is to be kept in either the residence or in a weather-resistant container with a sealable lid, uneaten feed must be removed from the coop/run daily.
8. If a coop is not maintained in sound condition free from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.

C. **Chicken Coop.** In the AG district a Chicken Coop shall be permitted as an accessory use provided that the following conditions are met:

1. The minimum setback from adjoining property lines shall be 100 feet and from street right-of-way lines shall be 300 feet. No chicken coop shall be built closer than 300 feet to the nearest adjacent residence.

D. **Livestock Barn.** In the AG district a livestock barn shall be permitted as an accessory use provided that the following conditions are met:

1. The minimum setback from adjoining property lines shall be 100 feet and from street right-of-way lines shall be 300 feet. No livestock barns shall be built closer than 300 feet to the nearest adjacent residence.

E. **Market Stand.** In the following districts: D-1, D-2, D-3, D-4, D-5, and D-6 a market stand shall be permitted provided that the following conditions are met:

1. It is accessory to a community garden.
2. Sales only occur on a temporary basis no more than 156 days per year and between the hours of 7:00am and 7:00pm.
3. Market cannot operate for more than <u>three</u> consecutive days.
4. Market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours.
5. Items made from kits, used or mass produced items are prohibited.
6. Only agriculture products grown on the community garden property can be sold.
7. Within one (1) hour after the closing of the market stand the market stand must be moved to its permanent storage area in a rear yard and the market area be cleaned of any debris or trash.
8. A letter or document verifying land owners permission for the market stand to operate on the property and identifying Community Garden Manager is submitted to Department.

F. **Stable.** In the AG district a stable shall be permitted as an accessory use provided that the following conditions are met:

1. The minimum setback from adjoining property lines shall be 100 feet and from street right-of-way lines shall be 300 feet. No stables shall be built closer than 300 feet to the nearest adjacent residence.

Section 7. Recreation and entertainment accessory uses.

A. **Amphitheater.** In D-1, D-2, D-3, D-4, D-5, D-6, MU-L AND MU-M districts an amphitheater shall be permitted when accessory to a public park or school provided that the following conditions are met:

1. If the amphitheater utilizes amplification or has capacity for 30 or more patrons, it must be setback 200 feet from any dwelling district.

2. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

B. **Arena/Stadium.** In D-1, D-2, D-3, D-4, D-5, D-6, MU-L AND MU-M districts an arena or stadium shall be permitted when accessory to a public park or school provided that the following conditions are met:

1. It is setback 200 feet from any dwelling district.
2. A traffic impact study may be required that demonstrates adequate traffic controls are provided as determined by the Traffic Engineer for the City.

Article V: Specific Development Standards

Section 1. Wireless Communication Facilities

Subsection 1. Purpose.

A. The purpose of the regulations contained within this Section is to protect the public health, safety, and welfare by establishing minimum locational requirements, siting criteria and development standards for wireless communications facilities, in accordance with *Section 704(a) of the Federal Telecommunications Act of 1996, as amended*.

B. The impact of these regulations is consistent with the objectives of the *Federal Telecommunications Act of 1996* (the Act) to accommodate quality telecommunications services for consumers at competitive pricing, encourage the rapid deployment of new technologies, and promote competition within a framework of minimum necessary regulation. As authorized by the Act, the City finds it necessary to enact and enforce these minimum standards. These standards are designed to: assure safety; ensure compatibility with adjacent land uses; preserve the character of community design; protect revitalization and redevelopment areas, historic districts, and other like areas of considerable City investment; avoid adverse visual impacts to the City landscape; and discourage unnecessary proliferation of wireless facilities.

C. It is the express intent of this Section that the construction of new communication towers be an option of last resort. To the extent feasible, collocation of antennas on existing towers and their attachment to building rooftops and other suitable structures should first be sought. However, where new tower construction is found absolutely necessary, compatible design measures, such as monopole towers at reduced heights, camouflaging techniques, and screening should be instituted to minimize detrimental effects to the community aesthetic standards.

Subsection 2. Definitions.

A. Certain terms used in this ordinance shall have the meanings defined by this Subsection. In the event a term is not listed in this Subsection or is not defined elsewhere in this Zoning Ordinance, the conventional meaning of the term shall apply. The Director is authorized to make a final determination of the meaning of any term used in this Section, and, in case of any dispute, an appeal of the Director's determination may be filed with the Board in accordance with Chapter 9 of this Ordinance.

1. *Act.* The *Federal Telecommunications Act of 1996*, as amended.

2. *Collocation.* The placement of more than one communications antenna by more than one wireless communications service provider on a single communications tower.

3. *Communications antenna.* A device used to transmit and/or receive wireless communications services as authorized by the Federal Communications Commission (FCC), including all mounts and supporting

structures other than supporting communications towers. For the purpose of this Section, a communication antennae shall be classified by the Director into one of the following types:

a. *Microwave dish antenna.* Parabolic antennas that emit microwave signals.

b. *Panel antenna.* Vertical and horizontal plane antennas that aim radio signals in specific directions. Also referred to as a *sector antenna.*

c. *Whip antenna.* Cylindrical antennas which emit radio signals in a 360 degree horizontal plane and a compressed vertical plane. Also referred to as a *stick, omni directional,* or *pipe antenna.*

4. *Communications Engineer.* Such registered professional engineer(s) qualified in the design and installation of wireless communications facilities and appointed from time-to-time by the Mayor to advise and assist in the technical engineering aspects of the administration and enforcement of this Section.

5. *Communications tower.* Any ground-mounted structure that is designed and constructed primarily for the purpose of supporting one or more antennas. For the purpose of this Section, a communications tower shall be classified by the Director into one of the following structural types:

a. *Guyed tower.* A communications tower anchored with guy wires.

b. *Lattice tower.* A self-supporting communications tower with three or more sides of open-framed supports.

c. *Monopole tower.* A cylindrical self-supporting communications tower constructed as a single spire.

d. *Camouflaged tower.* A self-supporting communications tower concealed to resemble an object that blends with its surroundings, such as, by way of example but not limitation, a communications tower concealed to resemble a pine tree within a wooded setting, a street lamp, a lookout tower, a clock tower, or a light post on an athletic field.

6. *Communications tower, temporary.* A transportable communications tower operating temporarily to accommodate special circumstances or in conjunction with a special event. Also referred to as a *COW - cellular on wheels* or *communications on wheels.*

7. *Compound.* A land parcel or that area of a land parcel set aside by lease agreement or easement and developed for a communications tower or commercial satellite facility and accessory buildings, structures, and equipment. Typically, the compound is demarcated by a fence and may include a landscape screen or wooded preserve surrounding the enclosure, all within the compound.

8. *Design Review Committee.* A committee established by *Section 7-1-185 of the General City Code, 1980, as amended*, and charged, among other

duties, with the review of the urban design elements of all proposed wireless communications facilities within designated commercial revitalization and redevelopment districts, local historic districts, and other areas and sites where Design Review Committee approval is required by this Section.

9. *Director.* The Director of the Department of Planning, Engineering and Permits of the City of Birmingham, or his designee, who acts as the secretary for the Commission, and maintains all official records for the Commission and its Committees.

10. *Dispatch communications.* Internal private communication services between a fixed base radio station and mobile units not intended for transmission to the general public and not conducted for a profit.

11. *Engineer.* A registered professional engineer qualified in the design and installation of wireless communications facilities.

12. *FAA.* The Federal Aviation Administration.

13. *FCC.* The Federal Communications Commission.

14. *Height.* When referring to a communications tower or ground-mounted commercial satellite facility, the distance measured from the structure's lowest elevation at grade to the highest point of the structure and any projections from the structure; except a lightning rod of six or less feet shall not be included in determining the height of the structure. When referring to a communications antenna or commercial satellite facility mounted to the roof of a building, the distance measured from the top roof line to the top of the antenna.

15. *Multi-family complex.* For the purpose of this Section, a tract of five (5) or more acres planned and developed as an integral unit under single ownership or control, consisting of three (3) or more buildings of multiple family dwellings for individual lease or sale.

16. *Protected residential lot.* A subdivided lot used, planned, or clearly intended for residential use other than a *multi-family complex*, as defined by this Section, regardless of zoning classification, or a vacant lot zoned residential.

17. *Public utilities.* Essential services to the public at-large, including water, sewer, telephone (except wireless), electricity, natural gas, and other services regulated by the Alabama Public Service Commission as a public utility, but excluding cable TV, radio, television, and any public utility operation of a wireless communications facility for a profit.

18. *Roof line, bottom.* A line which joins the vertical plane of a building face with the lowest horizontal member of the roof of a building.

19. *Roof line, top.* A horizontal line above which no roof surface on a building projects, excluding equipment, service penthouses, and other structures mounted to a roof.

20. *Stealth concealment.* The creative application of construction techniques designed to minimize the visual impact of communications towers, antennas, commercial satellite facilities, and accessory buildings and structures. Stealth concealment may include, but not be limited to such measures as, architecturally-compatible screening shields around a roof top antenna facility, specially-finished antenna panels affixed to a building wall, the design of an equipment shelter to resemble a garage or household storage building, or a church steeple, spire, or clock tower enclosing antennas mounted to a building.

21. *Wireless communications facilities.* For the purpose of this Section, wireless communications facilities shall be classified by the Director into one of the following functional use classifications:

    a. *Broadcast facilities.* Transmission towers, relay towers, and accessory facilities used to transmit AM and FM radio signals, VHF and UHF television (TVBS) signals, wireless cable (MMDS) signals, and similar broadcast services.

    b. *Cellular communications facilities.* Low-powered transmitters used to transmit signals in a cell for cellular radiotelephone services (cellular phones), personal communications services (PCS), enhanced specialized mobile radio (ESMR), trunk mobile cellular radio, paging services, and similar cellular-based communications services to the general public.

    c. *Commercial satellite facilities.* Satellite earth stations which are greater than two (2) meters in diameter and used to send and/or receive satellite signals and similar communications services.

    d. *Microwave Relay Facilities.* Facilities used to transmit radio signals between two or more fixed points by microwave antennas and similar transmission services.

    e. *Two-Way Radio Facilities.* Fixed base stations used to communicate with mobile units or multiple points and similar radio transmission services.

Subsection 3. Exemptions.

A. **Federally-mandated exemptions.** The following wireless communications facilities shall be exempt from the requirements of this Section, in accordance with the *Federal Telecommunications Act of 1996*, provided however, such facilities may be subject to other provisions of this Zoning Ordinance, building and technical codes, and related parts of the City Code:

1. Amateur radio service antennas (HAMS) provided such antennas where accessory to a residential use shall not exceed 25 feet above the established height of the zoning district.
2. Satellite earth station antennas that are one meter or less in diameter and designed to receive direct broadcast satellite services (DBS), including direct-to-home satellite services.
3. Antennas which receive signals from television broadcast stations (TVBS) or antennas that are one meter or less in diameter or diagonal measurement and are designed to receive wireless cable services via multi-channel multipoint distribution service providers (MMDS), provided such antennas shall not exceed 25 feet above the established height of the zoning district.
4. Satellite earth station antennas which are two meters or less in diameter and located in any area zoned to generally permit commercial, manufacturing or industrial uses.

B. **Additional exemptions.** The following wireless communications facilities shall be exempt from the requirements of this Section, except as noted. Such facilities shall not be exempt from the requirements of *Subsection 4, Prohibitions;* the height limitations in *Subsection 6, District Use and Height Regulations*; *Subsection 8, Required Permits and Approvals; and* other applicable provisions of this Zoning Ordinance, the building and technical codes, and related parts of the City Code. These facilities shall only be permitted by administrative review and approval as an accessory structure that is subordinate and incidental to an approved non-residential use on the same parcel. An *Application to Develop a Wireless Communications Facility*, as provided for in this Section, may be required.

1. Accessory facilities used exclusively for dispatch communications by public emergency agencies.
2. Accessory facilities used exclusively for dispatch communications by government agencies.
3. Accessory facilities used exclusively for dispatch communications by private providers, provided such facilities do not 15 feet in height where mounted to a building roof top or 20 feet in height where ground-mounted. Further, such facilities shall not bear advertising or be lighted.
4. Facilities, such as Supervisory Control and Data Acquisition (SCADA) or Distribution Automation (DA) facilities, exclusively used by public utilities

(as defined by this Section) for monitoring and controlling the operation of public utility systems, where accessory to a permitted public utility installation, provided such facilities do not exceed 20 feet in height where mounted to a building roof top or other structure or 60 feet in height where ground-mounted.

Subsection 4. Prohibitions.

A. Except as provided for in *Section 3-A, Federally-mandated exemptions*, all wireless communications facilities shall be subject to the following prohibitions:

1. Lattice tower prohibition. Ground-mounted lattice towers exceeding 40 feet in height shall be prohibited throughout the City.
2. Protected residential lot prohibition. No communications tower, commercial satellite facility, broadcasting facility, or two-way radio facility shall be permitted on a protected residential lot, as defined by this Section.
3. Dwelling prohibition. No communications antenna shall be attached to a one or two-family dwelling or any other dwelling of less than 50 feet in height.
4. Antenna height prohibition. No communications antenna exceeding 20 feet in height shall be mounted to the roof of a building.

Subsection 5. Requirements Applicable to all Wireless Communications Facilities.

A. FCC and FAA approvals. No permit shall be approved for a wireless communications facility without first obtaining written approvals from the FCC and FAA, if required by Federal law. Copies of notices to and responses from the FCC and FAA shall be submitted with the permit application. Should the FCC or FAA not require approval, the permit applicant shall submit an engineer's certification that no such approval is required.

B. Birmingham Airport Authority approval. All wireless communications facilities located within an Airport Height Control Zone or all facilities higher than 200 feet above grade (regardless of location within or outside an Airport Height Control Zone) shall obtain written approval from the Birmingham Airport Authority stating that the proposed facility is in compliance with Chapter 3. Article I, Section 7, Item D-Additional Height Regulations in Vicinity of Municipal Airport of this Ordinance and does not interfere with the orderly implementation of the long-range Airport Master Plan. All other facilities of less than 200 feet above grade shall require an engineer's certification that the proposed facility lies outside of the Airport Height Control Zones.

C. Radio frequency (RF) emissions. Wireless communications facilities subject to FCC standards governing radio frequency emissions shall require an engineer's certification of compliance with current FCC emission standards, before a permit may be approved.

D. Environmental effects. The development of any wireless communications facility shall fully comply with the most current provisions of the National Environmental Policy Act of 1969 (NEPA), as currently implemented by the FCC. The applicant for a permit to develop a facility shall evaluate a proposed site to determine possible significant impact on environmentally-sensitive areas. Should a development have an environmental impact, an environmental assessment (EA) shall be prepared and filed with the FCC for approval. A copy of the EA shall also be submitted to the Director for comment to the FCC. No permit to construct a facility shall be approved unless the applicant submits an FCC-approved EA with the permit application. Should an EA not be required, the permit application shall include an engineer's certification that a thorough investigation has determined no possible significant environmental impact.

E. Historic preservation. No communications tower or ground-mounted commercial satellite facility shall be located within 200 feet of a locally or nationally-designated historic district or any individual property listed on the National Register of Historic Districts and Places. Permitted communications antennas and commercial satellite facilities mounted to an individually-listed historic building or any building (contributing and noncontributing) within a locally or nationally-designated historic district shall be subject to approval of the proposed design by the Design Review Committee (DRC), in addition to other approvals required by the district use regulations. The DRC may approve, deny, or modify the proposed design to best achieve the historic preservation objectives for the particular location. Stealth concealment of antennas may be required by the Design Review Committee. This provision extends the authority of the Design Review Committee to apply design review to wireless communications facilities proposed for historic districts and individual property listings on the National Register of Historic Districts and Places.

F. Construction and safety standards. All towers and antennas shall comply with wind loading and other structural standards contained in applicable building and technical codes, industry codes, and manufacturer standards so as not to endanger the health and safety of residents, employees or travelers in the event of structural failure due to extreme weather conditions or other acts of God.

G. Required yards and setbacks. All ground-mounted facilities shall meet the following yard and setback requirements:

1. District yard requirements. No compound, guy anchor, tower, or commercial satellite facility shall be permitted, except in accordance with the yards required by the zoning district. The following rules shall be followed for measuring setbacks to comply with district yard requirements:

   a. Setbacks for communications towers shall be measured from the compound fence line to the property line or, in the absence of a compound, from the perimeter of the area dedicated to the tower and equipment to the property line.

   b. Setbacks for guy anchors shall be measured from the guy anchor to the

property line.

c. Setbacks for commercial satellite facilities shall be measured from the edge of the satellite dish facility or the compound fence, whichever is greater, to the property line.

2. Additional setback requirements. In addition to the district yard requirements, all ground-mounted facilities shall meet the following additional setback requirements, whichever result in a greater setback:

a. Communications towers shall be set back from all property lines to a distance equal to at least one foot of setback for each four feet of tower height, as measured from the center of the tower base to the property line.

b. Communications towers shall be set back at least 200 feet from a protected residential lot, as measured from the center of the tower base to the property line.

c. No compound, communications tower, or commercial satellite facility shall be permitted between a front building line and a street line.

d. Leased lot provisions. If a facility is proposed to be placed on a leased portion of a larger lot owned by someone other than the facility owner, setbacks shall be measured from the boundaries of the larger lot. A leased lot shall not be subdivided except in accordance with the yard and setback requirements of this Section.

H. Finish. Painted communications towers shall be limited to gray-toned colors. For unpainted towers, the finish shall be a hot-dipped, non-corrosive, galvanized steel finish or a gray-toned, weather-resistant, treated concrete finish, except where other markings are required by the FAA for safety purposes. Likewise, communications antennas shall be gray-toned, unless otherwise required. Written evidence of required markings shall be submitted with the permit application. Satellite dishes may be painted white, black, gray, beige, or similar neutral color that most effectively blends the facility within its environs.

I. Lighting. Communications towers, antennas, and commercial satellite facilities shall not be artificially lighted unless required by the FAA for safety purposes. Where dual lighting is required, (red at night/strobe during day) it shall be installed unless restricted by the FAA. Written evidence of required lighting shall be submitted with the permit application.

J. Security. Each facility compound shall be fully secured. A minimum six feet high, galvanized steel or vinyl-covered, chain link fence shall be installed to secure the compound. The fence may be topped with barbed or razor wire, provided the overall height does not exceed eight feet total. Other security measures may include locks, alarms, postings, and low-intensity security lighting (maximum equivalent to a 150 watt bulb).

K. Access. A driveway of 10 feet minimum width shall provide vehicular access to a facility compound for maintenance or emergency services. One parking space shall be provided. Where available, parking and access may be from an adjoining alley, public street, or off-street parking lot. Driveway and parking surfaces shall be stabilized and dust-free but need not be hard-surfaced.

L. Signs. No advertising signs shall be permitted on any facility; however, warning signs, emergency contact information signs, and signs announcing space available for collocation may be posted on all compounds. Such permitted signs shall not be illuminated and not exceed six square feet in area per sign and eight feet in height above grade.

M. Equipment and service structures.

1. Ground-mounted facilities.

   a. All ground-mounted utility buildings and structures shall, to the extent possible, maximize use of building materials, colors, and textures that effectively blend within the surrounding natural setting and built environment, as determined by the Director.

   b. All equipment and service buildings within the compound shall be unmanned. Location of occupied buildings outside of a compound shall be regulated by the zoning district location. Broadcasting facilities shall be allowed to have studios.

   c. In the case of a camouflaged tower compound, stealth concealment shall be maximized to achieve visual compatibility.

2. Roof-mounted facilities.

   a. Where deemed necessary by the Director to protect public views, equipment and service structures mounted to a building roof top shall be screened from ground-level views or enclosed within the building.

   b. Where feasible, alternative stealth concealment that achieves architectural compatibility and protects public views may be approved by the Director.

N. Screening.

1. Communications antennas. All communications antennas and commercial satellite facilities attached to a building or structure (other than a communications tower) shall be situated so as to minimize visibility and, to the extent feasible, architecturally blend with the building design, through the use of screening, colors, material finishes, and, as the case may require, stealth concealment, as determined by the Director.

2. Facility compound. In general, the design of a compound shall, to the extent possible, maximize use of building materials, colors, textures, screening, and landscaping that effectively blend the facility within the surrounding natural setting and built environment. To achieve visual compatibility, all compounds shall be fully screened at ground-level views

from adjacent properties and public street rights-of-way, as determined by the Director according to the following standards:

a. Standard screening method. Screening shall be installed and maintained within a minimum six feet wide landscaped buffer strip along the perimeter of the compound, except access areas. Security fencing shall be screened to its full height eight feet or less - by a decay-resistant, solid wood fence; earth berms and brick or masonry walls may be substitute screens. The buffer strip shall be planted with an attractive combination of trees, shrubs, vines, and/or ground covers that enhance the outward appearance of the screening fence. At minimum, the landscaped buffer shall be planted with (a) a row of evergreen trees, eight feet or greater height at planting, spaced 20 feet on center or less, (b) a row of evergreen shrubs, 24 inches or greater height at planting, spaced three feet on center or less. Remaining areas of the buffer shall be planted with any combination of ground covers, vines, and mulched beds.

b. Preservation of natural screening. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. Towers sited on large, wooded lots, shall preserve substantial natural growth around the property perimeter to form a sufficient screen from surrounding off-site views.

c. Reduced or modified screening method.

   i. In isolated areas of intensive development of heavy commercial, manufacturing and industrial uses, reduced or modified screening methods shall include the use of earth-toned colored, vinyl-coated steel security fencing in combination with evergreen shrubs, trees, vines, and/or other plantings necessary to achieve visual protection from surrounding off-site views, as determined by the Director.

   ii. In certain remote locations where the facility cannot be seen beyond the property lines, such as remote, agricultural or rural locations, standard screening may be waived by the Director, provided a natural screen is preserved, as described above in *(2) Preservation of natural screening*.

   iii. Screening may be waived or modified by the Director to allow the creative application of stealth concealment that most effectively blends the facility within the surrounding natural setting and built environment and best achieves visual compatibility.

d. Installation, maintenance, and bonding.

   i. A required screening fence shall be installed before communications operations begin. Required plantings shall be installed within thirty (30) days of the beginning of the next seasonal planting opportunity or within six (6) months of permit approval, whichever comes first. All required plants shall be xeriscape tolerant. Screening shall be

continuously maintained. Any dead, missing, or unhealthy plants shall be replanted at the next seasonal planting opportunity, and broken or decaying fencing shall be replaced.

ii. The Director shall require surety bonds in an amount equal to one hundred and fifteen percent (115%) of the estimated cost of completion of the required plantings as assurance for installation and maintenance. It shall be the responsibility of the owner to obtain and maintain the bond continuously until released by the Director. The bond shall remain in effect for a period of two (2) years from the date of permit approval and shall then be released by the Director to the owner, provided all plantings have been installed and maintained as required. In the case of single ownership of multiple facilities, the owner may obtain a blanket bond to guarantee the installation and maintenance of all facilities under the same ownership and subject to bonding. The bond shall be provided by a bonding company licensed and registered in the State of Alabama. In lieu of a surety bond, the owner may file a cash bond or instrument of credit with the Director in an amount equal to that which would be required in the surety bond.

Subsection 6. District Use and Height Regulations.

Unless otherwise provided by other applicable provisions of this Section, the regulations of this Section shall govern the location and height of wireless communications facilities within the various zoning districts.

A. **Cellular communications, microwave relay, and two-way radio facilities.**

1. Districts use regulations.

a. Permitted communications towers.

i. Permitted by administrative review and approval in the following districts: C-2, B-2, B-3, B-5, MU-H, PRD, I-1, M-1, M-1A, I-2, M-2, I-3, M-3, I-4, M-4, MXD/E, AG, and A-1 Districts.

ii. Permitted by special exception granted by the Board in the following districts: D-1, E-1, R-1, D-2, R-2, D-3, R-3, D-4, R-4, R-4A, D-5, R-5, D-6, R-6, R-7, R-8, O&I, C-1, B-1, HID, B-6, AG, A-2, HZD, and MXD/R Districts.

iii. Cellular communications facilities shall be restricted to monopole and camouflaged towers where communications towers are approved for the district location.

iv. Microwave relay towers under 120 feet in height shall be restricted to monopole and camouflaged towers where communications towers are approved for the district location. Such towers greater than 120 feet in height may include guyed towers upon an engineer's certification

of the structural necessity of a guyed tower (cost shall not be a consideration).

v. Two-way radio facilities 40 feet or greater in height shall be restricted to guyed, monopole, and camouflaged towers where communications towers are approved for the district location. Towers under 40 feet in height may be lattice towers.

vi. Communications towers located in the area designated "Service Commercial" by the City Center Master Plan shall be permitted by administrative review and approval and shall be prohibited in all other Downtown Master Plan designations, regardless of zoning designation.

vii. The Director may, in consultation with the Director of Communications, approve under special circumstances a permit for a temporary communications tower or COW (cellular on wheels) for a cellular communications facility. When operating during a publicly-recognized special event approved by the Director, such tower may be installed up to 72 hours before the event begins and shall be removed within 72 hours after the event ends. If the COW installation is not associated with a special event, the maximum period that may be approved for a location shall be not more than 30 days in any given calendar year or as approved by the Director. The COW shall be fully transportable, not permanently affixed to the ground or a structure. The temporary tower shall, at minimum, comply with setback and lighting requirements of this Section, in addition to applicable building and technical codes and FCC, FAA, and Birmingham Airport Authority approvals.

2. Permitted communications antennas.

   a. Permitted by administrative review and approval in all districts, under the following conditions:

      i. Attached to an existing communications tower.

      ii. Attached to a building.

      iii. Attached to a water tower.

      iv. Attached to a permitted billboard.

3. Permitted by special exception granted by the Board where attached to a structure other than an existing communications tower, building, water tower, or permitted billboard.

B. **Height limitations**

1. Communications towers. Communications towers shall be limited in height according to zoning district location, as follows:

   a. Sixty (60) feet in height when located in the E-1, D-1, R-1, D-2, R-2, D-3, R-3, D-4, R-4, R-4A, D-5, R-5, D-6, R-6, R-7, R-8, O&I, C-1, B-1,

HID, B-6, AG, A-2, HZD, and MXD/R Districts, except camouflaged towers may be granted up to a 20 feet height bonus (80 feet maximum height) upon approval of visual compatibility by the Director.

b. One hundred and twenty (120) feet in height when located in the C-2, B-2, MU-H, B-3, B-5, PRD, I-1, M-1, I-3, M-3, and MXD/E Districts.

c. Two hundred (200) feet in height when located in the I-2, M-2, I-3, M-1A, I-4, M-4, A-1, and AG Districts.

d. Communications towers located in the area designated "Service Commercial" by the City Center Master Plan shall be restricted to a 120 feet maximum height, regardless of zoning designation.

2. Communications antennas. The maximum height of all communications antennas shall be determined by the building or structure on which the antennas are attached, as follows:

a. Twenty (20) feet above the top roof line where mounted to the roof top of a building.

b. The bottom roof line where a panel antenna is attached to a building face.

c. Ten (10) feet above the top of a sign face where attached to a billboard.

d. Except as provided in (a), (b), and (c) above, the highest point of any other structure to which an antenna is attached.

C. **Commercial satellite facilities.**

1. Districts use regulations.

a. Permitted by administrative review and approval in the following districts: C-2, B-2, MU-H, B-3, MU-D, B-4, B-5, HID, B-6, O&I, PRD, I-1, M-1, I-2, M-2, I-3, M-3, M-1A, I-4, M-4, MXD/E, A-1, and AG Districts.

b. Permitted by special exception granted by the Board in the following districts: D-1 E-1, R-1, D-2, R-2, D-3, R-3, D-4, R-4, R-4A, D-5, R-5, D-6, R-6, R-7, R-8, C-1, B-1, A-2, AG, HZD, and MXD/R Districts.

2. Height limitations. The maximum height of all commercial satellite facilities within all zoning districts shall be 15 feet if mounted to the roof top of a building and 20 feet if ground-mounted.

D. **Requirements for broadcast facilities.**

1. Districts use regulations.

a. Permitted communications towers.

i. Permitted by special exception granted by the Board in the following districts: B-5, PRD, I-1, M-1, I-2, M-2, I-3, M-3, M-1A, I-4, M-4, MXD/E, A-1, and AG Districts.

ii. To the furthest possible extent, broadcast facilities shall be restricted to remote, isolated locations not visible at ground view from surrounding properties and rights-of-way, as determined by the Board.

iii. Communications towers for broadcast facilities shall be restricted to monopole and guyed towers.

b. Permitted communications antennas. Permitted by right granted by administrative review and approval in all districts where attached to an existing communications tower.

c. Broadcasting studios permitted. Broadcasting facilities shall also be permitted to have studios where a broadcasting facility has been approved by the Board.

2. Height limitations. The maximum height of communications towers for broadcast facilities shall be determined on a case-by-case basis by an engineer's certification of necessary height required to achieve the proposed broadcast coverage.

Subsection 7. Collocation Requirements.

All communications towers of 60 or more feet in height shall comply with the requirements of this Subsection which are intended to encourage collocation.

A. **Shared use design.**

1. Communication towers shall be designed to maximize shared use to the extent possible, given the structural and technical limitations of the type of tower proposed. Each tower of 60 or more feet in height shall, at a minimum, be designed for double its initially-intended use for all transmitting and receiving antennas other than microwave dish antennas. Towers 120 feet or greater in height shall be designed for triple use. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. The tower compound shall be planned for future expansion to accommodate the maximum number of shared users. An engineer shall certify compliance with these shared use design standards.

2. Any eligible facility request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station shall be approved without delay.

B. **Justification for new tower installation.**

1. No new communications tower shall be installed if space is structurally and technically available for the proposed communication antennas and equipment on an existing tower or alternative site of a building or other structure, and the alternative location would cover the required area without undue signal interference.

2. A proposal for a new tower shall be accompanied by a study prepared by an engineer that includes, at a minimum, a coverage analysis depicted on a map along with an inventory and evaluation of existing towers and alternative sites considered. The coverage analysis and inventory shall extend to a radius which varies according to the proposed tower height, as shown below:

Tower height < 80 feet:	½ mile radius
Tower height 90 to 120 feet:	1 mile radius
Tower height 121 to 160 feet:	1 ½ mile radius
Tower height > 160 feet:	2 mile radius

3. An engineer shall certify that study results (required by b above) conclude that the system design and engineering requirements of the proposed antennas and equipment cannot be accommodated on any existing tower or alternative site (building or structure) inventoried within the study radius due to one or more of the following justifications:

a. No existing tower or alternative site would be of sufficient height to meet the proposed coverage requirements, and the placement of multiple antennas at lower heights could not achieve the same level of service.

b. No existing tower or alternative site is of sufficient structural strength to support the proposed antennas and equipment, and reinforcing or replacing an existing facility is not feasible.

c. Alternative locations would cause undue radio frequency or other signal interference problems.

d. An affidavit by the applicant assures that the owner of the alternative tower or site has been contacted but is unwilling to make space available for the proposed antennas and equipment, or such owner has offered available space but the terms of availability are not reasonable due to either of the following reasons, as confirmed by the Director:

i. The available space is not offered at a reasonable market lease rate, as substantiated by analysis of current market data, or

ii. The terms of availability to build and operate the proposed facility are not commercially-reasonable.

C. **Affidavit of collocation availability.** The permit application for a new communications tower installation shall include an affidavit of the provider's good faith intent to allow the collocation of communications antennas and equipment at a reasonable market lease rate and under commercially-reasonable terms, provided the costs of modifying the facility for collocation are borne by the collocating provider, and the collocation would not cause undue signal interference with the initial installation.

Subsection 8. Required Permits and Approvals.

A. **Special exception approval.**

1. Approval authority and conditions. Approval of a special exception by the Board shall be made in accordance with Chapter 9, Article V of this Ordinance. The Board may attach such conditions for approval as it may deem necessary in the particular case to protect the public interest and the purpose of this Section.

2. Board review criteria. In acting upon an application for special exception approval, the Board shall duly consider the purpose of this Section and the following applicable review criteria, considering the unique construction and transmission requirements of each facility:

a. View protection. The proposed facility design would not create materially adverse visual impacts to surrounding properties, the public right-of-way, and distant vistas.

b. Land use compatibility. The proposed facility would not interfere with the use and enjoyment of surrounding lands, both existing and future,

and would fit the character of land use and development at the proposed location.

c. Design harmony. The proposed facility design would not disturb the harmony of natural settings and surrounding development patterns.

d. Technical justification. Sufficient technical evidence justifies the proposed facility location and design as a preferred alternative to achieve the necessary service coverage. If the facility is proposed for a residential zoning location, technical necessity prevents location in a nonresidential zone.

3. Application requirements. The following submittals, as the Board deems applicable to its review of the proposal, shall supplement a Board application for special exception approval:

a. Statement of consistency. A statement explaining consistency of the proposal with the purpose of this Section and the Board review criteria.

b. Conceptual site plan. A conceptual site plan showing the facility layout and location on the proposed site, including location and dimensions of all improvements, setbacks, access, security installations, screening, and such other information necessary to assess general compliance with the development standards required by this Section and consistency with the Board review criteria.

c. Topographic vicinity map. A current USGS quadrangle sheet (1:24000), or equivalent, showing the proposed site location and a two mile radius with areas that the facility is visible and residential areas within the visibility areas highlighted.

d. Elevation. An elevation of the facility, showing type, height, finish, lighting, site improvements, and such other details necessary to convey an image of the facility at the proposed location.

e. Visual impact analysis. Photo simulations or drawings showing the visual impact from distant viewpoints.

f. Justification for new tower installation. Coverage analysis and study by an engineer, as described in this Section, certifying that the system design and engineering requirements of the facility cannot be accommodated on any existing tower or alternative site within the required study radius.

g. Engineer's certification. An engineer shall certify that the proposed facility will be designed in full compliance with the structural, environmental, safety, dimensional, design, and all other applicable technical standards required by this Section and other applicable local, state, and federal laws. A communications tower for a broadcast facility shall require an engineer's certification of height requirements.

4. Board action and record. The Board may act to approve, modify, or deny an application within a reasonable time period, in accordance with

Chapter 9, Article V of this Ordinance, as amended. In the case of modification or denial, the Board shall prepare a written record of its denial or modifications, including reasons for the action. A copy of such record shall be sent by the Director to the applicant within a reasonable time period following the Board action to modify or deny the application.

5. Reimbursement of technical review costs incurred by City. Any reasonable costs incurred not to exceed $1,500 for the Communications Engineer's review and recommendation on an application shall be reimbursed by the applicant to the City. Any special exception application for a new communications tower of 60 or more feet in height may, at the Director's discretion, be referred to the Communications Engineer for review and report of recommendations. All such applications shall include an escrow fee in the amount of $500. Within 30 days after the Board acts on a special exception, the City shall reimburse the applicant for any excess escrow amount or, where the escrow does not cover the full costs of the Communications Engineer's review and report, the applicant shall reimburse the City for the shortage before the Board conducts a hearing. In no event shall an applicant be obligated to reimburse the City more than $1,500 per application despite multiple approvals (i.e., special exception, variance, and administrative approvals) that may be required by a single application for the same proposal.

B. **Administrative review and approval.** All building permit applications for new facilities and modifications to existing facilities shall be subject to administrative review and approval in compliance with the requirements of this Section. The following submittals, as the Director deems applicable to administrative review, shall be required:

1. Application to Develop a Wireless Communications Facility. The applicant shall complete an application form prepared and made available by the Director and submit two copies of such application and required attachments as a supplement to an application for a building permit.

2. Required attachments. The applicant shall submit the following attachments to the permit application, as the Director deems applicable:

   a. Site plan, prepared by an engineer, fully dimensioned and drawn to scale, showing complete facility installation details, including but not limited to, property lines, lease lot lines, adjoining rights-of-way, easements, layout and location of all existing and proposed improvements, buildings, structures, mechanical and electrical equipment, setbacks, access, parking, security installations, signs, screening, landscape details, and such other detailed information necessary to assess full compliance with the development standards required by this Section.

   b. Construction plans, specifications, and details, prepared by an engineer, as required by the building permit, including such additional information necessary to assess full compliance with the design and

construction standards of this Section, such as but not limited to, details on facility height, finish, and lighting.

c. Engineer certifications, as required by this Section:

i. FCC and FAA approvals (include copy of notices and responses) or, should FCC or FAA not require approval, certification that no approval is required (see Subsection 5-A).

ii. Birmingham Airport Authority approval for facilities located within an Airport Height Control Zone or exceeding 200 feet above grade (include copy of approval letter) or, for facilities under 200 feet above grade, an engineer's certification that the facility is not located within an airport height zone (see Subsection 5-B).

iii. Compliance with current FCC radio frequency emission standards (see Subsection 5-C).

iv. Compliance with FCC environmental assessment requirements (include copy of FCC-approved EA), or if not required, certification that a thorough investigation has determined no possible significant environmental impact (see Subsection 5-D).

v. Compliance with wind loading and other construction and safety standards contained in applicable building codes, technical codes, industry codes, and manufacturer standards. (see Subsection 5-F).

vi. Compliance with required lighting or markings by the FAA (see Subsections 5-I and 5-J).

vii. Structural necessity of a guyed tower for a microwave relay facility (see Subsection 6-A-1(a)(iv)).

viii. Shared use design (see Subsection 7-A).

ix. Coverage analysis study and certification that the proposed facility cannot be accommodated on any existing tower or alternative site evaluated in the study radius (see Subsection 7-B).

d. Affidavits and other submittals, as required by this Section:

i. Applicant's affidavit that the owner of a feasible tower or site is unwilling to make space available for collocation or attachment (see Subsection 7-B(3)(d)).

ii. Provider's affidavit of good faith intent to allow collocation (see Subsection 7-3).

iii. Evidence of liability insurance required by City Code.

3. Administrative action and record. The Director shall act to approve or deny a permit application within a reasonable time period following submission of a completed application. In the case of denial, the Director shall prepare a written record of denial, including reasons for the action. A copy of such

record shall be sent by the Director to the applicant within a reasonable time period following the administrative action to deny the application.

4. Reimbursement of technical review costs incurred by City. Any reasonable costs not to exceed $1,500 incurred for the Communications Engineer's review and recommendation on an application shall be reimbursed by the applicant to the City. Any permit application for a new communications tower of 60 or more feet in height may, at the Director's discretion, be referred to the Communications Engineer for review and report of recommendations. All such applications shall include an escrow fee in the amount of $500. Within 30 days after a permit is issued, the City shall reimburse the applicant for any excess escrow amount or, where the escrow does not cover the full costs of the Communications Engineer's review and report, the applicant shall reimburse the City for the shortage before the Director acts on a permit application. In no event shall an applicant be obligated to reimburse the City more than $1,500 per application despite multiple approvals (i.e., special exception, variance, and administrative approvals) that may be required by a single application for the same proposal.

C. **Variance justification and procedures.**

1. Approval authority and conditions. Approval of a variance by the Board shall be made in accordance with Chapter 9, Article VI of this Ordinance and the additional requirements of this Section. The Board may attach such conditions for approval as it may deem necessary in the particular case to protect the public interest and the purpose of this Section.

2. Variance justification. No variance shall be approved that conflicts with the purpose of this Section, considering the unique requirements of each facility, and shall only be justified in extraordinary cases where the applicant has demonstrated that owing to exceptional topographic or other unique physical conditions of a particular property, the strict application of the requirement for which a variance is sought would result in exceptional hardship or practical difficulty in the construction of the proposed facility or the transmission of communications services.

3. Application requirements. The following submittals, as the Board deems necessary to its review of the proposal, shall supplement a Board application for a variance:

   a. Variance justification. The applicant shall fully explain the justification for the variance in accordance with 2 above. The variance justification statement shall also include the following certifications by an engineer:

      i. Certification of exceptional topographic or other unique physical conditions of a particular property or coverage area.

      ii. Certification of exceptional hardship or practical difficulty in the construction of the proposed facility or the transmission of communications services.

iii. Required attachments. The applicant shall submit the same attachments required for a special exception application by Subsections 8-A-1 and 8-B-2, as the Board deems applicable to a thorough evaluation of the variance justification, and such other information as the Board may find necessary to reach a determination on the justification for the variance.

4. Board action and record. The Board may act to approve, modify, or deny an application within a reasonable time period, in accordance with Chapter 9, Article VI of this Ordinance, as amended. In the case of modification or denial, the Board shall prepare a written record of its denial or modifications, including reasons for the action. A copy of such record shall be sent by the Director to the applicant within a reasonable time period following the Board action to modify or deny the application.

5. Reimbursement of technical review costs incurred by City. Any reasonable costs not to exceed $1,500 incurred for the Communications Engineer's review and recommendation on an application shall be reimbursed by the applicant to the City. Any variance application for a new communications tower of 60 or more feet in height may, at the Director's discretion, be referred to the Communications Engineer for review and report of recommendations. All such applications shall include an escrow fee in the amount of $500. Within 30 days after the Board acts on a variance, the City shall reimburse the applicant for any excess escrow amount or, where the escrow does not cover the full costs of the Communications Engineer's review and report, the applicant shall reimburse the City for the shortage before the Board conducts a hearing. In no event shall an applicant be obligated to reimburse the City more than $1,500 per application despite multiple approvals (i.e., special exception, variance, and administrative approvals) that may be required by a single application for the same proposal.

D. **Required approvals; coordination of review procedures.**

1. Required approvals. In addition to the approvals required that may be required by Subsections 8-A through 8-C above, the following additional approvals may be required:

   a. Design Review Committee. All proposed facilities located in a Design Review District or subject to the historic preservation standards of this Section shall be subject to review and approval of design by the Design Review Committee.

   b. MXD Steering Committee. All proposed facilities located in an MXD-Mixed Use District shall be subject to review and approval of a development plan in accordance with Chapter 4, Article V, Section 7 of this Ordinance.

   c. ZAC development plan exemption. All facilities subject to approval of a development plan, as required in the R-8, D-6, B-6, HID, PRD, M-1A

and I-3 zoning districts shall be exempt from approval of a required development plan by the ZAC. Development plan approval shall be conducted by administrative review and approval in accordance with this Section.

d. Special conditions for review and approval. Facilities may be subject to special conditions for review and approval set forth by conditional approval actions of the Board, ZAC, Subdivision Committee, or Council.

2. Coordination of review procedures. No permit application for administrative review and approval shall be considered unless all other approvals required by this Section have been obtained. Board action shall first be obtained prior to consideration by the Design Review Committee or MXD Steering Committee.

E. **Permit to operate on City-owned property.** A request to operate a wireless communications facility on City-owned property, including City-owned rights-of way, shall be submitted to the Director on an application form approved by the City Attorney. Following review and reporting of recommendations by the Director, the head of the agency or department responsible for such property, and the Director of Communications, the City Attorney shall prepare a revocable lease or contract. Such lease or contract shall specify the standards and conditions for constructing and operating the facility using the requirements of this Section as a guide. If the lease or contract is approved and executed by the City, thereafter, an *Application to Develop a Wireless Communications Facility* may be submitted with a building permit application. The wireless facility shall be exempt from the requirements of this Section, other than the prohibitions listed in Subsection 4 which shall still apply. Instead, the wireless facility shall be subject to standards and conditions contained in the approved lease or contract. It shall be a violation of this Section for the owner or operator of any such facility to refuse or fail to comply with the terms of the approved lease or contract. Any such failure shall subject the permit holder to revocation of any such permit issued, and the owner may be required to remove any structure built under such permit.

F. **Misrepresentation of documentation.** Any affidavit, certification, studies, plans, or any other documentation submitted as part of an application for approval of a wireless communications facility shall be subject to strict enforcement. If any misrepresentation is made pertaining to any such documentation, the applicant will be subject to revocation of any permit issued in reliance on such misrepresentation and may be required to remove any structure built under such permit.

Subsection 9. Abandoned and Nonconforming Facilities.

A. **Abandoned facilities.** Any wireless communications facility that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the Director with a copy of the notice to the FCC of intent to cease operations and shall be given ninety (90) days from the

date of ceasing operations to remove the obsolete tower and accessory structures and restore the site to its natural condition. In the case of multiple operators sharing use of a single tower, this provision shall not become effective until all users cease operations. In the event FCC notification of intent to cease operations is not required, notice shall still be given to the Director within the 90 day period after ceasing operations.

B. **Nonconforming facilities.** The lawful use, on the effective date of the ordinance enacting this Section, of a wireless communications facility that does not conform to the provisions of this Section may be lawfully continued as provided for in Chapter 9, Article VII of this Ordinance.

Section 2. D-6 Planned Dwelling District.

Subsection 1. Generally.

A. The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the D-6 Planned Dwelling District.

B. The D-6 Planned Dwelling District allows the flexible and orderly arrangement of large planned residential areas designed as a single unit in a manner consistent with the provisions of this Section. The owner or owners or a tract of land may submit a petition for the establishment of such a district provided the tract of land is five or more acres in area or less than five acres and is located within an urban renewal project area. The petitioner shall submit a plan for the development of the tract to the ZAC for review and approval in accordance with the provisions of this Section.

Subsection 2. Use regulations.

A. The use of each building and/or premises shall be in accordance with the development plan referred to in Subsection 1, and shall be limited to the following:

1. Any use allowed in the D-1, D-2, D-3, D-4, D-5 District.
2. Two-family dwelling.
3. Multiple dwelling; provided, however, that no building or accessory structure shall be located closer than 25 feet to any D-6 district boundary.
4. Attached and semi-attached single family dwellings.
5. Condominiums (residential).

Subsection 3. Area and dimensional regulations.

A. The area and dimensional regulations set forth in this Section shall be observed:

1. Maximum height of structures. Except as provided in Chapter 3 of this Ordinance, the maximum height of structures shall be 45 feet.
2. Structure setback. No building shall be closer to any abutting street than 25 feet.
3. Open space between buildings. Open space between buildings, measured at the closest point, shall not be less than 20 feet for one-story buildings, 30 feet when one or both are two-story buildings, or 40 feet when one or both are three-story buildings.
4. Area per family. The required average land area per family shall not be less than 3,750 square feet; except, that in attached and semi-attached single family dwellings, the average land area per family shall not be less than 2,500 feet.

Subsection 4. Parking regulations.

A. Off-street parking shall be provided in accordance with the requirements for specific uses set forth in Chapter 5 of this Ordinance.

Subsection 5. Development plan requirements.

A. In order to prevent adverse environmental impacts and to achieve a compatible relation among uses covered in Subsection 2 above and with the land use suitability of surrounding properties and nearby zone districts, as well as the surrounding transportation network, and owners of lands included in this district shall concur in an overall site development plan to be reviewed and considered for approval by the Commission or ZAC prior to any grading, clearing, site improvements or issuance of related permits.

B. All owners of property petitioning for establishment of a new D-6 District shall submit an acceptable development plan for ZAC approval prior to adoption by the Council. Any district may be phased over a reasonable period of time. Final site development plans may be postponed for portions of the parcel scheduled for completion after the first five acres. However when phased, the whole district must be covered by a more generalized conceptual design for ultimate development which may be tentative, but must include a viable timetable for completion of each sector, with sufficient information to judge internal and external impacts.

C. The site development plan shall include:

1. Maps indicating:

   a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.

   b. The proposed location and height of all structures and site improvements.

   c. The use of all structures and premises.

d. The areas and proportionate amount of parking to be developed.

e. The location of streets, driveways and walks, including all points of ingress and egress and access streets.

f. All service areas and loading spaces.

g. Location and areas of illumination of all exterior lighting.

h. The location, size, number and character of all exterior signs.

i. The location, character and extent of all recreation, open spaces, beautification features, and landscaping, fences, retaining and screen walls and other treatment for the protection of adjoining property.

j. The facilities planned for sanitary sewers or treatment and surface drainage of the premises.

k. A grading plan showing original and finished slopes, means of stabilization and relation to flood plains, drainage ways, wetlands, subsurface conditions and soil suitability.

2. A traffic analysis indicating that the proposed development will be so related to streets and arteries that the traffic generated can be accommodated without causing excessive congestion or hazards or objectionable volumes of traffic on residential streets.

3. A Comprehensive independent market analysis, if requested by the Commission or ZAC, on the needs to be served and the general economic justification.

4. A copy of any proposed subdivision plats, new streets, other easements, and deed restrictions including any third party covenants to be recorded, and the legal treatment and responsibility for maintenance of any public or common grounds or spaces.

Subsection 6. Review and approval of plans.

A. The ZAC shall review, approve in part or whole, or disapprove, setting forth its reasons therefore, all conceptual designs and any site development plans for D-6 Districts initiated or recommended for adoption by the Commission without an original plan, in the case of initial zoning of annexed territory. The ZAC shall also review, and approve or disapprove all other site development plans involved in rezoning requests or subsequent plan amendments. After due notice and hearing of all interested parties, and consideration of analyses or recommendations by its staff, the ZAC shall judge the acceptability of varied elements of the plan in close conformity with the following criteria to:

1. Minimize traffic congestion, conflicting movements, hazards, clutter or glare interfering with drivers' visibility of streets, drives and protecting pedestrian ways and avoiding the attraction of customer or truck traffic through local residential frontage streets;

2. Assure long term adequacy of grading, storm drainage, sanitary sewers, other utilities and improvements, particularly preventing landslides, erosion, sedimentation, flooding and similar problems on subject property and nearby parcels of land in accordance with the City Soil Erosion and Sediment Control Code;
3. Minimize activity conflicts, and environmental degradation, while maximizing a compatible interrelation of uses and economical development through shared access, parking utility easements, service areas, clustering, etc.;
4. Preserve historic or significant places, scenic features, steep slopes, or drainage ways, and create effective natural, planted and man-made buffers of sufficient height, density and width to screen objectionable on-site noise, vibration, smoke, dust, fumes, odor, heat, glare or visibility from adjacent less intensive uses and particularly residential development and zones.

B. Once a site development plan has been approved, no work shall be done and no permits shall be issued except in accordance with said plan. No certificate of occupancy shall be issued until all site improvements as required by an approved site development plan are completed.

Subsection 7. Delay in construction.

A. In the event that construction in accordance with the originally approved development plan has not begun within two years from the date of its approval, the development plan shall expire and become null and void. If less than 25% of the site improvements have been installed within 18 months after issuance of a permit to begin construction, the site development plan shall expire and become null and void.

Section 3. HID, Health and Institutional District.

Subsection 1. Purpose.

A. The regulations set forth in this Section, or elsewhere in this Ordinance, when referred to in this Section, are the regulations in the HID, Health and Institutional District.

B. The HID OR B-6, Health and Institutional District is provided for the orderly arrangement of buildings and uses on the campus of professional health care providers, hospitals, institutions of higher learning, including residential dwellings that are associated with such uses and are located on the same campus of the associated institution, as well as other uses that may from time to time be associated with, or accessory to, the aforementioned uses.

Subsection 2. Use Regulations.

A. A building or premises shall be used only for the following purposes:

1. Dwellings (as defined), dormitories, student residence halls, Family Day/Night Care, or Family Group Day/Night Care Facilities, provided that such dwellings and residential facilities are associated with or accessory to the primary institution, and wholly contained within the boundaries of the Master Plan of the designated campus.

2. All uses permitted under the B-1 or C-1, Neighborhood Commercial District, provided such uses are associated with and/or located on the campus of the primary institution and these uses are designated on the approved Master Plan. When no approved Master Plan exists or if the B-1 or C-1 uses are not so designated on an approved Master Plan, then the B-1 or C-1 uses shall be located no closer than 500 feet to any residential zone district.

3. Fraternities, sororities, and other group dwellings that are recognized by, and/or associated with a college or university campus and so designated on an approved Master Plan. Provided, however, that no such fraternities, sororities, or other group dwellings may be located within 1,000 feet of a single family residential zone district.

4. Other service uses, such as shipping and receiving, maintenance operations, and similar support functions, which are accessory to and in exclusive support of the operations of the primary institution and wholly contained within the boundaries of the institution's campus. These uses must be designated and identified on the approved Master Plan of the campus. These uses however, shall not be located in areas of the designated campus where they may create land use conflicts with off campus uses.

Subsection 3. Area and Dimensional Regulations.

A. The area and dimensional requirements set forth pursuant to an approved Master Plan will be observed.

B. Without an approved Master Plan, the area and dimensional regulations in the B-6 District or Chapter 3 of this Ordinance will be applied.

Subsection 4. Parking and Loading regulations

A. Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Chapter 5 of this Ordinance, or pursuant to an approved Master Plan.

B. A parking plan must be an element of the approved Master Plan. When a Master Plan is submitted for review and approval, all parking spaces required herein may be provided on an aggregate basis.

C. All required parking spaces must be located within the approved boundaries of the campus of the permitted institution and such parking must be approved as a part of the adopted Master Plan for the permitted institution. Required parking spaces shall be located on the same lot of the building/use or adjacent to the building/use that it serves except as provided below:

1. 100% of the parking spaces must be located within 800 feet of the building line of the proposed building/use that the parking serves if it is not served by an approved bus/shuttle or other transport system.

2. If serviced by an approved bus/shuttle or other transport system, at least 70% of the required parking shall be located within 1,200 feet of the building line of the proposed building/use that the parking serves. The remaining 30% or less of the required parking may be located in remote parking lots, according to the approved parking plan, at a distance greater than 1,200 feet from the building line of the proposed building/use that the parking serves. When parking spaces are so provided, the approved Master Plan for the permitted institution must document that an adequate bus/shuttle or other transport system exists or will be established to support the parking during all work shifts and scheduled class times.

3. Up to fifty percent (50%) of the parking spaces required for (a) arenas, sports venues, or auditoriums, that are primarily used during off peak hours, may be provided and jointly used by (b) uses. The (b) uses include: outpatient hospitals or clinics, banks, offices, retail stores, repair shops, service establishments, and other institutional or higher education facilities and similar uses that, in the opinion of the Director are not normally open, used, or operated during the same hours as those uses listed in (a). In no event shall the parking spaces that are being jointly used be located further than 800 feet from the building line of the uses that they serve. To be eligible for jointly used parking however, a written agreement assuring the parking spaces retention shall be properly drawn and executed by the parties concerned. This

agreement must be approved as to form by the City Attorney, recorded at the applicant's expense in the Office of the Judge of Probate, and shall be in full force and effect until released by resolution of the Board. Upon completion of the aforementioned, the agreement shall be filed with the application for a building permit.

Subsection 5. Master Plan information required

A. A Master Plan will be required by the Commission or ZAC as an aid in determining the merits of a re-zoning petition to establish a B-6 or HID zone district. If a B-6 or HID zone district is established as a result of initial zoning or a City initiated Comprehensive Plan, the Master Plan will be required if the affected institution wishes to: avoid the required area, dimensional, height and setback regulations; take advantage of relaxed retail use restrictions; and provide required parking on an aggregate basis. A Master Plan shall include the following, subject to refinement on site development plans:

1. The direction of north and scale.
2. The proposed general location, approximate setbacks, and approximate height of all structures. These location and massing issues may be specified in the Master Plan by designated "geographic density zones" where similar development restrictions will uniformly apply.
3. The proposed uses of all buildings or premises shall be designated or, similar proposed uses of structures and premises may be grouped together in "geographic use zones."
4. The locations and proportionate amount of parking and loading spaces to be developed on site, and if applicable an aggregate campus parking plan, by "geographic use zones" or campus wide.
5. The location of lot lines, public street ROW, pavement edge.
6. An overall campus parking and traffic circulation plan. This must include a bus/shuttle or other transport system plan and pedestrian plan when parking spaces are proposed in locations more than 800 feet distant from the building, structures, or uses that they support.
7. Preliminary points of ingress and egress for vehicles to access parking for buildings or site.
8. Reasonable additional requirements may be recommended by the Commission or ZAC as they relate to the protection of adjoining property.

Subsection 6. Master Plan approval and amendments.

A. A Master Plan together with any supplementary information will be referred to the Commission or ZAC for:

1. Study and recommendation to the Council on a petition for the establishment of a B-6 or HID zone district, according to the procedure specified in Chapter 9, Article II of this Ordinance; or,
2. Study and approval or disapproval when a B-6 or HID zone district is established as a result of initial zoning or a City initiated Comprehensive Plan.

B. Amendments to the approved Master Plan will be reviewed by the Commission or the ZAC in accordance with the procedures outlined in this Subsection and Subsection 5.

Subsection 7. Site Development Plan Requirements

A. Unless otherwise required by State law or other city ordinance, a site development plan will be required for review and approval by the staff of the Department prior to the issuance of any permits for grading, clearing, site improvements or any other construction or building permits. Site plans not approved by staff may be appealed to the Board in accordance with the regulations set forth in this Ordinance.

B. In the review and approval of the development plans, consideration will be given to plans that have a goal of preventing adverse environmental impacts, to ameliorating land use conflicts, and to achieving a compatible relationship between surrounding land uses and zoning districts, and to improving parking, pedestrian, and transportation access.

1. With an approved Master Plan. A site development plan will be required for review as an aid in determining the consistency of the site development with the campus Master Plan, completeness of the application, and adherence to the site development plan goals. Site development plans not in conformance with the Master Plan will not be considered by the Commission or ZAC without an amendment to the approved Master Plan.
2. Without an approved Master Plan. A site development plan will be required for review as an aid in determining the consistency of the site development with the area and dimensional regulations, height and setback regulations, land use allowances, completeness of the application, and adherence to the site development plan goals.
3. Site development plans shall consist of the following:
   a. All service, loading, and parking spaces.
   b. Location and areas of illumination of all exterior lighting.
   c. The location, size, number and character of all exterior signs.
   d. The location, character and extent of, fences, retaining and screen walls, lighting and other treatment.
   e. The facilities for surface drainage of the premises.
   f. Location and screening of garbage disposal areas; and exterior mechanical and utility equipment.

g. The direction north, scale, and topography in no greater than two foot contour intervals.

h. The proposed location, setback, and height of all structures and site improvements.

i. The uses of all structures and premises.

j. The locations and proportionate amount of parking to be developed on site or adjacent to the site, or an explanation of how aggregate parking will serve the project.

k. The location of lot lines, street rights-of-way, street and sidewalk edge of pavement, proposed driveways and walks including all points of ingress and egress for vehicles and pedestrians.

l. Site landscaping plan including plant material schedule listing plant names, size, spacing and quantity, also including specific plant installation illustrations and instructions.

Section 4. PRD Planned Recreational District

Subsection 1. Generally.

A. The regulations set forth in this Section or elsewhere in this Ordinance, when referred to in this Section, are the regulations in the PRD Planned Recreational District. The PRD Planned Recreational District is provided for the orderly arrangement of recreational facilities and associated commercial uses.

Subsection 2. Application--review and approval.

A. A petition for the establishment of a PRD Planned Recreational District on a tract of land containing a minimum of twenty (20) acres may be submitted by:

1. The owner(s) of the subject land, or
2. The ZAC of the Commission, the Commission or the Council to assure the compatibility of uses within a PRD Planned Recreational District.

B. The petitioner shall submit a plan for the development of the property for review and approval in accordance with the provisions of Subsection 7 of this Section before any action is taken upon the petition. The ZAC or the Commission shall determine that each approved use is compatible with other uses within, adjacent to, and in the vicinity of the PRD Planned Recreational District.

C. The development plan and application shall be submitted to the ZAC of the Commission for rezoning considerations or to the Commission for initial zoning considerations.

Subsection 3. Compliance with Article.

A. The PRD Planned Recreational district shall be laid out, developed and used only in accord with a plan prepared and approved in compliance with the provisions of this Section.

Subsection 4. Use Regulations.

A. The use of each building and/or premises shall be in accordance with the plan referred to in Subsection 7 of this Section. The ZAC and the Commission shall determine that each approved use is compatible with other uses within, adjacent to and in the vicinity of the PRD Planned Recreational District. The uses listed below are permitted in this district only when approved, which uses shall be limited to:

1. Archeries.
2. Amusement Parks.
3. Athletic fields and stadiums (baseball, football, tennis, etc.).
4. Carnivals.
5. Circuses.
6. Drive-in or enclosed theaters (excluding adult entertainment).
7. Fairgrounds.
8. Golf courses (full size, miniature and putting greens).
9. Merry-go-rounds.
10. Miniature railroads.
11. Picnic or camp grounds including mobile home parks. All sanitary facilities must be in conformity with the provision of Chapter 12.5, General Code of the City of Birmingham of 1980, as amended, with the density and location subject to the approval of the Board.
12. Pony riding tracks.
13. Practice golf driving range.
14. Race tracks (automobile, stock cars, motorcycles, horses and dogs).
15. Riding stables and trails.
16. Roller and ice-skating rinks.
17. Skeet, rifle or trap shooting ranges, provided that such use is not located nearer than 1,000 feet to any residence other than owner or lessor of the site or such facility is totally enclosed with materials to contain any munitions discharged therein.
18. Sport arenas.
19. Swimming pools, boating or water parks.
20. Theme parks.
21. Zoos.
22. Other similar recreational or tourist facilities.
23. Wireless communications facilities, in accordance with Section 1 of this Article.
24. Accessory structures and uses, including but not limited to apartments and/or dormitories, but not including Family Day / Night Care or Family Group Day / Night Care facility.
25. Associated commercial activities excluding adult establishments, and including but not limited to, the following:
    a. Ambulance or helistops for emergency service only.
    b. Banks.
    c. Hotels-motels.
    d. Office buildings.

e. Restaurants with or without tavern combinations.
f. Service stations.
g. Veterinary establishments.
h. Adult Care Facilities, Child Care Center and Accessory Use Child Care Centers.

Subsection 5. Area and Dimensional Regulations.

A. The area and dimensional regulations set forth in this Subsection shall be observed:

1. Maximum height of structures. Except as provided in Chapter 3 of this Ordinance, the maximum height of buildings shall be 100 feet, and no structure shall exceed 200 feet in height.

2. Minimum structure setbacks.

   a. Front yards. No building or structure shall be closer than 50 feet to any abutting street.

   b. Side yards. No building or structure shall be closer than 25 feet to any adjoining side property line, except as provided in item "d" below.

   c. Rear yard. No building or structure shall be closer than 50 feet to any rear property line, except as provided in item "d" below.

   d. District setback. No building or structure shall be closer than 100 feet to a PRD Planned Recreational District boundary line when adjacent to dwelling district.

3. Residential structures. The area and dimensional requirements for residential uses shall comply with D-5 Multiple Dwelling District, but shall be permitted as accessory to the principal use of the site. This shall not prohibit a dwelling for a resident watchman, custodian or caretaker employed full-time on the premises.

4. Buffers. Additional setbacks, buffers or restraints may be required where determined necessary per Chapter 6, Article III of this Ordinance.

Subsection 6. Off-street parking and loading regulations.

A. Off-street parking and loading shall be provided as required in Chapter 5 of this Ordinance.

Subsection 7. Development plan and other information--Contents.

A. The development plan and application shall be submitted to the ZAC of the Commission for rezoning considerations or to the Commission for initial zoning considerations, for review and approval in accordance with the provisions of this Section before any action is taken upon the petition. Building permits will be issued only for structures which are in strict conformity with the development plan. Said plan shall comply with all requirements of this Section and shall be accompanied by evidence concerning the feasibility of the project, the relationship of the proposed development on surrounding property and other physical

conditions. When required by the Commission, said plan and supporting evidence may include each of the following:

1. A site plan defining the areas wherein buildings may be constructed; the locations and extent of parking and the proportionate amount thereof; the location of all roads, driveways and walks and the points of ingress and egress, including access streets where required; the location, height and character of walls, fencing or other forms of screening; the location, size, character and number of signs excluding trailer or portable signs of any type; the location and character of exterior lighting; and the character and extent of landscaping, planting and other treatment for protection of adjoining properties.
2. A drainage and grading plan including an environmental analysis of the site and its environs.
3. A copy of any acceptable deed restrictions intended to be recorded.
4. A professional economic analysis on the needs and extent of the market to be served, and general economic justification and impact.
5. A professional traffic analysis indicating the effect of the proposed development on existing adjacent streets specifying the direction and amount of traffic flow to and from the development. Said analysis of any project shall include:
   a. traffic congestion or causes.
   b. projected volumes of traffic in adjacent residential areas, and
   c. adequate improvements to accommodate the projected volumes, determined necessary by the Commission or the ZAC as a part of the development plan required herein.
6. A professional land use study of the existing and proposed land uses in the area surrounding the subject property and projection of the relationship of proposed development to existing and future uses.
7. Schematic drawings of buildings and other improvements that illustrate the character of development shall be submitted for review and approval. The Commission or Committee may request that said plans be reviewed by and receive recommendation from the Design Review Committee or any such body empowered by statute to consider or advise the City on architectural design.

B. In addition to the above, the design and land development controls should be addressed by the plan in areas surrounding the proposed facility and particularly its major access ways to assure a high level of quality not just for the proposed facility but for the journey to and from the facility and for spin-off or associated development that the major facility spawns.

Subsection 8. Recommendation to Council.

A. The Commission or ZAC may approve the development plan and recommend to the Council the rezoning based on conditions requiring the applicant to submit

sufficient information addressing problems relative to requirement of Subsection 7, subject to final approval by the Commission or ZAC following the establishment of the district.

Subsection 9. Delay in Construction.

A. In the event that construction has not begun within two (2) years from the date of approval by the Council, said development plan shall become null and void; in accordance with the required development plan; provided, however, that such expiration shall not be applicable to land acquired by the City for the purpose of public development.

Subsection 10. Amendments to plan.

A. After the adoption of a PRD Planned Recreational District, amendments or changes to the development plan shall be submitted to the ZAC of the Commission for approval or disapproval. Such submission shall include the same plans or studies required for the initial application. Any change in the development plan that includes changes in the approved uses of the district shall also be approved to assure the compatibility of the changed use with other uses within, adjacent to and in the vicinity of the PRD Planned Recreational District.

Section 5. Walls and Fences

Subsection 1 – Definitions

A. The definitions listed within this section are intended for this section only and do not apply to any other section of the Zoning Ordinance.

1. **Abuts** – Lying contiguous with another property line. For the purpose of this section, property is considered to be abutting <u>only</u> when property lines are contiguous.
2. **Feature** – In regard to a fence or wall, a feature is any item, such as an accessory or ornamental item, which is added or incorporated into the top portion of the fence or wall. Fencing materials, such as lattice or similar items, or any material that could normally be used as a fence, is not considered to be a feature. A feature item would be included in the overall height of a fence or wall.
3. **Fence or Wall** – A structure, solid or otherwise, erected, placed, or constructed on a property, which is intended to be a barrier, boundary, enclosure, privacy feature, or decorative item. It is characteristic of such an item that it is normally a separate "stand-alone" structure, erected along the perimeter (or close to the perimeter) of a property.
4. **Height** – A measurement made from the ground directly adjacent to the fence or wall (or supports, gates, and other features) perpendicular upward to the utmost part of the fence, wall, supports, gates, and other features of a fence or wall.

5. **Height of Fence erected atop a retaining wall, terrace or patio** - The average least dimension of a retainer wall, terrace or patio, measured from the top of the retainer wall, terrace or patio to the nearest ground level, will be included in the height limits of a fence or wall, provided that the least dimension does not vary more than six (6) inches for its entire length. If a retaining wall's least dimension varies more than six (6) inches, the permitted height of a fence erected atop a retainer wall will be determined by the staff of the Department based on a review and/or interpretation by the Director.

6. **Retaining Wall** – A structure, normally constructed of block, brick, or stone that is erected to retain soil upon a specific property, or to prevent soil from encroaching upon a specific property.

7. **Supports** – Posts or similar items that are erected vertically and perpendicular to the ground for the purpose of supporting the main sections or portions of a fence structure. The portion of a support that extends above the height of the fence material must be of a decorative and/or finished type material.

8. **Yards** – For irregular and/or unusually shaped lots, the exact location of a particular yard will be determined by the staff of the Department based on a review and/or interpretation by the Director. For a standard type of lot, the following will be used.

   a. Complete Front Yard - The area extending from the exterior wall of a structure to the front property line, and located between the side lot lines. On a corner lot, the front yard also includes the area extending from the side exterior wall of a structure to the property line that adjoins a dedicated street, then continuing to a rear or side lot line. This area is to be included as a front yard whether the adjoining street is open or not. [On a vacant lot, the front yard area shall be as defined in the Definitions section of this Ordinance and in Chapter 3 or Title Three, Article VI of this Ordinance. The dimensions of this yard (setbacks) shall be determined by the zoning classification.]

   b. Side Yard – The area extending from the exterior sidewall of a structure to a side property line. [On a vacant lot, the side yard shall be as defined in the Definitions section of this Ordinance and in Chapter 3 or Title Three, Article VI of this Ordinance. The dimensions of this yard (setbacks) shall be determined by the zoning classification.]

   c. Rear Yard – The area extending from the exterior rear wall of a structure to the rear property line, including the area between the side lot lines. On a corner lot, the rear yard shall be as described except that the boundary on the side adjacent to the street shall be a straight line parallel to the street extending from the exterior rear corner of the structure (nearest to the street) to the rear property line. [On a vacant lot, the rear yard shall be as defined in the Definitions section of this Ordinance and Chapter 3 or Title Three, Article VI of this Ordinance. The dimensions of this yard (setbacks) shall be determined by the zoning classification.]

Subsection 2. Permits

A. A fence permit, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, is required before any fence or wall can be erected or placed upon any property within the City. A Permit to Develop in a Flood Hazard Area, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, is required for construction of any wall or fence located within a regulatory floodplain area in order to ensure that such walls or fencing does not obstruct, divert, or alter flood flows within flood prone areas and create hazardous conditions on surrounding properties. Solid (masonry block) walls and continuous (wood or sheet steel) fencing have the potential to significantly obstruct flood flows; therefore, an engineering study and certification may be required. All fences or walls located in a floodplain are subject to review and approval by the Floodplain Administrator or his/her designee.

Subsection 3. Residential Zoned Property

A. Upon any "D", "E-1", or "R" zoned property, a wall or fence may be erected or placed in accordance with the following:

1. Complete Front Yard – No wall or fence within a front yard area shall exceed a height of four feet and the overall height of fence, supports and other features shall not exceed a height of five feet in total, except as required for wireless communication installations as listed in Section 1 of this Article. If a retaining wall is constructed in a front yard for the purpose of leveling the yard or to control stormwater, for every four feet of retaining wall it shall be setback two feet.

2. Side and Rear Yard

   a. Within a side or rear yard, a wall or fence may be erected or placed to a height of eight feet, and the supports and other features may be erected or placed at a height of nine feet, provided that any structure that allows residential occupancy on an adjacent property is setback a minimum of five feet from the side and/or rear lot line.

   b. If an existing dwelling unit on an adjacent property is setback less than five feet from a side or rear lot line, a portion (or all) of the wall or fence erected adjacent to that structure may be required to be of a "see through" type of material, such as chain link, so that adequate light and ventilation may be provided. This determination will be made by staff as a result of an on-site field inspection. The overall height of the fence or wall will be as detailed in the previous item ("A").

Subsection 4. Non-residentially Zoned property

A. On non-residentially zoned property, the fence and/or wall height restrictions listed within this section will apply, except as required for wireless communication installations as listed in Section 1 of this Article, provided:

1. That property lies within the same block face, between two intersecting streets, with residentially zoned property, or,
2. Abuts residentially zoned property as defined in this section. In that case, the height restrictions listed in the previous section will be the same.

B. On other non-residentially zoned property, the height of a fence or wall will be determined by administrative review of staff of the Department.

Subsection 5. Visibility

A. No fence, wall, or planting, shall be erected, placed, or constructed so that it obstructs visibility of traffic and thereby creates a "line of sight" problem as determined by a review by the Traffic Engineering Department. The reconfiguration and/or repositioning of such a fence or wall shall be completed in compliance with the recommendation of the Traffic Engineering Department.

Subsection 6. Exemptions.

A. When a residential property is under construction or is being renovated, a temporary construction fence may be permitted in a front yard up to six feet in height.

B. When a commercial, manufacturing or industrial property is under construction or is being renovated, a temporary construction fence may be permitted in a front yard up to eight feet regardless of established front yard requirements.

Subsection 7. Construction, Materials, and Maintenance.

A. Finished side of fence must face adjacent property and thoroughfare.

B. Fences placed on top of retaining wall, terrace or patio in front yards shall not be opaque.

C. Fences placed in front yards shall not be opaque, except for certain uses such as junk yards and other similar uses.

D. All fences shall be made of the following material and be allowed in the yards:

1. Natural wood permitted at front, side and rear.
2. Brick or stucco over masonry permitted at side and rear only.
3. Chain link permitted in side and rear only.
4. Barbed and razor wire permitted in rear only, in commercial, manufacturing and industrial districts.
5. Electrified fences are prohibited in all yards.

E. All fences shall be well-maintained, in upright condition and free of missing and broken parts. Salvaged materials, such as, pallets shall not be allowed.

Section 6. I-3 Planned Manufacturing District.

Subsection 1. Generally.

A. The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the I-3 Planned Manufacturing District.

B. The I-3 Planned Manufacturing District is provided to encourage the orderly arrangement of high quality manufacturing development designed for maximum compatibility internally and with surrounding environs. This district shall not be established on less than six acres; however, this may be reduced to one acre, or a half block consisting of all lot frontage between two intervening streets, if such property is situated within or adjacent to a "C" or "I" zoning district or else abuts on a street having at least four moving lanes.

Subsection 2. Use regulations.

A. No other grading, construction, site improvement or use, temporary or otherwise, shall be permitted except in accord with an approved site development plan as specified in Subsections 5 and 6. Where such plan has been approved it may also designate the following additional uses as being permitted:

B. Permitted uses are as shown on Table 1.02.201 in Chapter 2 of this Ordinance, Zoning Districts and Land Uses.

C. Accessory structures and uses, except that all outside storage shall consist of finished or packaged goods and must be enclosed by walls, fences, berms, shrubs or trees, pre-existing or newly planted, sufficient to substantially screen it from nearby streets and residential zone districts.

E. None of the uses permitted on Table 1.02.201 or activities shall involve resource production, foundries, processing or refining of raw materials, such as ore, metals, rubber, plastic, fuel, petroleum, nor storage or disposal of hazardous chemicals or wastes.

Subsection 3. Area and dimensional regulations.

A. Chapter 3 Area and Dimensional Regulations of this Ordinance shall govern the location of all structures in this district.

B. Where permitted uses are to be located on a lot adjacent to a dwelling district or any zoning district permitting dwellings, a landscape buffer yard shall be required per Chapter 6, Article III of this Ordinance.

C. All structures and any impervious man-made surfaces shall cover no more than 70 percent of the land on any lot, and the remaining area shall be maintained in natural vegetation or landscaping.

Subsection 4. Parking and loading regulations.

A. Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in Chapter 5 of this Ordinance.

Subsection 5. Development plan requirements.

A. In order to prevent adverse environmental impacts and to achieve a compatible relation among uses covered in Subsection 2, Item B above and with the land use suitability of surrounding properties and nearby zone districts, as well as the surrounding transportation network, any owners of lands included in this district shall concur in an overall site development plan to be reviewed and considered for approval by the Commission or ZAC prior to any grading, clearing, site improvements or issuance of related permits.

B. All owners of property petitioning for establishment of a new I-3 District shall submit an acceptable development plan for ZAC approval prior to adoption by the Council. Any district may be phased over a reasonable period of time. Final site development plans may be postponed for portions of the parcel scheduled for completion after the first six acres. However when phased, the whole district must be covered by a more generalized conceptual design for ultimate development which may be tentative, but must include a viable timetable for completion of each sector, with sufficient information to judge internal and external impacts**.**

C. The site development plan shall include:

1. Maps indicating:

   a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.

   b. The proposed location and height of all structures and site improvements.

   c. The use of all structures and premises.

   d. The areas and proportionate amount of parking to be developed.

   e. The location of streets, driveways and walks including all points of ingress and egress and access streets.

   f. All service areas and loading spaces.

   g. Location and areas of illumination of all exterior lighting.

   h. The location, size, number and character of all exterior signs.

   i. The location, character and extent of all recreation, open space, beautification features, and landscaping, fences, retaining and screen walls, and other treatment for the protection of adjoining property.

   j. The facilities planned for sanitary sewers or treatment, and surface drainage of the premises.

   k. A grading plan showing original and finished slopes, means of stabilization and relation to flood plains, drainage ways, wetlands, subsurface conditions and soil suitability.

2. A traffic analysis indicating that the proposed development will be so related to streets and arteries that the traffic generated can be accommodated

without causing excessive congestion or hazards, or objectionable volumes of traffic on residential streets.

3. A comprehensive independent market analysis, if requested by the Commission or ZAC, on the needs to be served and the general economic justification.

4. A copy of any proposed subdivision plats, new streets, other easements, and deed restrictions including any third party covenants to be recorded, and the legal treatment and responsibility for maintenance of any public or common grounds or spaces.

Subsection 6. Review and approval of plans.

A. The ZAC shall review, approve in part or whole, or disapprove, setting forth its reasons therefore, all conceptual designs and any site development plans for I-3 Districts initiated or recommended for adoption by the Commission without an original plan in the case of initial zoning of annexed territory or zoning in accordance with a Comprehensive Plan. The ZAC shall also review, and approve or deny all other site development plans involved in rezoning requests or subsequent plan amendments. After due notice and hearing of all interested parties, and consideration of analyses or recommendations by its staff, the ZAC shall judge the acceptability of varied elements of the plan in close conformity with the following criteria to:

1. Minimize traffic congestion, conflicting movements, hazards, clutter or glare interfering with drivers' visibility of streets, drives and sight lines around corners, also accommodating emergency vehicles, and protecting pedestrian ways and avoiding the attraction of customer or truck traffic through local residential frontage streets,

2. Assure long term adequacy of grading, storm drainage, sanitary sewers, other utilities and improvements, particularly preventing landslides, erosion, sedimentation, flooding and similar problems on subject property and nearby parcels of land in accordance with the *City Soil Erosion and Sediment Control Code*,

3. Minimize activity conflicts, and environmental degradation, while maximizing a compatible interrelation of uses and economical development through shared access, parking, utility easements, service areas, clustering, etc.,

4. Preserve historical or significant places, scenic features, steep slopes or drainage ways, and create effective natural, planted and man-made buffers of sufficient height, density and width to screen objectionable on-site noise, vibration, smoke, dust, fumes, odor, glare or visibility from adjacent less intensive uses and particularly residential development and zones.

B. Once a site development plan has been approved, no work shall be done and no permits shall be issued except in accord with said plan. No certificate of occupancy shall be issued until all site improvement as required by an approved site development plan has been completed.

Subsection 7. Delay in construction.

A. In the event that construction in accordance with the originally approved development plan has not begun within the two years from the date of its approval, the development plan shall expire and become null and void. If less than 25% of the site improvements have been installed within 18 months after issuance of a permit to begin construction, the site development plan shall expire and become null and void.

Section 7. MXD-Planned Mixed Use District

Subsection 1. Generally

A. The regulations set forth in this Section are the regulations for the MXD Mixed Use District. This district is established to provide for a compatible and complementary mixture of residential, office, commercial, cultural, institutional, governmental, and manufacturing uses.

B. The purpose of this Section is: (1) to encourage flexible, creative and imaginative approaches to a range of urban development opportunities; (2) to provide flexible and creative solutions to transportation and parking problems, public or private, motorized and pedestrian; (3) to promote citizen interaction and a sense of community; (4) to provide opportunities for affordable housing; (5) to provide economic, convenient and efficient provision of sufficient public services; (6) to assure the provision of public spaces and activities; (7) to preserve significant natural features of the land; and (8) to develop in a manner complementary with other land in the vicinity.

Subsection 2. Mixed Use District Definitions

A. For the purposes of this Section the following words, terms and phrases shall have the meaning ascribed to them as specified herein.

1. Civic Use Areas - Land areas intended to contain public/quasi-public buildings and uses (such as churches, schools, libraries, fire stations, and other similar uses) for the use, enjoyment and benefit of the public.
2. Common Open Space - The land area which is accessible and available to all occupants of specific dwellings or subdivisions for whose use the space is intended and reserved. This space is owned and managed by a Property Owners Association.
3. Conceptual Plan - A plan consisting of several maps and narratives laying out existing conditions and proposing MXD Subareas and a general Land Use Group plan for an MXD or phase thereof.
4. Development Guidelines - Regulations for development within an MXD which are established by the developer and approved by the Director that govern location, character, and extent of proposed site plans and design features.
5. Development Plans - Detailed maps and narratives, based on approved Conceptual Plans and Development Guidelines, delineating a proposed

development or phase of development and providing the basis for a Preliminary Subdivision.

6. Golf Courses, Private - Golf courses privately owned and not open to the general public.
7. Golf Courses, Public - Golf courses owned by a government agency or privately owned but open to the general public on a daily fee basis.
8. Gross Land Area - Total land area of a site or district inclusive of dedicated street rights-of-way, civic use area and open space area.
9. Land Use Groups - Uses permitted in varying proportions under the MXD subarea plans.
10. Mixed Use District (MXD) - A mixed use district is a zone district wherein a compatible mixture of office, commercial, residential, manufacturing and civic uses and open space may be combined.
11. MXD Subareas - Areas enumerated below which may be developed under an MXD zoning classification. The boundaries of these areas are required to be delineated on Conceptual Plans.
    a. Mixed Use District/Residential (MXD/R) - A mixed use development subarea comprehensively planned for residential community development.
    b. Mixed Use District/Employment (MXD/E) - A mixed use development subarea comprehensively planned for employment based development.
    c. Mixed Use District/Village Center (MXD/VC) - A mixed use development subarea comprehensively planned to concentrate civic, cultural, commercial, residential and employment activities into a cohesive center.
12. Net Acres - The total land area of a site less proposed public rights-of-way, easements, required civic use area and required open space.
13. Performance Bonus - A method for allowing additional land use options and/or densities when the Development Plan's net acres establish additional open space beyond that required.
14. Property Owners' Association - A private corporation or other legal entity established by the developer to provide for the ownership, maintenance, and management of the common open space areas, and other community area improvements of a development, as well as enforcement of its covenants.
15. Public Open Space - Land dedicated for leisure and/or recreation, including but not limited to: pedestrian paths, parks, athletic fields and courts assigned to a public agency which is responsible for its operation and maintenance.
16. Required Open Space - Percentage of a proposed development that must be restricted to common and/or public open space as specified in the Area, Dimensional, and Design Requirements.
17. Steering Committee - A Committee which may include private sector and governmental representatives which may be formed to provide oversight to a

development.

18. Required Civic Use Space - Percentage of a proposed development that must be dedicated to publicly owned Civic Use activities as specified in the Area, Dimensional and Design Requirements.

Subsection 3. Submittal Requirements for MXD Zoning and Conceptual Plan Approval

A. Process for Rezoning to MXD (owner/developer initiated)

1. The minimum gross land area required for an application for rezoning to MXD is 40 acres. Smaller areas may be considered for rezoning to MXD when contiguous to a larger tract of land that is already zoned MXD and is under the same ownership as the larger tract and using the same Development Guidelines.
2. The applicant shall submit six (6) copies of a "Draft" Conceptual Plan, with payment of the rezoning fee. The Department shall schedule a pre-application conference within fifteen (15) days to review the draft proposal. This informal conference may include the applicant, Department of Planning, Engineering and Permits, Traffic Engineering Department, and other private and public entities which may have interests in the vicinity of the project.
3. The applicant should incorporate staff recommended changes to the "Draft" Conceptual Plan. Upon the applicant submitting six (6) copies of a completed Conceptual Plan, the Department shall process a rezoning case and request the ZAC to hold a public hearing at their next meeting.
4. After the ZAC public hearing, the Department will set a public hearing for rezoning with the Council.

B. Process for Conceptual Plan Approval in an Existing MXD Zone (where zoning has been established by the City in accordance with a Comprehensive Plan)

1. Six (6) copies of a "Draft" Conceptual Plan shall be submitted to the Department which will convene a pre-application conference within fifteen (15) days. This conference will be led by the chairman of the steering committee, should one exist, for the area in which the MXD Zone is being implemented, or by the Director where such a Steering Committee is not in place.
2. After the pre-application conference, the applicant should incorporate staff recommended changes to the "Draft" Conceptual Plan. Upon applicant submitting six (6) copies of a completed Conceptual Plan, the Department shall process public hearings before the ZAC and Council.

C. Requirements for a Conceptual Plan Submittal - The Conceptual Plan submittal shall consist of maps and written material as detailed below. Maps should include title block and include date, north arrow, legend, and scale. Scale should be

compatible between comparable maps and large enough to fully understand the proposed development concept.

1. Existing Environmental Features Map
   a. geologic features
   b. soils map
   c. topographic features (with contour intervals not greater than five feet)
   d. flood maps (showing Federal Emergency Management Act floodways and 100 year flood plains)
   e. wetlands identification where U.S. Army Corps of Engineers approvals are required
   f. large tree stands, water features, significant scenic areas or identified endangered species habitat
2. Existing Man Made Features Map
   a. location of existing land uses on site and within 500 feet of the site boundaries
   b. location of existing roads and rights-of-way and the volume/capacity ratios of existing contiguous freeways, arterial, and major collector roadways
   c. location and size of existing accessible water lines and sanitary sewer lines, their rights-of-way or easements and their capacities and current demand
   d. location of other utilities and their rights-of-way or easements such as natural gas, electrical, telephone, and cable television
   e. historical sites listed or eligible for National Register listing
3. Existing Legal Features Map
   a. existing zoning on-site and within 500 feet of site boundaries
   b. property lines and dimensions of site
   c. municipal and county jurisdictional boundaries, where applicable
4. Conceptual Plan Map
   a. boundaries of the proposed MXD zone and proposed boundaries of MXD subareas (for example, Residential, Employment, Village Center)
   b. proposed on-site arterial and collector street system showing approximate locations and access to off-site roadways
   c. general location and size of projected water lines and sanitary sewer lines, their rights-of-way or easements and their capacities and point of connection
   d. generalized location of proposed land use groups including required open space and required civic use areas
5. Conceptual Plan Written Submittal

a. a narrative discussing how the proposed project addresses the eight purposes of an MXD zone outlined in Subsection 1 of this Section

b. projected built-out resident population and employment population

c. quantitative geographic data in acres: (1) gross land area; (2) net land area; (3) approximate acreage of areas dedicated to various land use groups within each proposed MXD Subarea including approximate percentages of each; (4) approximate acreage of open space area, (including acres for public or private golf courses, public open space, common open space), including approximate percentages of each (5) approximate acreage of Civic use areas, including approximate percentages

d. estimates of demands and provisions for supplying adequate drinking water and sanitary sewage disposal to meet the needs of a projected built-out population per phase

e. a traffic impact analysis indicating that the traffic generated when each phase of the proposed project is built out can be accommodated without causing excessive congestion or safety hazards on existing or proposed roads

D. Minor Amendments to Conceptual Plans. Any minor or non-substantive change in the approved Conceptual Plan may be made after approval of such change by the Director. Any proposed change in an approved Conceptual Plan shall be clearly portrayed on all copies of the approved plan and submitted to the Director for review and determination. At his or her discretion, the proposed change may be referred to a steering committee for review or to the ZAC and Council for a public hearing and action. No amendment shall be made without public hearings which would cause any of the following to occur:

1. Proposed changes in MXD Subarea boundaries which increase the acreage of more intense Subareas by more than five percent (5%) of the Council approved Conceptual Plan

2. Proposed land use group changes which could increase the overall densities or intensity of uses by more than ten percent (10%) of the Council approved Conceptual Plan

3. Proposed land use group changes which could alter the MXD's relationships to adjacent developed property or relationships to planned uses

4. Any reduction in the total acreage of Required Open Space or Required Civic Use space or any reduction of 10% or more of the total acreage of Open Space or Civic Use Areas in the Council approved Conceptual Plan

5. Major realignment of arterial or collector streets

Subsection 4. Development Requirements

A. Development Guidelines. The applicant shall submit six (6) draft copies of Development Guidelines to the Department for review. Within thirty (30) days after receiving said documents, the Director shall call a meeting with the applicant and

a steering committee, where applicable, to discuss staff comments. If agreement cannot be reached on the sufficiency of this submittal, appeals may be filed with the Board. Proposed Development Guidelines shall include minimum standards for site and project development and amendment procedures, subject to the approval of the Director and a steering committee, where applicable. These guidelines shall include but are not limited to, the following:

1. Area, Dimensional, and Design Requirements of this Ordinance as baseline standards
2. Building materials and colors and architectural features
3. Buffers and screening requirements between different Land Use Groups and between different Land Use Groups and existing residentially zoned districts
4. Landscaping for off-street parking lots, solid waste and recycling containers, utility equipment, and for the development as a whole
5. Pedestrian amenities and pedestrian circulation plans and requirements, such as for bike lanes, equestrian trails, sidewalks or pedestrian paths as appropriate
6 Building and parking lot set back lines
7. Methods to limit the number of parking lot access points to public streets and to link parking areas with adjacent properties
8. Fences and walls including size, material and placement
9. Public right-of-way amenity plans, including street trees, street furniture, lighting and landscaping
10. Overhead utility location and height
11. Site clearing and preservation procedures for trees and other natural vegetation
12. Signs
13. Exterior lighting
14. Zero lot line housing layout and design features
15. Design guidelines for MXD/VC subareas, in addition to the above, shall address the following design features:
    a. vehicular and pedestrian circulation systems that promote a comfortable and pleasant walkway environment, including materials, landscaping, lighting, street furniture, and permitted parking lot layouts and location;
    b. village center open space plan, showing how required village square and other open space amenities relate to other activities to promote a village atmosphere;
    c. building placement, facade design, entrance and window location and placement, provisions for any visible utilities or accessory structures, heights, materials, colors, signage and lighting.

16. Right-of-way improvement standards where not in compliance with City Subdivision Regulations and where modification of these Regulations are expected to be requested of the Subdivision Committee.

B. Development Plans. Development Plans in an approved MXD subarea must be:

1. submitted to the Department;
2. conform to the approved Conceptual Plan and Development Guidelines and
3. consist of mapped or plotted information and written information.
4. The Department and other city staff as well as a project steering committee, where applicable, shall review these plans and respond to the applicant within fifteen (15) days with comments. The applicant, after consideration of staff comments, will make appropriate revisions, if necessary, and submit the Development Plans for the approval of the Director. Appeals of any provisions on the Development Plan approval may be filed with the Board.
5. Development Plan Maps. Detailed development plans shall be prepared at a scale sufficient for detailed review and delineate: (1) MXD Subareas for the development; (2) Land Use Groups for all parcels; (3) required open space and civic use area; (4) additional open space which is proposed, if applicable; (5) phasing of development. In addition, data should be submitted delineating conformance with the Development Guidelines as well as the following:
   a. Topographic contours not greater than two (2) foot intervals
   b. Approximate height of all buildings
   c. Use(s) of all buildings
   d. Approximate location of all utilities
   e. Approximate total site acreage
   f. Approximate total site impervious (man made) surfaces
   g. Lot lines within 100 feet of development site boundaries
   h. Location of all structures within 100 feet of site, their use and heights
   i. Location of all private roads, drives, and parking lots within 100 feet
   j. Buffer and screening provisions
   k. Parking lot design specifying layout and landscaping in detail
   l. All walls and fences
   m. Lighting plan
6. Development Plan Written Submittal
   a. Legal description of project property
   b. Quantitative geographic data in acres: (1) gross land area; (2) net land area; (3) areas dedicated to various land use groups within each proposed MXD Subarea including percentages of each; (4) open space area, (including acres

for public or private golf courses, public open space, common open space, and required open space including percentages of each); (5) civic use areas, including percentages

c. Documentation from developer committing provision of adequate drinking water and sanitary sewage disposal to meet the need of the projected built-out population

d. A traffic impact analysis indicating how each phase of the proposed development will relate to streets and roadways and that the traffic generated when built out can be accommodated without causing excessive congestion, hazards, or objectionable volumes of traffic on existing or proposed roads

C. Preliminary Subdivisions and Draft Covenants. Preliminary Subdivisions in an approved MXD subarea must be submitted to the Department and conform to the approved Conceptual Plan, Development Guidelines and Development Plans and consist of mapped or plotted information and written information, including draft covenants, where applicable, governing relationships between the developer and property owners.

The Department and other city staff as well as a project steering committee, where applicable, shall review these plans and respond to the applicant within fifteen (15) days with comments. The applicant, after consideration of staff comments, will make appropriate revisions, if necessary, and submit the following:

1. Preliminary Subdivision Plats - Preliminary Subdivision Plats shall be submitted as provided for in the City's Subdivision Regulations for Subdivision Committee review and action. (See Subdivision Regulations, available from the Department)

2. Covenants - Covenants shall be between applicant and deed holders of all property in the area covered by this application. Covenants shall include articles which include, but are not limited to the following:

   a. Articles of incorporation and By-laws for a Property Owners Association

   b. Provision for the establishing of a procedure for turning over management of open space and other amenities from applicant to the Property Owners Association

   c. Provision for an account to fund maintenance and operational expenses of common or open public space

D. Covenants and Final Subdivision Plat. After receiving approval of the development guidelines, the development plan and preliminary subdivision plat, the applicant shall submit final covenants and file an application with Subdivision Committee for approval of a final plat.

Upon approval of the final covenants by the Director, the final plat will be submitted as provided for in the City's Subdivision Regulations for Subdivision Committee review and action.

After the final plat has been recorded, building permits may be applied for at the Department of Buildings and Inspection. A condition of building permit issuance is review and approval by the Director for compliance with the approved plans. Appeals of the decision on compliance by the Director of the Department are to the Board.

Subsection 5. Permitted Uses, Use Groups, and Use Percentages

A. Permitted Uses. Any use not specifically listed in these Land Use Groups, including accessory structures and uses, but excluding, except as herein provided, Accessory Use Child Care Centers, may be allowed in groups with similar uses as determined by the Director. Uses specifically listed for the first time in a less restrictive Land Use Group cannot be interpreted to be allowed in a more restrictive Land Use Group.

B. Use Groups

1. Open Space Uses - except as noted these uses are allowed in all subareas:
   a. Parks
   b. Athletic fields and courts
   c. Pedestrian paths (See Subsection 6, A, 3)
   d. Golf courses, boat clubs, marinas, and swimming pools
   e. Natural undisturbed areas
   f. Public recreation centers
   g. Village Greens and Town Squares
   h. Natatorium, gymnasium, velodrome
   i. Stadiums and athletic coliseums (permitted in MXD-E Subareas only)
   j. Other like uses
2. Civic Uses - Except as noted these uses are allowed in all subareas:
   a. Library
   b. School, grades K-9
   c. Municipal services and buildings
   d. Police and fire stations
   e. Post offices
   f. Child Care Centers or Adult Care Facilities
   g. Non-profit civic or cultural societies (no office buildings)
   h. Churches, synagogues, and other places of worship
   i. High Schools, grades 9-12, Colleges, and universities (not allowed in MXD/R)

j. Museums and art galleries (not allowed in MXD/R)

k. Music center, symphony halls, and amphitheater (not allowed in MXD/R)

l. Performing arts theater (not allowed in MXD/R)

m. Hospitals (not allowed in MXD/R)

n. Public Conference Center (not allowed in MXD/R)

o. Other like uses

3. Residential Use Groups

a. Residential Use Group 1. Single family detached dwelling units not to exceed seven (7) dwelling units per net acre

b. Residential Use Group 2. All uses allowed in Residential Use Group 1 and single family attached and semi-attached dwelling units, single family detached zero lot line dwellings and multi-family units not to exceed twelve (12) dwelling units per net acre.

c. Residential Use Group 3. All uses allowed in Residential Use Group 2 and multi-family dwelling units not to exceed 29 dwelling units per net acre and Communal Living Facilities with the Board approval

4. Commercial Use Groups

a. Commercial Use Group 1 - Neighborhood Commercial Uses

i. All uses allowed in Residential Use Group 2

ii. Residential uses in mixed use building

iii. Artist studio

iv. Greenhouse

v. Restaurants without drive through or drive-in capabilities

vi. Offices not exceeding 5,000 square feet per building

vii. Neighborhood retail, sales and services not exceeding 5,000 square feet per building

viii. Auto service station limited to one (1) facility per intersection

ix. Private club or lodge

x. Commercial health club, spa or recreation facility

xi. Tourist home

xii. Other like uses

b. Commercial Use Group 2 - General Commercial Uses

i. All uses allowed in Residential Use Group 3

ii. All uses allowed in Neighborhood Commercial, Commercial Use Group 1

iii. General office

iv. Retail sales and services

v. Restaurants

vi. Hotels or motels

vii. Conference centers

viii. Non - manufacturing research and development

ix. Parking garages

x. Cinemas

xi. Taverns

xii. Funeral homes

xiii. Other like uses

c. Commercial Use Group 3 - Commercial/Limited Manufacturing Use

i. All uses allowed in Commercial Use Group 2, except residential uses

ii. Building contractors

iii. Light Manufacturing use - provided uses do not create any danger to health or safety in surrounding areas and which do not create any objectionable noise, vibration, smoke, dust, odor, heat or glare, or release any pollutant which would require a permit from a state or federal agency

iv. Wholesale sales

v. Shipping/receiving, warehousing and self storage

vi. Auto repair

vii. Auto sales, new or used

viii. Animal hospitals and veterinarians

ix. Broadcasting stations

x. Other like uses

5. Special Exception Uses (with Board approval)

a. Public utilities - (with adequate screening provision)

b. Outdoor storage - (in MXD/E only, finished or packaged goods only and with adequate screening provisions)

c. Horse stables, barns and corrals - (only when contiguous to Equestrian Trails, on ten (10) acre sites or larger and adequately buffered from neighboring uses)

d. Cemeteries

e. Family Day / Night Care Facility, or Accessory Use Child Center.

f. Appeals for more intensive uses than are allowed under proposed land use groups

6. Wireless communications facilities, in accordance with Chapter 4, Article V, Section 1.

C. Use Percentages. The following sets forth the proportions of permitted uses for arranging acreages of MXD subareas. Unless otherwise noted, all MXD Zones have provisions for required open space and civic use areas. (See Area, Dimensional and Design Regulations)

1. MXD/R - Residential Uses with complementing commercial uses.

a. Sites less than twenty (20) net acres

i. Allowed uses and proportions:

Residential Use Group 1 - maximum 100%

Residential Use Group 2 - maximum 10%

ii. Performance Bonus: Allowed Uses and proportions:

Residential Use Group 1 - maximum 100%

Residential Use Group 2 - an additional 1.5% for every 1% of additional open space up to a maximum of 25%

b. Sites between twenty (20) to forty (40) net acres

i. Allowed uses and proportions:

Residential Use Group 1 - maximum 90%

Residential Use Group 2 - maximum 15%

Commercial Group 1 - maximum 5%

ii. Performance Bonus: Allowed Uses and proportions:

Residential Use Group 1 - maximum 90%

Residential Use Group 2 - an additional 1.5% for every 1% of additional open space up to a maximum of 30%

Commercial Use Group 1 - maximum 5%

c. Sites over forty (40) net acres

i. Allowed uses and proportions:

Residential Use Group 1 - maximum 80%

Residential Use Group 2 - maximum 25%

Residential Use Group 3 - maximum 5%

Commercial Use Group 1 - maximum 5%

Commercial Use Group 2 - maximum 2%

ii. Performance Bonus: Allowed Uses and proportions:

Residential Use Group 1 - maximum 80%

Residential Use Group 2 - an additional 1% for every 1% of additional open space up to a maximum of 35%

Residential Use Group 3 - an additional ½% for every 1% up to a maximum of 10%

Commercial Use Group 1 - maximum 5%

Commercial Use Group 2 - maximum 3%

2. MXD/E with complementary commercial and residential uses.

Applications may be made for sites of over 10 net acres.

a. Allowed uses and proportions:

Commercial Use Group 2 - maximum 90%

Commercial Use Group 3 - maximum 40%

b. Performance Bonus: Allowed uses and proportions:

Commercial Use Group 2 - maximum 90%

Commercial Use Group 3 - 2% for every 1% of additional open space up to a maximum of 60%

3. MXD/VC Village Center uses with complementing residential and commercial uses arranged and located in a manner to provide a defined and pedestrian oriented business and service center for a larger MXD area.

Application may be made for the MXD/VC subarea designation, where part of a larger MXD zoned property, for sites between 10 and 80 net acres

a. Allowed uses and proportions:

Residential Use Group 1 - maximum 30%

Residential Use Group 2 - maximum 30%

Residential Use Group 3 - maximum 25%

Commercial Use Group 1 -combined maximum 50%

Commercial Use Group 2 -combined maximum 50%

Subsection 6. Area, Dimensional and Design Requirements

A. <u>MXD Overall Minimum Standards</u>

1. Required Open Space. The minimum requirement for open space in the Conceptual Plan shall be 15% of the gross land area. Each Development Plan submittal shall include a minimum of 5% of the gross area as open space or

the amount of open space approved in the corresponding Conceptual Plan, whichever is greater. Not more than 75% of the required open space may be satisfied by the provision of public golf courses and not more than 50% of the required open space may be satisfied by the provision of private golf courses. All other listed public or common open space uses may count 100% toward satisfying this requirement.

2. Required Civic Uses. A minimum percentage depending on subarea designation of the proposed development uses shall be dedicated to listed publicly owned civic uses. This minimum requirement shall be 3% for MXD/R and MXD/E and 5% for MXD/VC.

3. Pedestrian Paths. A pedestrian pathway system generally continuous throughout the district is required and shall consist of dedicated public rights-of-way or easements, which may include bike lanes or equestrian trails. The path system specifications must be included as a part of the Development Guidelines submittal.

B. <u>Within MXD/R and MXD/E Subareas the following requirements shall apply:</u>

1. Height:

   a. Residential Use Groups 1 and 2 shall have a maximum height of 35 feet

   b. Residential Use Group 3 shall have a maximum height of 75 feet

   c. Commercial Use Group 1 shall have a maximum height of 35 feet in MXD/R and 75 feet in MXD/E

   d. Commercial Use Group 2 shall have a maximum height of 35 feet in MXD/R and 75 feet in MXD/E

   e. Commercial Use Group 3 shall have a maximum height of 75 feet

2. Separation of Residential buildings:

   a. Unless provided for in approved Development Guidelines, the minimum separation for residential buildings (except accessory structures) shall be:

      - 40 feet front of one building to back of another building

      - 25 feet front of one building to side of another building

      - 35 feet front of one building to front of another building

      - 30 feet back of one building to back of another building

      - 20 feet side of one building to back of another building

      - 15 feet side of one building to side of another building

   b. For all buildings exceeding 35 feet in height, the minimum separation between buildings shall increase 1 additional foot for each additional foot the building exceeds 35 feet in height.

3. Impervious Surfaces - The maximum man made impervious surfaces (roof top, paved parking, and like surfaces) for parcels of property shall depend on its use as specified below. Interpretation of a use as it applies to impervious surface ratios shall be made by the Director of the Department with appeals of this decision to the Board.

   Retail sales or services and light manufacturing or warehousing maximum 80%

   Office or Research maximum 65%

   All other uses maximum* 50%

   *for attached single family dwellings this ratio shall apply to the composite site, not each individual parcel.

C. Within MXD/VC subarea the following requirements apply:

1. Height - the maximum height for all structures is 45 feet
2. Open Space - a minimum of one (1) village green or town square between one (1) and five (5) acres shall be provided
3. All utilities shall be underground
4. Off-street parking shall be prohibited at street intersections
5. Off-street parking shall be in the rear or side of buildings unless special Development Guidelines are established.

Subsection 7. Parking Requirements

A. Off Street Parking Requirements - Off street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Chapter 5 of this Ordinance.

B. On Street Parking - Generally continuous parallel or angle parking shall be provided along streets where commercial uses are predominant. Except where narrower streets are provided through Subdivision Variance, parallel parking is permitted along all other neighborhood streets.

Section 8. "Q" Qualified Zone District.

Subsection 1. Purpose.

A. The purpose of the "Q" (Qualified District) is to provide for the regulation of commercial, manufacturing or residential uses of land and structures in order that uses and development of said land, buildings and structures will be harmonious and compatible with and not have an undesirable or detrimental impact on surrounding development. The purpose of this Section is also to protect the public welfare and the property value of surrounding property by securing an appropriate development that is in harmony with the objectives of the City Comprehensive Plan as adopted by the Commission.

B. In order to achieve the above stated purposes provision is hereby made that in consideration of a change of zone the subject property shall be limited in such manner that it may not be utilized for all the uses ordinarily permitted in a particular zone classification and/or that development of said subject property shall conform to specific standards. In such cases, the ordinance changing the zoning classification of the property in question shall place it in a "Q" (Qualified) zoning classification. The "Q" (Qualified) District shall be indicated in the rezoning ordinance passed by the Council and on the official zoning map by the symbol "Q" immediately before the combination of symbols designation, e.g., "Q" C-2 in addition to the case number assigned to the individual rezoning case.

Subsection 2. Zone Districts That May Be Combined with a "Q" (Qualified) District.

A. Rezoning for a "Q" (Qualified) District must be combined with another zone district as set forth below. A "Q" (Qualified) District may not be requested which is not so combined with these applicable districts.

B. A "Q" (Qualified) District zoning classification shall only be used in combination with zones R-1, D-1, R-2, D-2, R-3, D-3, R-4, R-4A, D-4, R-5, D-5, R-6, D-6, R-7, R-8, B-1, C-1, B-2, C-2, MU-L, MU-M, B-3, MU-H, B-4, MU-D, HID, M-1, M-1A, I-1, M-2, I-2, M-4 and I-4 as defined elsewhere in this Ordinance.

Subsection 3. Uses permitted in a "Q" (Qualified) District.

A. The uses permitted in a "Q" (Qualified) District shall be limited to those set out in the rezoning ordinance passed by the Council.

Subsection 4. Standards That May Be Required in a "Q" (Qualified) District.

A. In addition to permitted uses as set forth in Subsection 3 above, the "Q" (Qualified) rezoning ordinance passed by Council may impose standards on the subject property with respect to buffers, ingress and egress, development plans, drainage, and environmental plans as well as other considerations that may be necessary to make the proposed development compatible with surrounding development. All applicable limitations and/or standards within the "Q" (Qualified) District shall be considered to apply permanently to the specific uses permitted in said zone.

Subsection 5. Expiration of Development Plan. (Time Limit on Development)

A. In the event that construction, in accordance with a development plan (when required) is not begun within two years from the date of approval by the Council of the "Q" Qualified District, said development plan shall become null and void.

Subsection 6. Amendments to "Q" (Qualified) District.

A. In the event that more permitted uses than those set forth in the "Q" (Qualified) District rezoning ordinance passed by Council are desired for the subject property, the Council will, after proper notification, hold a public hearing on the matter to determine its validity.

B. Applicants for amendments pertaining only to standards, which may be required as set forth in Subdivision 4 above, need only be presented to and approved by the ZAC of the Commission.

Section 9. "C" Contingency Zone District.

Subsection 1. Purpose

A. The purpose of the "C" (Contingency) District is to provide for an orderly arrangement of uses, and to provide residential property that is adjacent to potential commercial, manufacturing or industrial development; and single family residential property that is adjacent to potential multi-family development, with enough land use protection so as not to adversely affect the health, safety, morals or convenience of the general public.

B. In order to achieve the above stated purpose, provision is hereby made that in consideration of a change in zone district boundaries that is the result of initial zoning, or zoning in accordance with a comprehensive plan, the Department staff, shall limit the use of the subject property to development plan approval. The "C" (Contingency) District shall be indicated in the rezoning ordinance passed by the Council and on the official zoning map by the symbol "C" immediately before the combination of symbols designation, e.g. "C" D-6.

Subsection 2. Other Zone Districts that may be combined with a "C" (Contingency) District.

A. Rezoning for a "C" (Contingency) District must be combined with another zoned district as set forth below. A "C" (Contingency) District may not be created which is not so combined with these applicable districts. Further a "C" (Contingency) District can only be imposed by the Council or the Commission during initial zoning, or zoning in accordance with a comprehensive plan; additionally a "C" (Contingency) District cannot be requested by the property owner.

B. A "C" (Contingency) district classification shall only be used in combination with zones R-4A, D-4, R-5, D-5, R-6, R-7, B-1, C-1, B-2, C-2, MU-L, MU-M, B-3, MU-H, B-4, MU-D, B-6, HID, M-1, M-1A, I-1, M-2, I-2, M-4 and I-4 as defined elsewhere in this Ordinance.

Subsection 3. Uses Permitted in a "C" (Contingency) District.

A. The uses permitted under any zone classification coupled with a "C" (Contingency) District are not affected by such "C" designation. Only the potential development of the subject property is affected.

Subsection 4. Standards that may be required in a "C" (Contingency) District.

A. The "C" (Contingency) rezoning ordinance passed by Council shall permit the Department staff to impose standards on the subject property in accordance with a development plan. Said development plan shall be submitted by the developer and reviewed in a timely manner, and if necessary, revised by staff. Staff review and possible revisions of the submitted development plan shall include, but shall not be limited to the following criteria:

1. Proposed location and height of all structures and site improvements.
2. Use of all structures and premises.
3. Parking lot location, volume, ingress and egress, and landscaping.
4. Location of streets, driveways and walkways, including points of ingress and egress and access streets.
5. Service and loading spaces.
6. Solid waste container locations, access and screening.
7. Location of all overhead utilities.
8. The amount of man-made impervious surfaces in relation to the total square footage of the parcel.
9. Finished site topographic contours (at not greater than two foot intervals).
10. Storm water drainage plan.
11. Buffering and screening of adjacent incompatible or less intensive land uses.
12. Location, size, and number of all exterior signs.
13. Location of all exterior areas to be illuminated; all exterior lighting.
14. Location of all exterior doors.
15. Other factors which may ameliorate incompatible land uses.
16. Compliance with City's Soil Erosion and Sediment Control Code.

B. All applicable limitations and/or standards within the "C" (Contingency) District shall be considered to apply permanently to the specific uses permitted in said zone.

Subsection 5. Appeal Procedure.

A. In the event that the developer is aggrieved by the decision of the Department, with regard to the development plan submitted, a timely appeal shall be taken by the developer to the Board in accordance with the regulations set forth in Chapter 9 of this Ordinance.

Section 10. Holding Zone District (HZD).

Subsection 1. Generally.

A. The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section are the regulations in the Holding Zone District (HZD).

B. The purpose of the Holding Zone District (HZD) is to provide for the regulation of all uses and structures within areas which have been recently annexed and are yet to be developed in order to encourage the orderly timing and phasing of growth in these areas. The Holding Zone District may be applied to any areas which have been recently annexed for which the City finds should be held in a primarily undeveloped state for an interim period of time pending development and/or completion of a comprehensive land use plan for the subject area.

Subsection 2. Use regulations.

A. A building or premise shall be used only for the following purposes:

1. Any use existing at the time of rezoning the subject property "Holding Zone District".
2. Raising and grazing of animals, except no commercial feed lots.
3. Nurseries, green houses or the growing of crops, except that no wholesale or retail sales shall be conducted on the premises.
4. Forestry.
5. Single Family structures on one acre or more (permitted only by conditional approval of the Commission).
6. Wireless communications facility, in accordance with Chapter 4, Article V, Section 1 of this ordinance.
7. Accessory structures and uses which are incidental to the main use of the premises (permitted only by conditional approval of the Commission).

Subsection 3. Area and dimensional regulations.

A. Area and dimensional regulations are set forth in Chapter 3 of this ordinance.

B. Maximum height does not apply to barns or silos provided that additional setbacks are provided in accordance with the requirements set forth in Chapter 3 of this Ordinance; no structures for keeping of animals shall be located closer than 150 feet from any lot line.

Subsection 4. Parking regulations.

A. Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Chapter 5 of this Ordinance.

Section 11. Sign Regulations.

Subsection 1. Purpose and Scope.
The purpose of this Section is to establish regulations for the erection and maintenance of signs. It is determined that, while signs are a proper commercial use of private property in certain areas of the City and under certain zoning classifications and are entitled to the protection of the law, such signs should be reasonably regulated in the interest of the public safety and welfare and to safeguard and promote the aesthetic quality of the City by the establishment of standards for the number, size, height, spacing and illumination of such signs.

The regulations herein contained shall govern all signs presently existing or hereafter erected or displayed, but shall neither waive nor repeal additional requirements of other applicable ordinances not inconsistent herewith. However, these requirements shall not apply to signs necessary to the discharge of governmental functions, such as traffic control signals and devices, street signs, public notices and various court or postal requirements.

Subsection 2. Definitions.
For the purpose of this Section the following words, terms and phases shall have the meaning ascribed to them as specified herein. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number, and words in the singular number shall include the plural number.

1. **Areas of Special Aesthetic Concern.** Any area of the City established by Resolution of the Council as a Community Renewal Project Area, a Commercial Revitalization Project Area, a Neighborhood Revitalization and Improvement Project Area, an Urban Renewal and Urban Redevelopment Project Area and the Downtown Master Plan Project Area; and, also, Historic Districts, Scenic Corridors, and MU-H or B-3 Community Business Districts, wherein City policy is seeking to upgrade both the quality and amount of private investment through public support and wherein the improvement of aesthetic quality is a principle factor for the general welfare.

2. **Back-to-Back Signs.** Signs erected with faces oriented in opposite directions and separated by no more than four feet.

3. **Illuminated Sign.** A sign illuminated by the following types of lighting.

   a. Indirect. A sign reflecting light from a separate outside source aimed toward it.

   b. Direct. A sign emitting light from a source within or affixed to the sign face, and beaming outward from it.

   c. Intermittent. A sign containing any flashing light, including arrangements that spell messages, simulate motion or form various symbols or images.

4. **Maintenance.** Any cleaning, painting, copy changes, poster panel replacement, or bulb replacement, which does not alter the basic design, structure, size or electrical service to the sign.

5. **Monument Sign.** A sign mounted on the ground in such a manner that the sign face is attached to the ground either directly or in a landscaped setting wherein the bottom edge of the sign face shall be less than four feet above the ground level.

6. **Off-Premise Sign.** Any sign which directs the attention of the general public to a business, service, product or activity not conducted, offered or sold as a major portion of business upon the premises where such sign is located. None of the following shall be deemed an Off-Premise Sign:
   a. Directional and other official signs authorized by law.
   b. Signs advertising the sale or lease of property upon which they are located.
   c. On-Premise Signs.

7. **On-Premise Sign.** A permanent sign erected upon, and maintained in conjunction with the use of a specific parcel of property identifying the name of the place, persons or organizations occupying the premises or designating the principal use or activity or the principal product or service available on the premises.

8. **Pole Sign.** A permanent sign mounted on a pole or poles wherein the bottom edge of the sign shall be at least four feet above the ground level.

9. **Portable Sign.** Any sign, whether on its own trailer, wheels or otherwise, which is designed to be transported from one place to another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols.

10. **Product Advertising Sign.** A permanent sign erected and maintained in conjunction with the use of a specific parcel of property identifying the name of the place, persons or organization occupying the premises and designating a product or service available on the premises, which is not a principal use, activity, or product sold on the premises.

11. **Projecting Sign.** A sign located off the ground, affixed to an exterior building wall, and extending beyond it more than one foot.

12. **Roof Sign.** A sign attached or affixed in any manner to the top of any building roof.

13. **Scenic Corridor.** A travel way corridor which is determined by the City to be important for the general welfare by promoting investment and reinvestment in businesses and tourism through creating a favorable impression on the traveling public by reducing visual clutter and enhancing the visual clarity and aesthetic quality along such travel ways; which corridor shall consist of the paved roadway and right of way and on area 300 feet from either side of and parallel to the street right of way.

14. **Sign.** Any solid or flexible material, structure, or combination thereof, including supporting apparatus, containing lettered, symbolic or graphic matter, or similar eye-attracting devices or light systems, attached to, resting on or painted upon a building or structure or erected or placed on premises, and designed to be visible from off the premises, provided, however that this shall not include hand painted window signs of less than 70 square feet.

15. **Sign Area.** Display spaces on a unified structure excluding supporting members and decorative base or border provided that:
    a. Where two sign faces are placed side by side on a structure, the sign area shall be the total of the areas of the faces.
    b. Where sign faces are erected back to back or in a "V" type, the sign area shall be one-half of the total of the areas of the faces.

16. **Sign Face.** The surface area of a sign devoted to a message or advertising display.

17. **Signs, Height of.** The vertical distance from the average grade at the base of the sign to the highest point on the top of the sign.

18. **Signs, Spacing of.** The distance between signs shall be measured along the centerline of the street or highway adjacent to the signs between the lines intersecting with the centerline which are drawn as perpendicular lines from the center points of the sign faces to the centerline of the street.

19. **Temporary sign.** A sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material and intended to be displayed for a short period of time. Included in this category are retailers' signs temporarily displayed for the purpose of informing the public of a sale or special offer, and banner signs, beacons, balloons, and mascot signs.

20. **Three-sided Signs.** Signs erected with three or more faces oriented in different directions.

21. **"V-type" Signs.** Signs erected with faces oriented in different directions which shall be separated by no more than four feet at their nearest point, and with a horizontal angle no greater than 30 degrees.

22. **Wall Sign.** A sign located off the ground, directly upon, but no higher than, the building wall, projecting beyond said wall not more than one foot. Wall signs shall include messages carved, inscribed or designed into a face of the building and any sign painted or drawn on a face of the building.

Subsection 3. Permit Required; Exemptions; Prohibited Signs.

1. **Permits Required.**

a. Unless exempted or prohibited as provided herein below, all signs shall require permits as provided in this Section.

b. Application for a permit shall be made to the Department of Planning, Engineering and Permits and shall be accompanied by such drawings, plans, specifications, and engineering designs as may be necessary to fully advise and acquaint the Department personnel with the proposed sign and sign location and be accompanied with the deed, lease or other agreement by which the applicant has the right to erect, use or maintain the proposed sign at that location.

c. Except as maybe further restricted hereinafter, no permit for an Off-Premise Sign shall be issued without the applicant first having presented documentation of the removal of an existing sign of equal or greater size due to voluntary sign removal by the permit holder, an accident or Act of God. All replacement signs shall be equal to or of a lesser size than the previously existing sign.

d. For the purposes of voluntary sign removal by the permit holder under this Subsection:

(1) signs in areas of special aesthetic concern shall be removed before signs in any other location;

(2) if no signs of applicant are located in areas of special aesthetic concern, signs shall be removed from scenic corridors prior to signs in any other location;

(3) non-conforming signs shall be removed prior to conforming signs;

provided however, that a permit for a sign shall be issued upon request if a permitted sign is caused to be removed due to an accident, voluntary removal, or Act of God. The relocated sign shall be:

(1) no more non-conforming than the site of the sign being replaced;

(2) in close proximity to the same sign location, not to exceed 200 feet from the original sign location; and,

(3) the relocation site must be properly zoned for such use.

e. All such documentation will be subject to stringent enforcement. If any misrepresentation is made pertaining to any such documentation, the applicant will be subject to revocation of any permit issued in reliance on such misrepresentation and shall be required to remove any structure built under such permit.

2. **Exempt Signs**.

Except as otherwise provided in this Ordinance, the following signs are exempt from the provisions of this Section, subject however, to meeting all other applicable codes and regulations.

a. Bulletin boards and identification signs for public, charitable, educational or religious institutions located on the premises of said institutions and not exceeding 24 square feet in total area.

b. One construction sign per street frontage located on property where building is actually in progress under a valid building permit, which may include the names of persons and firms performing services, labor, or supplying materials to the premises and not exceeding 24 square feet. Such sign must be removed before a certificate of occupancy is issued.

c. Flags or insignias of a governmental, religious, charitable, or fraternal organization, except when displayed in connection with a commercial promotion.

d. Decorative flags and bunting for celebrations, conventions, and commemorations for a prescribed period of time when authorized by the Council.

e. One occupational sign or one professional name plate for each premise, denoting only the name, street, number and business of an occupant in a commercial building or public institutional building. Each occupational sign or professional name plate shall not exceed six square feet in area.

f. Political signs.

g. Window signs which identify or advertise activities, services, goods, or products available within the building, and which collectively cover twenty percent or less of the window glass surface area.

h. Fuel price informational signs advertising the price of motor vehicle fuel provided that only one fuel price informational sign shall be permitted per fuel pump which sign shall be limited in size to an area of two hundred sixteen square inches, shall be affixed directly and firmly to the fuel pump and shall be stationary. Nothing herein shall be construed to prohibit the advertisement of fuel prices on any other sign meeting the requirements of

this Section.

3. **Prohibited Signs.** The following signs are prohibited:

   a. Lights and signs that resemble any traffic control device, official traffic control signs, or emergency vehicle markings.
   b. Signs that produce noise or sounds capable of being heard including non-distinguishable sounds.
   c. Signs which emit odor, visible smoke, vapor, or particles.
   d. Signs attached to or painted onto a vehicle for a primary purpose of advertising.
   e. Abandoned signs.
   f. Signs attached to trees, utility poles, streetlight, or placed on any public property except as authorized by Ordinance of the Council.
   g. Stacked signs that are separate sign displays mounted one above the other whether on unified or separate structures.
   h. Signs painted or drawn upon rocks, trees, or other natural features.

4. **Decal.** A permanent decal, bearing the permit number, will be issued by the Department of Planning, Engineering and Permits with the permit. It shall be the responsibility of the applicant to ensure that the decal is affixed to the permitted sign and in a manner that the decal is clearly and easily visible and readable.

Subsection 4. Sign Fees.

1. Prior to the issuance of a sign permit, fees as adopted by the Council from time to time for on premise and off-premise signs shall be payable as described in the City of Birmingham Technical Code, as amended. These fees are in addition to, and not in lieu of any other fees or licenses required.

2. Annual fees for Off-premise signs, as adopted by the Council from time to time, must be paid by January 31st of each year beginning January 31, 1990 as described in Chapter 9, Article VIII of this ordinance. No additional permits will be issued until such annual fee has been paid, including permits that are pending.

Subsection 5. General Requirements for All Signs.

1. Signs shall not be erected or maintained which imitate, resemble, obscure or otherwise physically interfere with any official traffic sign, signal or device, nor obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.

2. Signs shall not be erected or maintained which are structurally unsafe or in substantial disrepair.

3. It shall be unlawful to use a vehicle or trailer as a sign in circumvention of this Section.

4. Maintenance.

   Any sign not meeting the following provisions shall be repaired or removed within

(60) days after receipt of notification by the Department of Planning, Engineering and Permits unless the Director of the Department of Planning, Engineering and Permits determines that the sign owner is delayed for legitimate reasons and is making a good faith effort to correct any deficiency.

a. The area around any freestanding sign shall be kept clear of trash and litter and shall present a neat and healthy appearance.
b. All signs shall be maintained at the level of appearance originally held at the time of sign erection.
c. Exposed backs of signs must be painted a single, neural color, presenting an attractive and finished appearance.
d. It shall be the responsibility of the Off-Premise Sign owner and the On-Premise Sign business owner to maintain and insure conformance to the provisions of this Section.

5. No illuminated or highly reflective signs, including their structures, shall be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the street or roadways, or from shining on or into residential buildings or otherwise adversely affecting surrounding or facing premises; or which adversely affect the safe operation of motor vehicles by reason of light intensity or brilliance which cause glare or otherwise impair the vision of the driver of the motor vehicle.

Subsection 6. Off-Premise Sign Regulations.

In addition to the other requirements of this Section and other ordinances of the City of Birmingham, Off-Premise Signs must comply with the following regulations:

1. **Maximum size**

a. The maximum sign area shall be 800 square feet, with a maximum height of 20 feet and a maximum length of 50 feet inclusive of any embellishments, border or trim, but excluding the base or apron, supports and other structural members.

b. An Off-Premise Sign structure may contain two sign faces oriented in the same direction; signs may be placed back-to-back or V-type, provided that the total area of the sign faces oriented in any one direction shall not exceed maximum size provisions.

2. **Lighting.**

Off-Premise signs shall not be erected or maintained which contain, include or are illuminated by intermittent lighting except those giving public service information such as, but not limited to time, date, temperature, weather or news.

3. **Minimum Spacing and Set Back Requirements.**

Off-Premise Signs shall not be erected closer to other Off-Premise Signs than the following prescribed distances except as hereinafter restricted:

a. The minimum spacing for all off-premise signs, on the same side of the street, shall be 1,000 linear feet measured on the centerline of the street. (See Diagram A).

b. The minimum spacing for all off-premise signs which are on opposite sides of the street shall be 500 linear feet measured on the centerline of such street (See Diagram B).

c. When an existing Off-Premise sign is located within 300 feet of the right-of-way of any street or highway intersection, including the intersection of streets or highways not at grade, no additional sign shall be spaced less than 1,000 feet apart as measured along the center lines of the streets regardless of the street from which the signs are intended to be viewed (See Diagram C).

d. Off-Premise erected with 800 feet of and directed toward any Interstate Highway, The Elton B. Stephens Expressway or U.S. Highway 280 shall be located no closer than 300 feet to the paved portion of main-traveled ways and interchange ramps.

e. An Off-Premise Sign erected within 10 feet of the right-of-way of intersecting or merging streets, alleys, private drives, bridges, or railroad crossings shall be a minimum of eight feet above the level of the pavement of said streets.

f. Off-Premise signs larger than 300 square feet shall be set back at least 400 feet; signs between 85 and 300 square feet shall be set back at least 250 feet; and signs 85 square feet or less shall be set back at least 125 feet from any residentially zoned property, public park or school measured from the nearest edge of the sign.

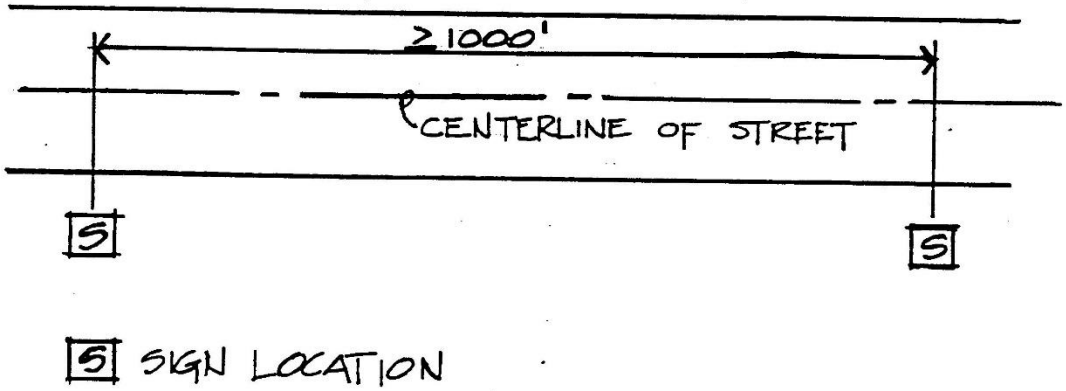


DIAGRAM A

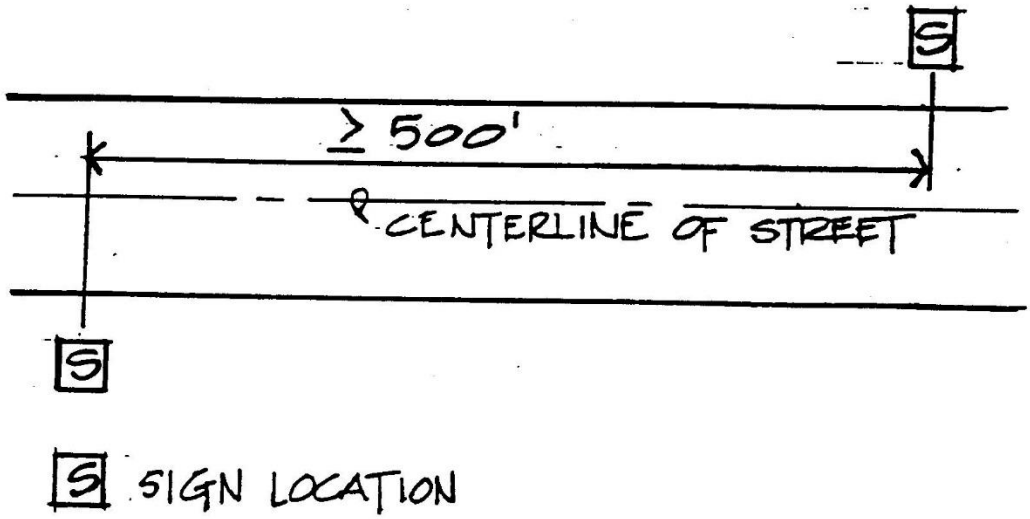
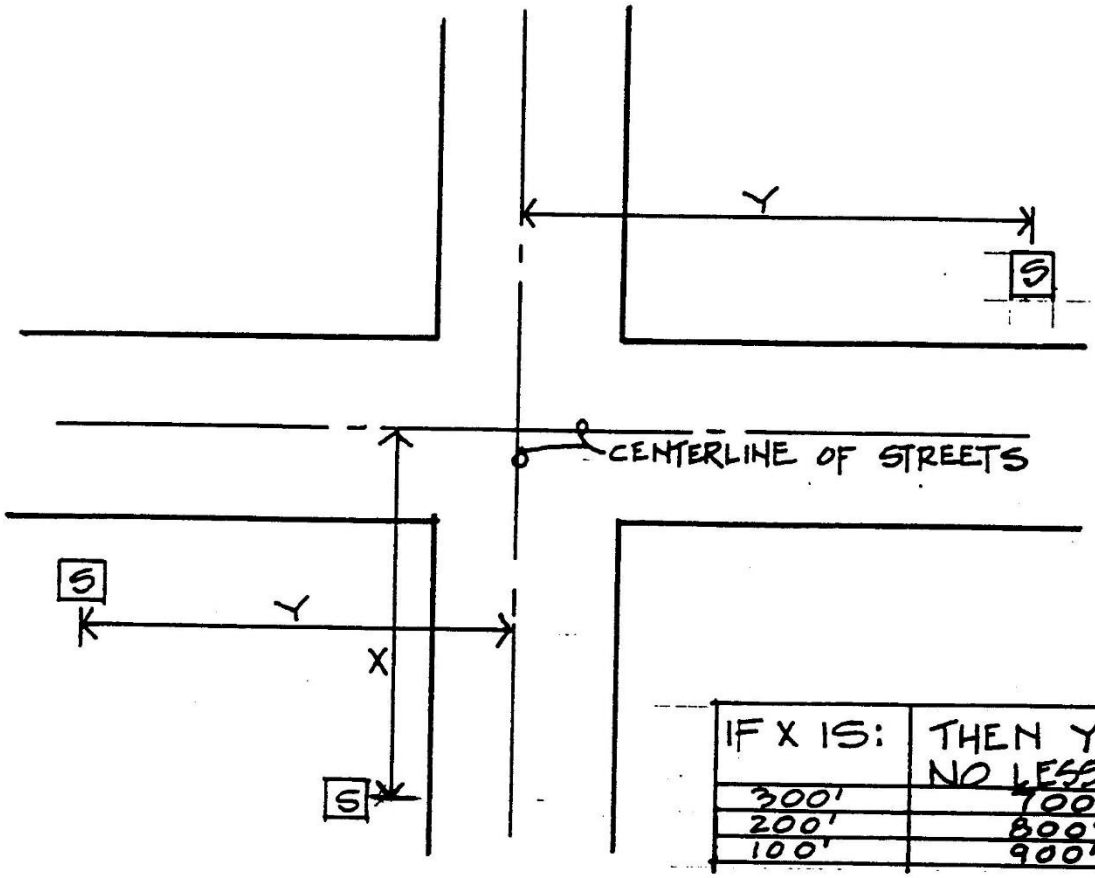


DIAGRAM B



IF X IS:	THEN Y IS NO LESS THAN:
300'	700'
200'	800'
100'	900'

S LOCATION OF SIGN STRUCTURE RELATIVE TO INTERSECTING STREET

NOTE: THIS DIAGRAM IS TO ILLUSTRATE MEASUREMENT ONLY

DIAGRAM C

4. **Maximum Height.**

The maximum height for any Off-Premise Sign shall be 40 feet above ground level at its base. Where the ground level is lower than the main-traveled way of the street or highway along which the sign is too constructed, the maximum height as measured to the top of the sign face shall be extended to a point 25 feet above the plane of said main-traveled way.

5. **General Off-premise Sign Regulations.**

a. No Off-Premise Sign structures shall be located on, or project over, any public property or right-of-way except as provided by Ordinance of the Council.

b. No Off- Premise Sign shall be permitted on top of any building or rooftop.

c. No three-sided signs shall be permitted.

d. It shall be unlawful to construct an off-premise sign where such constructions require the removal of any tree twelve inches in diameter or greater.

e. Signs in public rights-of-way. No sign shall be erected in a public right-of-way, except as provided below. Any sign unlawfully installed or placed on a public right-of-way, except in conformance with the requirements of this Section, shall be forfeited to the City and subject to confiscation. In addition to other remedies provided under this Section, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal. Only the following signs shall be permitted within a public right-of-way subject to approval of the agency having jurisdiction over the right-of-way or right-of-way use agreement for City right-of-way:

(1.) Traffic and directional signs of the governmental agency having jurisdiction over the right-of-way.

(2.) Official signs of a governmental agency or public utility.

(3.) Entrance signs to neighborhoods and subdivisions, when an easement has been properly executed.

(4.) Temporary street banners announcing a special event.

(5.) Projecting signs and canopy or marquee signs extending over a sidewalk.

(6.) Signs placed on bus stop shelters operated by the local transit authority or signs placed on public bike share kiosks operated under a franchise agreement with the city are allowed, provided that the following regulations are met:

a. Any sign placed on a bus stop shelter or public bike share kiosk shall be the lesser of 20 square feet or 50% of the exterior elevation of the bus stop shelter or bike share kiosk, including all sides of the bus stop shelter, or bike share kiosk. If signs are placed on a bus stop shelter, they shall not block visibility into or out of the shelter.

b. Placement of all signs shall not interfere with site lines or conflict with street light signals, as determined by the Traffic Engineer.

c. No sign shall be externally illuminated.

d. LED signs shall be limited to the interior of a bus shelter, or public bike share kiosk, and shall display applicable bus routes or public Bike Share information. Additionally, a regional transit authority, or public transit operator, including a public Bike Share program operated under a franchise agreement with the city, may sell advertising to be displayed on the signage authorized in their bus stops or public bike share kiosks, subject to all applicable Federal, State, or Municipal statutory and regulatory requirements. In the case of a bike share kiosk, one internally illuminated freestanding sign with a viewing area no greater than fourteen (14) sq. ft. that is integral to the bike share kiosk is permitted, subject to restrictions imposed by the Zoning Ordinance and Traffic Engineer.

6. **Scenic Corridors.**

The Scenic Corridors herein established consist of the following:

a. Elton B. Stephens Expressway.

b. Interstate 65.

c. Interstate 59.

d. Interstate 20.

e. Interstate 459.

f. U.S. Highway 280.

g. Montgomery Highway from the City line as it splits into 20th Street South and 21st Street South along the line both of these streets to 12th Avenue North.

h. Messer-Airport Highway from the air terminal to Interstate 59/20.

i. Clairmont Avenue/University Boulevard from 38th Street to Elton B. Stephens Expressway.

j. 7th Avenue South from 32nd Street to the Elton B. Stephens Expressway.

k. 1st Avenue North/Parkway East from the Elton B. Stephens Expressway to City limits.

l. 8th Avenue North from Interstate 65 to Avenue Y Ensley.

m. John Rogers Drive from U. S. 11 to U.S. 78.

n. State Highway 119.

o. Grants Mill Road.

p. Lakeshore Parkway.

q. Finley Boulevard from Highway 78 to 26th Street North.

r. Lomb Avenue/Martin Luther King Drive from Bessemer Road to West Oxmoor Road.

s. Spaulding-Ishkooda Road from Ishkooda Road to Martin Luther King Drive.

t. Arkadelphia Road from Lomb Avenue to I-59.

7. Areas of Special Aesthetic Concern.

a. No additional Off-Premise Signs shall be permitted in Ares of Special Aesthetic Concern as herein defined.

b. All Off-Premise Signs shall be removed from all of the named Areas of Special Aesthetic Concern as set out herein below within 90 days after written notice to the permittee of such signs:

(1) Community Renewal Project Area;
(2) Commercial Revitalization Project Area;
(3) Neighborhood Revitalization and Improvement Project Area;
(4) the Downtown Master Plan Project Area;
(5) an Urban Renewal and Urban Redevelopment Project Area;
(6) Historic Districts; and
(7) B-3 Community Business Districts.

8. Off-Premise Exempt Signs.

Except as otherwise provided in this Ordinance, the following signs are exempt from the provisions of this section subject however, to meeting all other applicable codes and regulations.

a. Off-premise signs placed on bus stop shelters operated by the local transit authority or off-premise signs placed on public bike share kiosks operated under a franchise agreement with the city are allowed to be placed on private property provided that the following regulations are met:

(1). Any sign placed on a bus stop shelter or public bike share kiosk shall be the lesser of 20 square feet or 50% of the exterior elevation of the bus stop shelter or bike share kiosk, including all sides of the bus stop shelter, or bike share kiosk. If signs are placed on a bus stop shelter, they shall not block visibility into or out of the shelter.

(2). Placement of all signs shall not interfere with site lines or conflict with street light signals, as determined by the Traffic Engineer.

(3). No sign shall be externally illuminated.

(4). LED signs shall be limited to the interior of a bus shelter, or public bike share kiosk, and shall display applicable bus routes or public bike share information. Additionally, a regional transit authority, or public transit operator, including a public bike share program operated under a franchise agreement with the city, may sell advertising to be displayed on the signage authorized in their bus stops or public bike share kiosks operated under a franchise agreement with the city, subject to all applicable Federal, State, or Municipal statutory and regulatory requirements In the case of a bike share kiosk, one internally illuminated sign with a viewing area no greater than fourteen (14) sq. ft., that is integral to the bike share kiosk is permitted, subject to restrictions imposed by the Zoning Ordinance and Traffic Engineer.

Subsection 7. On-Premise Sign Regulations.

Unless otherwise provided in this Ordinance, On-Premise Signs must comply with the following regulations.

1. Maximum Size.

a. Except as provided below, each business establishment shall be limited to a square footage of 672 square feet for on-premise signage.

b. The total square footage of on-premise signs for retail car dealerships may be increased to an amount no greater than 35 percent of the maximum size specified herein which shall be calculated by measuring the actual square footage of the sign face as defined herein.

2. Maximum Number. No maximum number of on-premise signs is specified in the Ordinance. For each business establishment, the maximum number of permitted signs shall be determined based on the maximum square

footage allowance as specified herein.

3. **Maximum Height.** Except for on-premise signs where the roof is higher than 50 feet, the maximum height of on-premise signs shall be 50 feet above ground level as its base; provided, however, that in areas within 750 feet of the right-of-way or interstate highways, the maximum height shall be extended to a point of 25 feet above the plane of the main traveled way of the interstate when the ground level of the sign base is lower than said main traveled way.

4. **Placement Requirements.**

   a. No on-premise sign shall be placed in such a manner as to block effective visibility of adjacent signs, whether on or off-premise signs in any district.

   b. No on-premise sign shall be placed within 15 feet of any residential zone boundary.

   c. No projecting sign shall project into any public right-of-way by more than five feet.

   d. Wall signs shall not extend more than 10 feet across the roof line or across any corner of the wall on which the sign is mounted.

   e. No sign face shall be placed in such a manner that a motorist's visibility is obscured wither at driveways or entrance points to any business or at intersecting streets or alleys.

5. **Illumination.**
   It shall be unlawful to erect any attraction or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.

6. **Portable Signs.**
   Only one portable sign shall be permitted for each business establishment, however, such sign shall not be considered a part of the total allowable square footage for signage as provided herein.

7. **Product Advertising Signs.**
   Product Advertising Signs shall not exceed 12 square feet in area for any one premise which area shall be included in the total permitted sign area for that premise.

8. **Special Sign Regulations.** The regulations in this section apply to the uses described herein.

a. **Home occupation.** In connection with a Home Occupation no advertising other than an identification sign of not more than one square foot in area which is either illuminated or animated shall be allowed.

b. **Temporary Signs.** Temporary signs not exceeding a total of eight square feet in area located on the same lot pertaining to the lease, hire or sale of a building or premises or a temporary sign not exceeding a total of eight square feet in area relating to the development, sale or lease of lots or houses in a subdivision containing not less than five lots, which sign shall not remain more than two years or after the sale of the last lot, whichever occurs first.

c. **Signs in B-1and C-1.** Such signs shall not exceed in the aggregate 40 square feet of gross surface area for any lot having 40 feet or less of street frontage. On lots having a frontage greater than 40 feet, such sign or signs shall not exceed in the aggregate one square foot in area for each linear foot of principal street frontage, but in no case shall the aggregate area of such sign or signs exceed 60 square feet, provided, however, in developments consisting of two or more establishments each use shall be allowed signs not to exceed the frontage occupied by such establishment, but in no case to exceed 60 square feet.

d. **Adult Establishment Signs.** Signs for adult establishments shall conform to the following:
   i. Signs shall pertain to goods, products or services sold or offered on the premises.
   ii. Signs shall be attached to a vertical surface of the building or extend not more than eighteen inches therefrom.
   iii. Signs shall not exceed in the aggregate 40 square feet of gross surface area for any lot having 40 feet or less of street frontage. On lots having a frontage greater than 40 feet, such sign or signs shall not exceed in the aggregate one square foot in area for each linear foot of principal street frontage, but in no case shall the aggregate area of such sign or signs exceed 100 square feet.
   iv. Signs or exterior displays of any kind shall be limited to words, phrases and numbers and shall not include live, animated or pictorial displays or any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" that may permit the observation of such display of materials from any public way. This provision shall apply to any display, decoration, sign, show window or other openings.

e. **Child Care Center Signs.** When located in a residential district signage shall not exceed 18 square feet in area and no ground sign shall exceed four feet in height. All signage shall be lighted with only indirect, non-intermittent light. All signage shall be subject to approval by the Department of Planning, Engineering and Permits.

f. **Churches and Public Building Signs**. A church or public building in any residential zoned district may have one bulletin board or one sign, located on the same lot as the main structure; said bulletin board or sign shall not exceed 27 square feet in area nor be animated or illuminated with intermittent light.

Subsection 8. Penalties.

Either the owner or other persons in charge or control of signs, and owners or other persons in charge or control of property on which signs are located shall be responsible for assuring compliance with this Section. Any failure or refusal to comply with this Section shall be a violation and punished as provided in Chapter 9, Article II, Section 9 of this Ordinance.

Title 1 – Zoning Ordinance
Chapter 5: Off-Street Parking and Loading Regulations
Article I. Off-Street Parking

Section 1. Purpose.
The primary purpose of these provisions is to reduce traffic congestion on public streets by requiring certain minimum parking and loading areas be provided off-street. Further, these provisions are intended to insure safe, convenient, and efficient on-site traffic circulation, and encourage attractive and harmonious arrangement of parking and loading facilities which enhance the environmental design of Birmingham's communities.

Section 2. Applicability.

A. Parking and loading required. Any development occurring after the effective date of this Ordinance shall comply with all off-street parking and loading requirements of this Article, except as provided for changes to existing development in Sec. 2 (B) below.

B. Change in legally nonconforming development.

1. Developments with legally nonconforming parking and loading areas on the effective date of this Article shall not increase the level of nonconformance by reducing the number of existing parking or loading spaces.

2. If any existing, nonconforming lot has a building alteration, expansion of use, or change in use which increases the number of parking and loading spaces required by this Article by less than 25 percent, only the number of parking or loading spaces associated with the alteration, expansion, or change of use shall be required. If any change of use which increases the number of parking and loading spaces required by this Article by 25 percent or more, all required parking and loading spaces shall be provided for the existing and new development in full compliance with the provisions of this Article.

Section 3. Definitions.
Any other provision in this Ordinance to the contrary notwithstanding for the purposes of this Article, the following words, terms and phrases shall have the meanings ascribed to them in this Section. Unless specifically defined herein or in Chapter 1, Article III of this Ordinance, words or phrases used in these provisions shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number, and words in the singular number shall include the plural number.

1. **Access driveway.** That portion of a parking area that consists of a travel lane that accesses a public street bounded on either side by an area that is not part of the parking space.
2. **Bicycle Locker.** Small completely enclosed facility in which to lock a single bicycle inside.
3. **Bicycle Parking Space.** Parking accommodation for one bicycle to a city approved bicycle rack or bicycle lockers.

4. **Bicycle Rack.** City approved fixture that parks at least two bicycles
5. **BR.** Bedroom or guest accommodations.
6. **Common parking area.** In the case of a townhouse development, a parking area held in common ownership or control through a condominium or homeowners' association and shared by all residents of the same development for guest or resident parking.
7. **Designated parking space or area.** A designated parking space or area shall be any space or area that is marked, set aside, or designated as a parking space as a requirement, or condition, of a development plan.
8. **Enrollment capacity.** Projected school enrollment capacity based on maximum student-teacher ratio and number of available classrooms for teaching.
9. **Living area.** The finished and heated floor area of a dwelling.
10. **Loading area.** That area used to satisfy the requirements of this Article for truck loading and unloading.
11. **Loading space.** An off-street space or berth used for the unloading or loading of commercial vehicles.
12. **Parking aisle.** That portion of the parking area consisting of lanes providing access to parking spaces.
13. **Parking area.** An improved area on a lot exclusively used or designed for parking of operative motor vehicles, containing access driveways, parking aisles, and parking spaces, as depicted in Figure 1.05.101.
14. **Parking space.** That portion of the parking area set aside for the parking of one vehicle.
15. **Planned development.** One or more contiguous parcels designed under a cohesive and unified site plan that has been approved under the provisions of the Mixed Use District (MXD), Planned Recreation District (PRD), Health and Institutional District (HID or B-6),_Planned Manufacturing District (I-3 or M-1A), Planned Residential District (D-6 or R-8) or any district with a "Q" Qualified overlay zone or other condition or action which requires Planning Commission approved site plan.

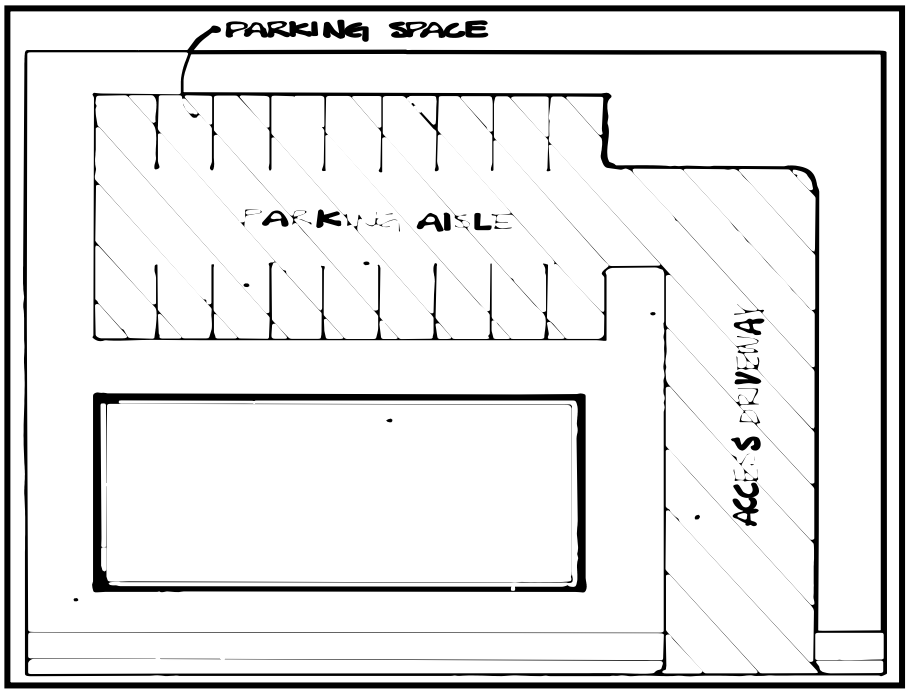


Figure 1.05.101. Parking Area Components shown above include: Parking aisle, access driveway, parking space and parking area shown as crosshatch pattern.

16. **Remote parking.** Parking area that is not located on the same lot as the principal use, but is within 1,000 feet of principal use.

17. **Required parking.** The number of parking spaces determined necessary for a principal use based on the Table 1.05.101 Required Off-street Parking Spaces Section 4, item O of this Ordinance or in mixed-use area based on the optional parking computation Table 1.05.102. Other modifications may apply based on proximity to transit stations and bicycle parking.

18. **Shared parking.** Parking area where spaces are shared by two or more principal uses that experience parking demands at different times and is located on the same lot or on a lot within 1,000 feet.

19. **Stacking space.** A space intended for the queuing of vehicles to a drive-through window or other intermittent stopping point, such as a fuel pump or automated teller machine.

20. **Substitute parking surface.** Any approved parking area surface other than asphalt or concrete, such as but not limited to compacted gravel, reinforced grass, or pavers.

Section 4. Required off-street parking spaces.

A. **Applicability.** Except as provided in the B-4 and MU-D Mixed Use Downtown District, B-3 and MU-H Mixed Use High District, all uses shall conform to the minimum parking space requirements in the Table 1.05.101: Required Off-Street Parking Spaces. All plans submitted with a building permit application shall contain a table that clearly summarizes the required number of off-street parking spaces, the parking space requirement (e.g., 1 per 250 sf of GFA) for each use, the basis for determining the required number of spaces (e.g., GFA), and the number of spaces provided.

B. **Compliance.** All new parking lot surfaces within the City of Birmingham must meet the minimum City code requirements in regards to engineering, storm-water and landscaping, and shall be required to obtain a building permit for all parking areas including residential driveways (for landscaping requirements see chapter 6 Landscaping and Buffering of this ordinance).

C. **Non-listed uses.** In situations where the required number of parking spaces cannot be readily determined by using Table 1.05.101, the Director or his or her designee is authorized to determine the parking space requirements by applying the requirements for a similar use listed in the same table.

D. **Mixed-use development or Planned Development.** Lots and buildings containing more than one use listed on the Table shall provide parking in an amount equal to the total required number of spaces for all uses combined, except as provided for in Table 1.05.402 shared parking facilities in Section 9 Shared parking.

E. **Fractional spaces.** When any requirement of these regulations results in a fraction of a dwelling unit or parking space the fraction if less than 0.5 shall be rounded down to the nearest whole number, and if equal to or greater than 0.5 shall be rounded up to the nearest whole number.

F. **Use of required spaces.** Required and/or designated off-street parking spaces, parking aisles, and access driveways shall be used exclusively for parking of operative motor vehicles and circulation. No structure, sign, outdoor storage, shopping cart corral, sales display, vehicle sales, dumpster or any other use other than parking shall be permitted within a required and/or designated parking area. Temporary special events and seasonal sales are not permitted within a portion of a required or designated parking area unless a special exception has been granted by the Board.

G. **Handicapped parking.** Handicapped parking spaces shall be provided in accordance with the then currently effective editions of the *Standard Building Code or* any other building code adopted by the City hereafter and the American National

Standards Institute *ANSIA 117.1 American* National Usability for Physically Handicapped People.

H. **Maximum parking**. The number of parking spaces required is equal to the maximum allowed. When a development includes parking in excess of the maximum allowed, then Low Impact Development techniques such as, bio-retention cells, vegetated swales, extended detention systems, infiltration trenches, pervious paving or dry wells, to reduce run-off at a rate as established in *City of Birmingham, Engineering Design Guidelines*, is required for those parking spaces which exceed the maximum number of spaces allowed as determined by the Director, except in the following instance:

1. When parking spaces, over the maximum, are covered by a structure such that no stormwater will fall on those parking spaces, those spaces will not count against the maximum allowed.
2. In the B-4 and MU-D districts, the maximum parking requirement shall be equal to that of the same use in the B-3 or MU-H districts, but only for the purpose of determining when LID will be required for any proposed parking.

I. **Pervious paving**. Porous paving blocks and pervious paving materials are permitted and encouraged as material for parking lots. Permeable solutions can be based on: porous asphalt and concrete surfaces, concrete pavers (permeable interlocking concrete paving systems - PICP). Grass pavers are excluded for commercial uses. All designs must meet the minimum design specifications of the City Engineer (See Section 7. C. Surfacing of this chapter).

J **MU-D Mixed Use Downtown**. Parking spaces are not required in the B-4 and MU-D Mixed Use Downtown District. Where parking is provided in the B-4 or MU-D District all remaining requirements of this Article shall apply.

K. **MU-H Mixed Use High**. Parking spaces in the B-3 and MU-H Mixed Use High district shall be provided in an amount equal to one half of the required parking. Where parking is provided in the B-3 and MU-H Mixed Use High District all remaining requirements of this Article shall apply.

L. **Proximity to Transit**. When lots requiring parking spaces are within 1,000 feet of any BJCTA transit station, community transfer station, bus rapid transit stop, or other transit provider, that is available to the general public; the minimum parking spaces may be reduced by 10%; when lots requiring parking spaces are within 2,000 feet of BJCTA transit station, community transfer station or bus rapid transit stop; the minimum parking spaces may be reduced by 5%. Lots located in a character code district, a MU-M Mixed Use Medium District or MU-H Mixed Use High District and located within 1,000 feet of a BJCTA Community Transfer Station;

the minimum parking spaces may be reduced by 20% instead of the 10% referenced above.

M. **Bicycle Parking**. When bicycle parking is provided in accordance with Section 5 of this Chapter, then minimum automobile parking requirements may be reduced by up to 10%. A reduction in the minimum required automobile parking is allowed equal to the percentage of bicycle parking spaces provided, with a ten (10) percent maximum reduction. If for example 100 spaces of parking is required for the use, and 10 bicycle spaces are provided this will result in a total of 90 vehicle spaces required.

N. **Floodplain**. Parking within the floodway requires 100% pervious parking.

O. **Table of Required Off-Street Parking Spaces: Minimum and Maximum.**

TABLE 1.05.101 OF REQUIRED OFF-STREET PARKING SPACES	
Principal Use	**Required Parking Spaces**
Residential Uses	
Residential Uses	
Dwelling, single family, manufactured, home, and two-family;	
1,500 sf or less living area	1 per DU
1,501 or more sf living area	2 per DU
Dwelling: Townhouse	
No common parking areas available and all parking provided on individual lots	1 per DU
Common Parking areas available	
Dwelling, multi-family:	
1 BR	1 per DU
2 or more BR	1.5 per DU
Boarding or rooming house	1 per 3 residents
Dormitory	1 per 2 residents
Fraternity or sorority	1 per resident member
Communal Living Facility (not otherwise specified)	1 per 2 sleeping rooms
Institutional Uses	
Principal Use	**Required Parking Spaces**
Place of Worship	1 per 6 seats in the main sanctuary
Child or adult care facility:	
Institutional Uses	

Principal Use	Required Parking Spaces
Family day/night care home	None, except as required for dwelling
Family group day/night care home	3 inclusive of required spaces for dwelling
Adult or child care center	A minimum of 1 per employee plus 1 per 6 adult patrons or 1 per 6 enrolled children
*Childcare as An Accessory Use	*No additional parking required, however, primary use parking requirements must be met.
School: kindergarten, elementary, middle, or junior high	1 per classroom
School: high school	1 per 6 classroom seats. Any overflow parking needed for a stadium use shall be pervious.
Scientific testing, research lab or medical lab	1 per 500 sf of GFA
School: college, university, business college, or technical college classroom building	1 per 6 seats per classroom at design capacity plus 1 per 400 sf of GFA of office area within each building plus additional spaces as may be required for other uses conducted within the same building.
Hospital	1 per four beds
Nursing, rehabilitation, convalescent	1 per 6 beds at licensed capacity
Library or museum	1 per 300 sf of GFA
Post office	1 per 500 sf of GFA plus 1 per postal delivery vehicle

Police or fire station	1 per 400 sf of GFA
Recreational Uses	
Principal Use	**Required Parking Spaces**
Auditorium or other public assembly hall or facility	1 per 3 persons at occupancy load or 1 per 3 fixed seats, whichever is greater.
Public or semi-public facility (not otherwise specified)	1 per 300 of GFA
Commercial amusement center, indoor	1 per 100 sf of GFA
Gymnasium, stadium, arena	1 per 5 fixed seats
Golf:	
Standard course	3 per hole
Stand-alone driving range	1 per 2 tees
Miniature or par three golf	3 per hole
Theater, movie, or performing arts	1 per 5 seats or seating spaces
Fitness Center and recreation center	1 per 200 sf of GFA plus required parking for other facilities specified in this table
Park and outdoor recreation/amusement, including racetracks	1 per 5 fixed seats used for spectators, picnic tables, and other facilities requiring seating plus required parking for other facilities specified in this table.
Recreational Uses	
Principal Use	**Required Parking Spaces**

Tennis, racquetball, handball, or basketball court	3 per court except basketball courts within a gymnasium shall meet the parking space requirement for a gymnasium
Skating rink	1 per 100 sf of rink area
Pool hall or bingo hall	3 per alley
Event center	1 per 100 sf of GFA
Commercial Uses	
Principal Use	**Required Parking Spaces**
Indoor Recreation (not otherwise specified)	1 per 200 sf of GFA of enclosed area
Large appliance or machinery sales or service, building supplies store, home improvement center, hardware store, furniture store or repair shop, upholstery shop, carpet sales, electronics repair and similar sales or servicing	1 per 500 sf of GFA plus 1 per company vehicle
Commercial Uses	
Principal Use	**Required Parking Spaces**
Hotel or motel	1 per 2 guest rooms plus additional required spaces for restaurant, night club, retail stores, personal service establishments, offices, and assembly rooms, as required elsewhere in this table.
Commercial Uses	
Principal Use	**Required Parking Spaces**

Restaurant including restaurants with drive-in/drive-through	1 per 100 sf of GFA plus 4 stacking spaces per each drive-through order window or pickup window
Dance studio	1 per 250 sf of GFA
Night club, tavern, dance hall, brew pub or bar	1 per 100 sf of GFA
Office, business or professional (not otherwise specified)	1 per 400 sf of GFA
Bed and breakfast inn (Historic bed and breakfast inn included)	1 per guest room plus 2 for the permanent residents
Bank or financial institution	1 per 400 sf of GFA plus 4 stacking spaces per drive-through window.
Barber shop, beauty shop, manicurist, spa, or other personal service establishment	1 per 300 sf of GFA
Funeral home	1 per 150 sf of GFA
Medical or dental clinic or office	1 per 400 sf of GFA
Veterinary clinic or office, including animal boarding facility, animal daycare	1 per 400 sf of GFA, excluding GFA of kennels
Car wash	2 stacking spaces per bay
Vehicle service, repair, or body shop including light truck repair	1 per 500 sf of GFA (Service bay spaces shall not be counted as parking spaces)
Express vehicle maintenance, quick-lube, and similar vehicle services	1 per 500 sf of GFA plus 2 stacking spaces per bay (Service bay spaces shall not be counted as parking spaces)
Commercial Uses	
Principal Use	**Required Parking Spaces**

Laundromat	1 per 300 sf of GFA
Vehicle and equipment sales including recreational and heavy equipment sales and service (all required spaces shall be identified as customer parking)	1 Per 500 sf of GFA
Helipad	3 Spaces per helicopter owned or operated
General retail business or service establishment (not otherwise specified)	1 per 300 sf of GFA
Manufacturing and Industrial Uses	
Principal Use	**Required Parking Spaces**
General industry, assembly, manufacturing and manufacturing specialized or similar establishment. Also included Urban farms (indoor and outdoor), contractor yard, dairy factory, distillery (including artisanal), brewery and micro-brewery, utility buildings, power plants and wastewater treatment plants.	1 per 1000 sf of GFA plus 1 per 400 sf of office area. For uses that have a tasting room included (i.e., brewery, microbrewery) the requirement for these areas are 1 per 100 sf of GFA.
Printing and publishing, plumbing, electrical, or similar trade shop	1 per 500 sf of GFA
Warehousing, including office warehouse, wholesaling, and shipping	1 per 2000 sf of GFA plus 1 per 400 sf of office area.

P. **Optional parking computation for planned developments and mixed-use developments.**

1. This option is available for any planned development or mixed use development, as defined by this Ordinance.
2. When any land or building within an approved "planned development" or "mixed use development" (as herein defined) is used for two or more purposes, the number of parking spaces may be computed by multiplying the minimum amount of parking spaces normally required for each land use by the appropriate percentage as shown in the following table. Table 1.05.102 of Optional Parking Computation for Planned Developments lists a parking credit schedule for each of four periods of time. The total number of parking spaces required is determined by adding all the resulting numbers for each of the four time periods. The column total that generates the highest number of spaces then becomes the minimum parking requirement.
3. Spaces marked reserved shall be prohibited for parking areas developed under the optional provisions of this subsection.
4. The provisions of Section 9 Shared parking shall apply in planned developments that are not under single control or common management.

Title 1 – Zoning Ordinance
Chapter 5: Off-Street Parking and Loading Regulations
Table 1.05.102 of Optional Parking Computation for Mixed-Use/Planned Developments

LAND USE IN PLANNED DEVELOP-MENT	# of spaces normally required A	% adjust-ment B	I ESTIMATED WEEKDAY DAYTIME A x B	% adjust-ment C	II ESTIMATED WEEKDAY EVENING A x C	% adjust-ment D	III ESTIMATED WEEKEND DAYTIME A x D	% adjust-ment E	IV ESTIMATED WEEKEND EVENING A x E
Office		100%		20%		20%		5%	
General Retail		75%		80%		100%		70%	
Hotel or Motel		75%		100%		75%		100%	
Restaurant or Tavern		70%		100%		70%		100%	
Movie Theater		45%		85%		70%		100%	
Dwelling		60%		100%		80%		100%	
Place of Worship		20%		60%		100%		60%	
School or Day Care		100%		20%		15%		5%	
Other Uses		100%		100%		100%		100%	
REQUIRED # OF SPACES IS THE GREATEST OF TOTAL I, II, III, OR IV		*TOTAL* I _____		*TOTAL* II _____		*TOTAL* III _____		*TOTAL* IV _____	

Section 5. Bicycle Parking.

Bicycle parking spaces are encouraged. To get a credit that reduces the required number of off-street vehicular parking spaces, bicycle parking must be installed as described below. There is a one for one bicycle space to vehicle space reduction up to a maximum of a 10 percent reduction in required vehicle spaces.

A. Locations.

1. Bicycle parking shall be located within 100 feet of the nearest car parking space to the building entrance.
2. Bicycle parking spaces shall be located in highly visible and well-lit areas to minimize theft and vandalism.
3. Bicycle parking facilities shall not interfere with any vehicular parking spaces or vehicular maneuvering area.
4. Bike rack or locker locations shall not impede pedestrian accessibility.
5. When parking spaces are provided in a structured parking garage, all required bicycle parking spaces shall be located inside the garage on the ground level. Alternative layout to maximize space may be administratively approved by the Director or his or her designee.
6. Alternative Locations. In the event that compliance may not be feasible because of demonstrable hardship, the Director or his or her designee may approve an alternative location. The Director or his or her designee shall consider the following criteria:
   - Alternative locations shall be well lit and secure.
   - All bicycle parking spaces shall be located within a one hundred (100) foot diameter of the primary building entrance.
   - Bicycle parking may be placed in the public right-of-way provided that the building owner obtains a right-of-way use agreement for the installation of racks in the public right-of-way.

B. Layout and Design for Bicycle Racks, as depicted in Figure 1.05.102.

1. Each bike rack shall be designed to accommodate bike parking for two bicycles per loop of the rack.
2. Racks shall be designed to support the bicycle's frame in two places.
3. The racks shall be constructed of durable materials to withstand permanent exposure to the elements.
4. Racks shall be installed with its base in concrete or bolted to large a concrete slab.
5. All bicycle parking spaces must be hard-surfaced consisting of, at minimum, a compact gravel base.

Figure: 1.05.102

Two-bike

One bike/side of loop

Two-bike

One bike/side of loop

Four-bike

One bike/side of loop

The bicycle rack examples above are allowed as they have 2 contact points on the bicycle's frame when bicycles are parked at the rack as recommended by the manufacturer.

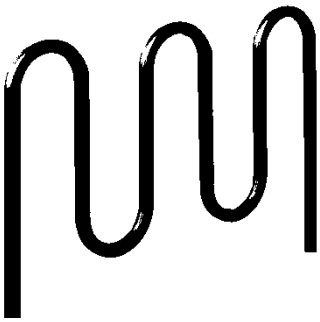
The bicycle rack examples below are **NOT** allowed because they have less than 2 bicycle frame contact points when bicycles are parked at the rack as recommended by the manufacturer.

Multi-bike

(no frame contact)

Multi-bike

(no frame contact)

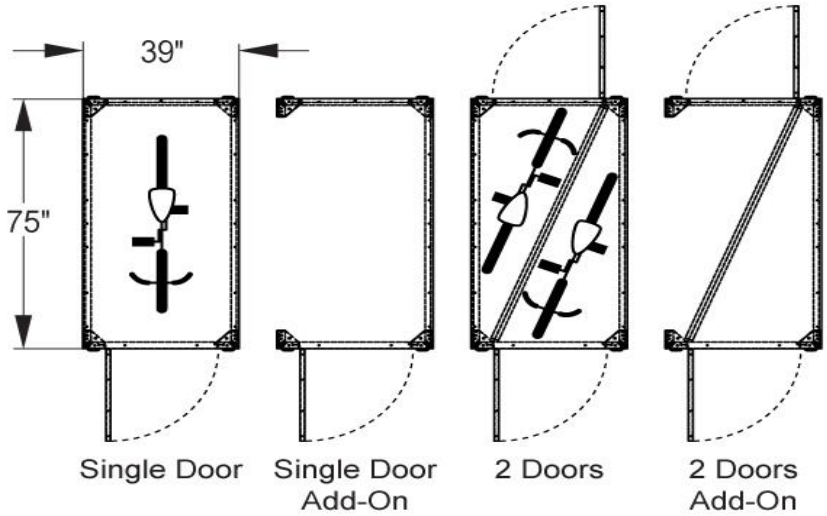


Multi-bike

(one-point of frame contact)

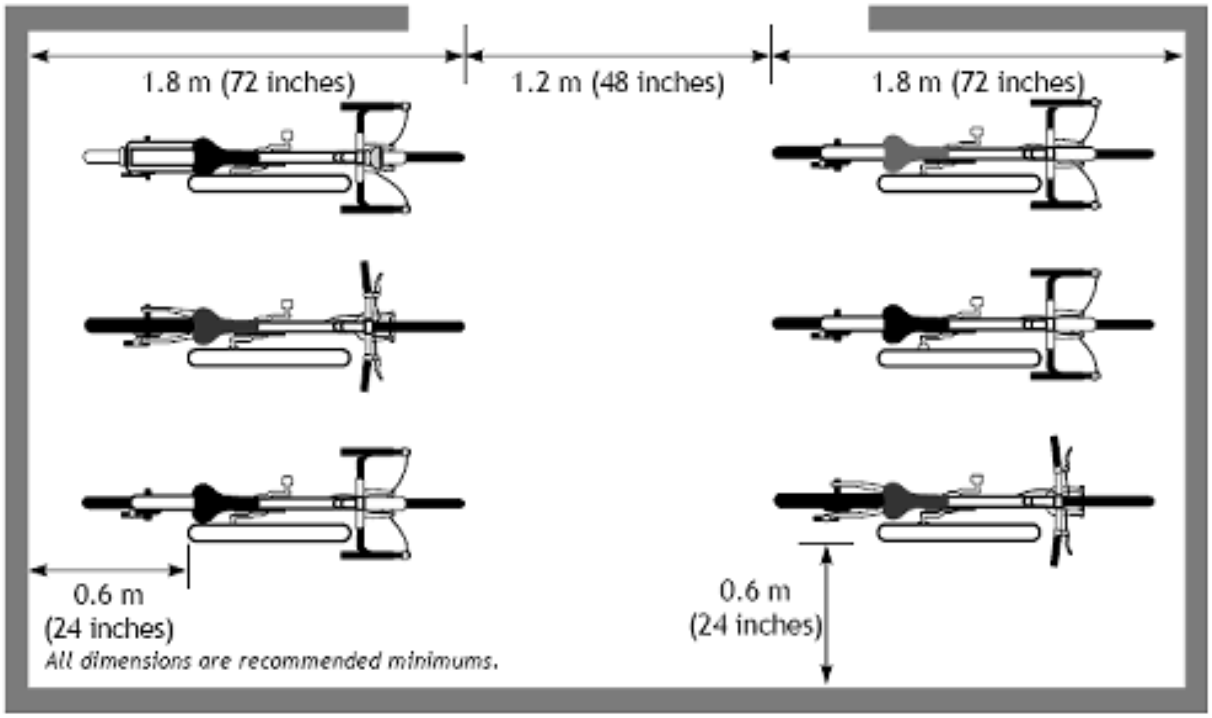
C. Bicycle Locker example:

Figure: 1.05.103



D. **Bicycle Parking Rack Space Size and Access Aisles,**

Figure: 1.05.104



E. Bicycle Parking racks shall have notices posted using the Manual on Uniform Traffic Control Devices "MUTCD" sign, as depicted in Figure: 1.05.105:

Figure: 1.05.105

F. The number of required and provided automobile parking spaces and bicycle parking spaces shall be shown in a chart format on the building permit site plan. Also on the building permit's site plan shall be the parking lot with all parking spaced shown. A detail sheet shall show how to locate and install racks and/or lockers. A reduction in the minimum required automobile parking is allowed equal to the percentage of bicycle parking spaces provided, with a ten (10) percent maximum reduction.

Section 6. Off-street parking dimensional regulations.

A. **Parking space dimensions.** The minimum parking and stacking space dimensions shall be provided as shown in Figures: 1.05.106 and 1.05.107.

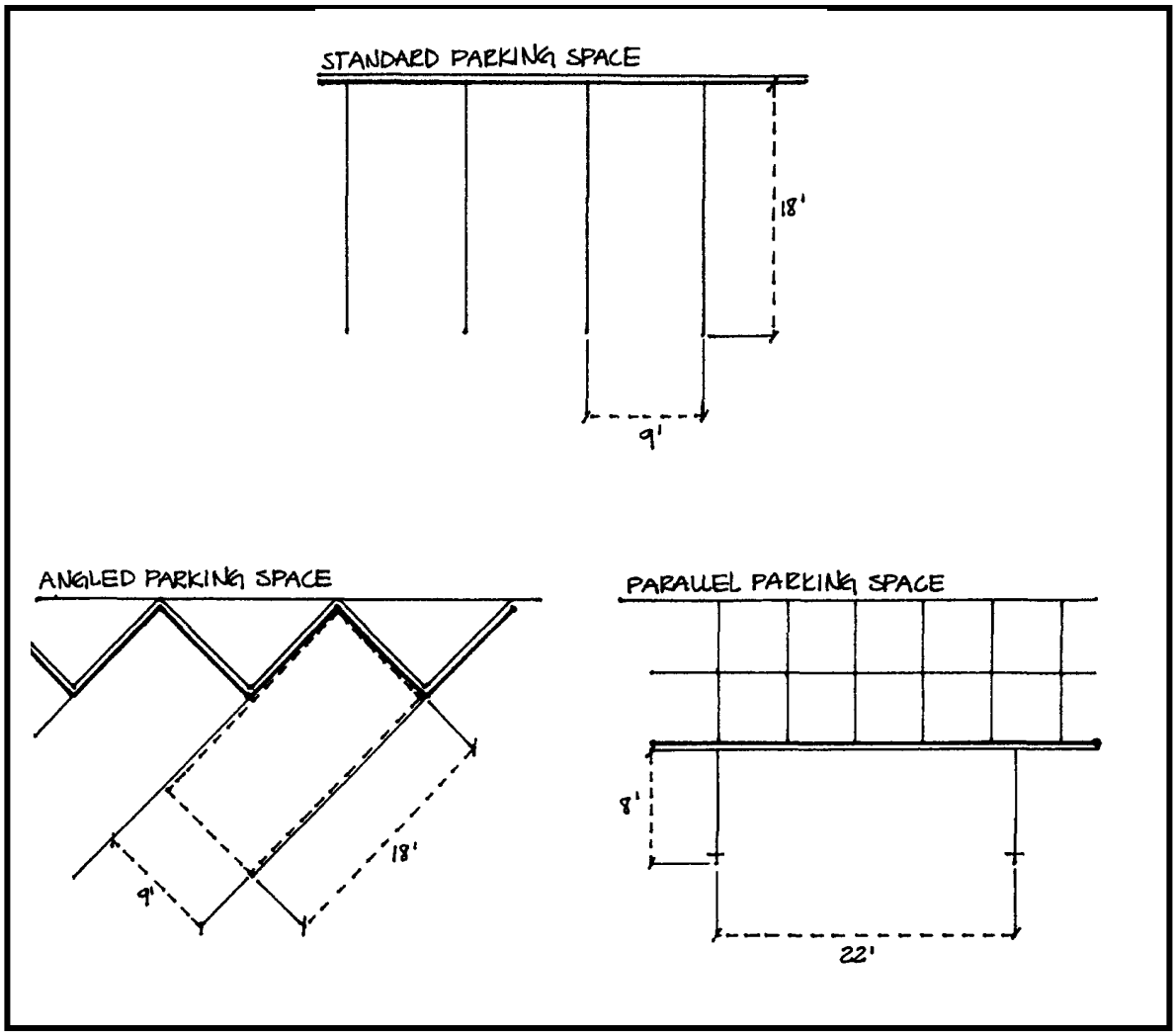


Figure: 1.05.106 Parking Space Dimensions for standard, angled and parallel parking spaces.

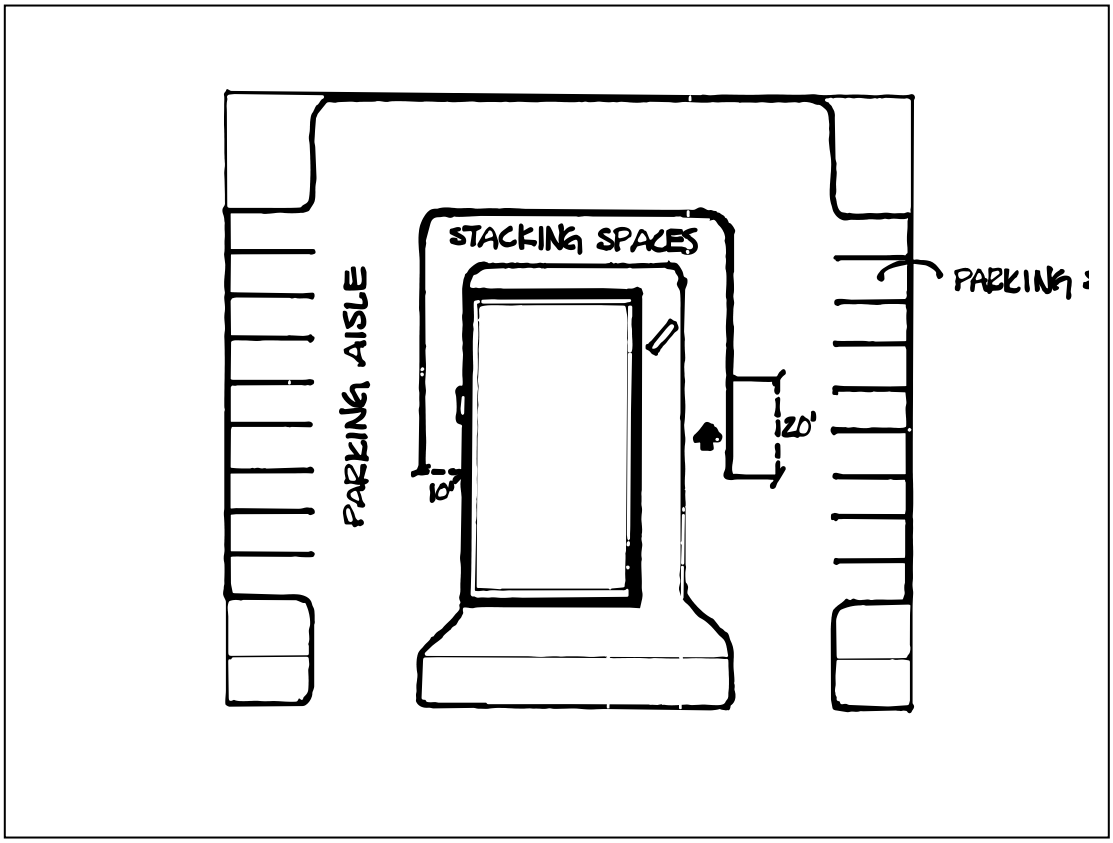


Figure: 1.05.107 Stacking Spaces shall be 10 feet wide and 20 feet long per space.

B. **Parking aisle dimensions.** Parking aisle widths shall conform to Table 1.05.103 that varies the width requirement according to the angle of parking as shown in Figures 1.05.108 and 1.05.109:

TABLE 1.05.103 OF MINUMUM PARKING AISLE WIDTHS					
Angle of Parking (degrees)					
TRAFFIC DIRECTION	Parallel	30	31-45	46-60	61-90
one-way	11’	12’	14’	19’	24’
two-way	22’	*	*	*24’	24’

*two-way traffic direction is prohibited, except for access to parallel spaces or spaces of 60 degrees or greater angle.

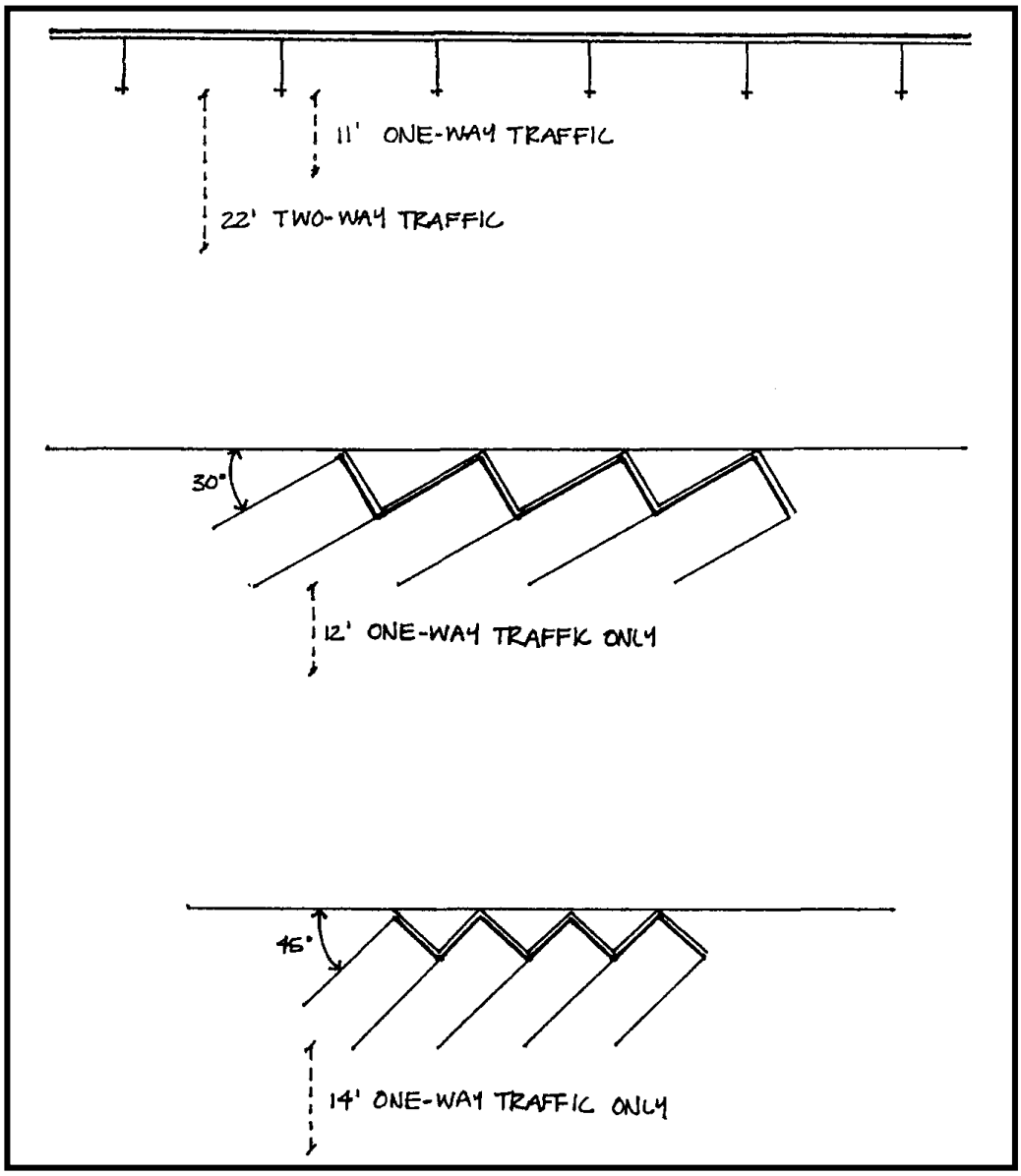


Figure 1.05.108. Parking Aisle Dimensions for parallel and angled parking spaces of 30 and 45 degrees.

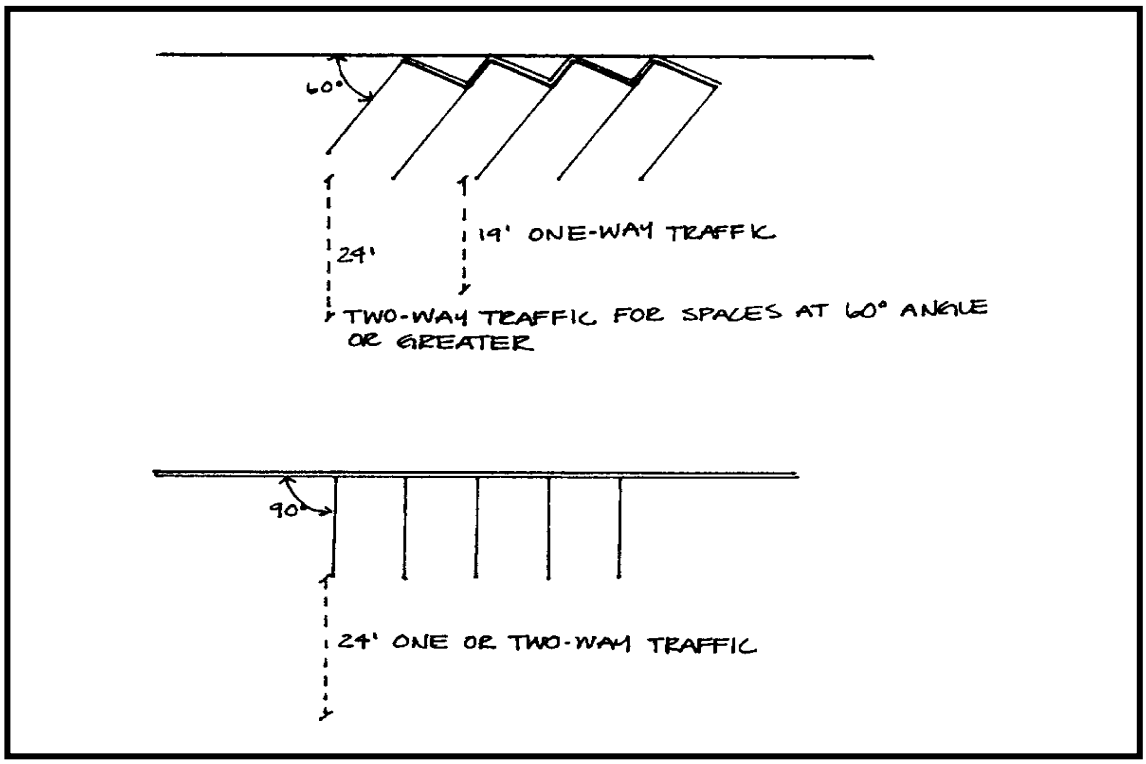


Figure 1.05.109. Parking Aisle Dimensions for angled parking spaces of 60 and 90 degrees.

Section 7. Off-street parking design.

A. **Arrangement of parking areas**

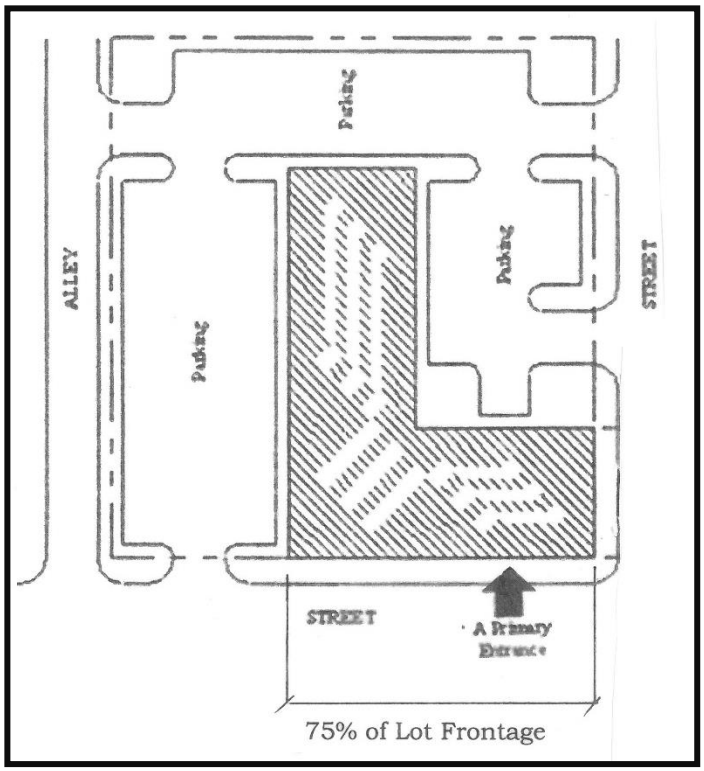
1. Parking areas shall be designed so that vehicles may exit such areas without backing onto a public street, other than an improved public alley that meets the aisle width standards of this Article in Section 6 above. This requirement does not apply to parking areas that serve one or two -family dwellings.
2. All parking areas, except for access driveways, shall be physically separated from any street right-of-way by use of approved curbing or landscape barrier and not the public sidewalk.
3. Parking areas for all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous turning movements.
4. No parking space shall block designated emergency access. Fire lanes may be required by the currently effective *Fire Code for the City of Birmingham*.
5. Except for one or two-family dwellings, access driveways and parking aisles shall not be used to meet minimum parking requirements.

6. No portion of any parking space shall be located within the right-of-way of a street or alley. Parking shall not be in a required front yard or whenever a required front yard exists within the same block face of a dwelling district.

7. For parking areas of 20 or more spaces, a parking and circulation plan shall be subject to approval of the Traffic Engineer.

8. In mixed use zoning districts parking shall be permitted only at the sides and rears of buildings, and at the fronts of the buildings to the extent shown in Figure 1.05.110.

Figure 1.05.110



B. **Illumination.** All lighting fixtures used to illuminate parking areas shall not direct lights on adjoining streets or properties. Any changes to lighting fixtures within a parking area shall require the lighting of the entire parking area to comply with this provision.

C. **Surfacing.** Surfacing of parking and loading areas shall be constructed in accordance with engineering design standards approved by the City Engineer. Except as provided in (1) and (2) below, parking areas shall be permanently surfaced with hard and dust-free materials (such as, asphalt, concrete or pervious concrete or pervious asphalt or concrete PICP pavers (permeable interlocking concrete paving systems). In such cases where a parking surface other than asphalt or concrete is proposed, the City Engineer must determine that the alternative surfacing is practical and sufficient for the given vehicle storage needs.

1. Storage lots for commercial vehicles and trailers (other than passenger vehicles) not used for daily transportation (e.g., truck trailers, moving trailers, RV's, campers, farm implements, construction vehicles) may be approved by the City Engineer for a substitute improved surface, such as, but not limited to compacted gravel. Such substitute surface, where approved by the City Engineer, shall have concrete curbing around the parking area perimeter to confine the gravel.

2. When the proposed number of parking spaces exceeds 100% of the maximum number of parking spaces allowed all excess parking spaces provided must be constructed utilizing Low Impact Development techniques such as, bio-retention cells, vegetated swales, extended detention systems, infiltration trenches, pervious paving or dry wells, to reduce run-off at a rate as established in *City of Birmingham, Engineering Design Guidelines*, is required for those parking spaces which exceed the maximum number of spaces allowed as determined by the Director. Permeable solutions can be based on: porous asphalt and concrete surfaces, concrete pavers (permeable interlocking concrete paving systems - PICP). Grass pavers are excluded for commercial uses. All designs must meet the minimum design specifications of the City Engineer and shall be provided with the site plan.

3. All surfaces shall be maintained, and be in full compliance of all City Ordinances.

D. **Demarcation** of spaces and traffic flow. The Traffic Engineer may prescribe such traffic markers and or signs as deemed necessary to safely and efficiently manage traffic flow. Parking spaces on impervious surfaces (except those serving one or two-family dwellings) shall be demarcated with painted lines and/or signs or other markings approved by the Traffic Engineer. As depicted in Figure 1.05.111, stacking spaces shall not be individually marked but instead shall be clearly demarcated to direct the flow of traffic, as necessary.

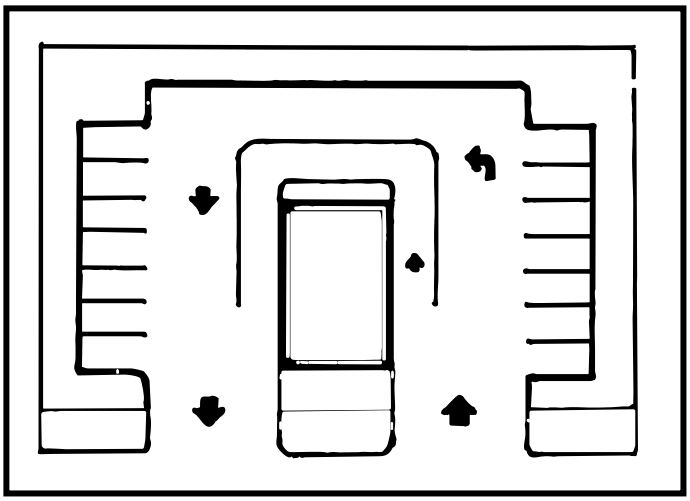


Figure 1.05.111. Demarcation of Spaces and Traffic Flow allow for safe and efficient traffic flow.

E. **Vehicle overhang.** Up to two feet of vehicle overhang over a wheel stop may count toward the required length of a parking space. Vehicle overhang shall not project over a property line, public right-of-way, or required landscaped planted area or an internal private walkway as depicted in Figure 1.05.112.

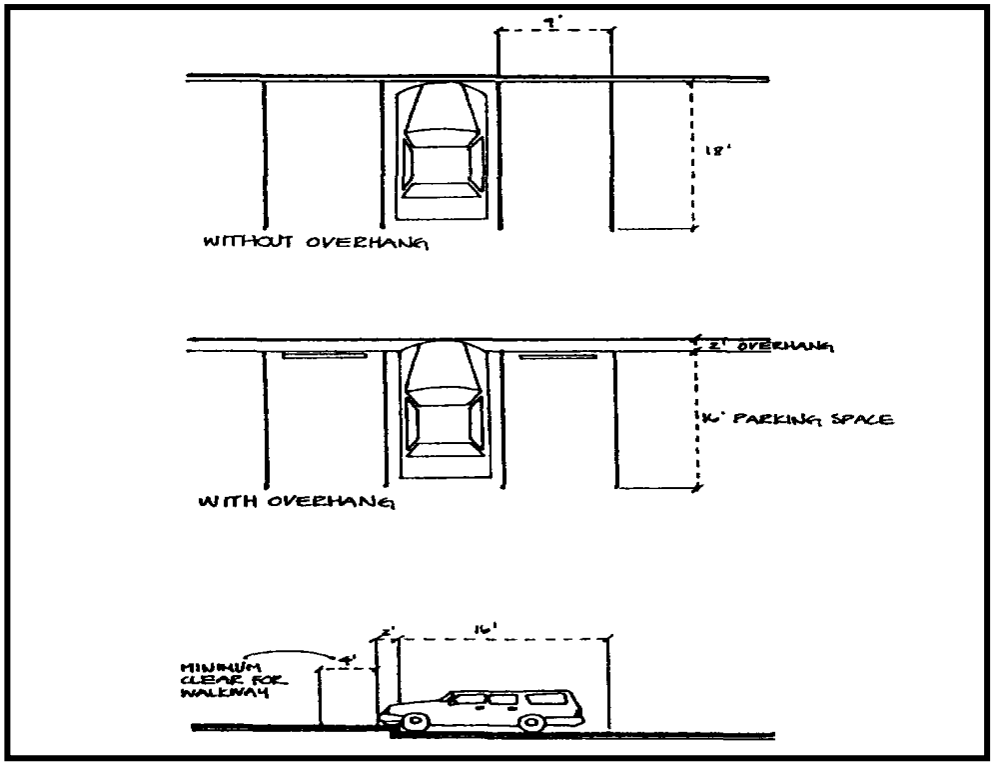


Figure 1.05.112. Vehicle Overhang.

F. **Shopping cart return stations**. For stores providing return stations for customer shopping carts (such as grocery and home improvement stores), the design and location of shopping cart return stations installed within parking areas should be blended into the overall landscape design and contained within interior landscaping areas as depicted in Figure 1.05.113. See Chapter 6 for interior landscaping requirements.

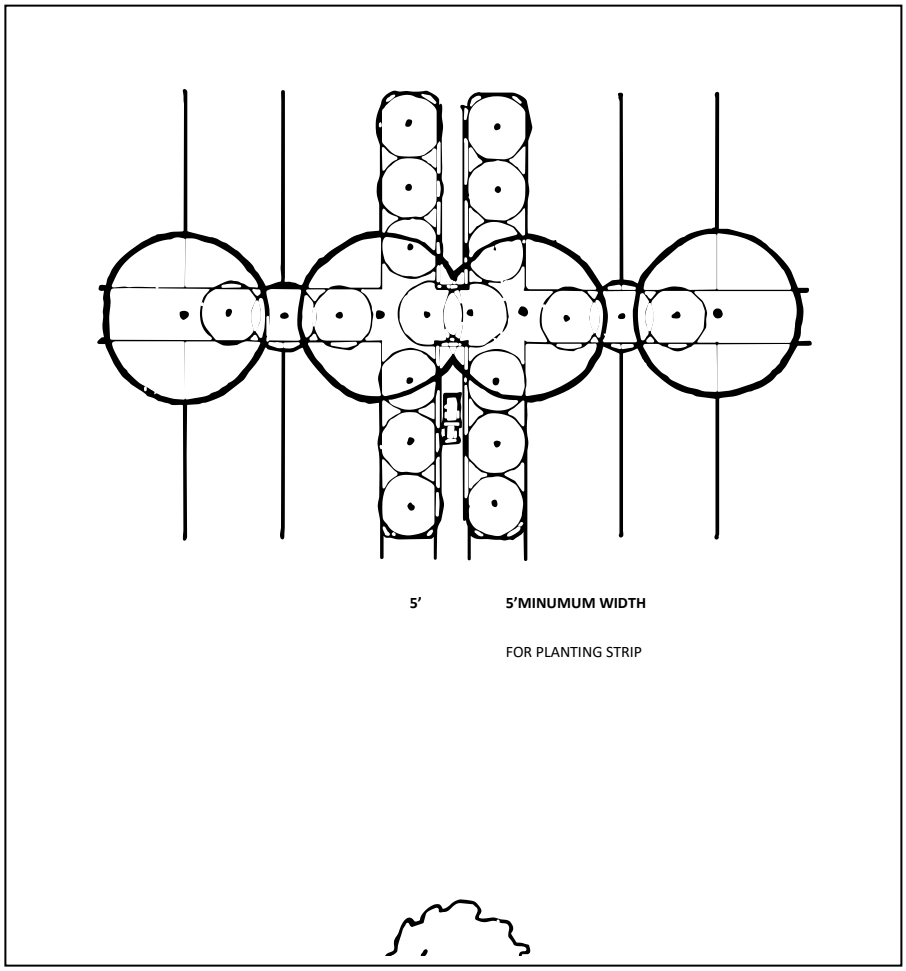


Figure 1.05.113. Shopping Cart Return Station located within a landscaped island.

G. **Drainage.** Drainage for all developments requiring parking, except for one or two-family dwellings, shall direct storm water away from adjacent properties and toward landscaped island swales or adequate detention ponds or off-site drainage channels.

H. **Maintenance.** All parking areas shall be maintained in good condition, e.g., free of potholes, sediment, litter, floatable trash and debris, etcetera by the owner, responsible agents of the owner, tenant, or other person in charge of the property. Pervious areas should be vacuumed as per the manufacture's design specification.

Section 8. Remote parking.

A. All required parking spaces shall be located on the same lot as the use served by the parking, except as approved by special exception granted by the Zoning Board of Adjustment or unless otherwise specified in this ordinance, in accordance with the following criteria:

1. If the number of required parking spaces cannot be provided on the same lot as the use served, remote parking may be provided on a non-residentially zoned lot located within 1,000 feet of the nearest public entrance to the building housing the use as depicted in Figure 1.05.114. If the use is not housed within a building, remote parking spaces shall be located within 1,000 feet of the lot.
2. A vicinity plan must show all off-street parking spaces at both sites including distances and means of pedestrian travel between sites.
3. A remote parking exception requires a written agreement guaranteeing retention of a specified number of parking spaces for the proposed use regardless of whether the intended user owns the property where the spaces are located or otherwise has legal access through a lease, license, or other written permission of the property owner. Such written agreement shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, filed with the application for building permit, recorded at the applicant's expense in the Office of Judge of Probate, and shall be in full force and effect until released by resolution of the Zoning Board of Adjustment. A copy of all required documentation shall be maintained in the official case file of the Zoning Board of Adjustment.
4. Remote parking must be an approved use in the zoning district where the remote parking facility is located and approved by the Zoning Board of Adjustment.
5. Remote parking areas shall be clearly marked *RESERVED* for the use served.

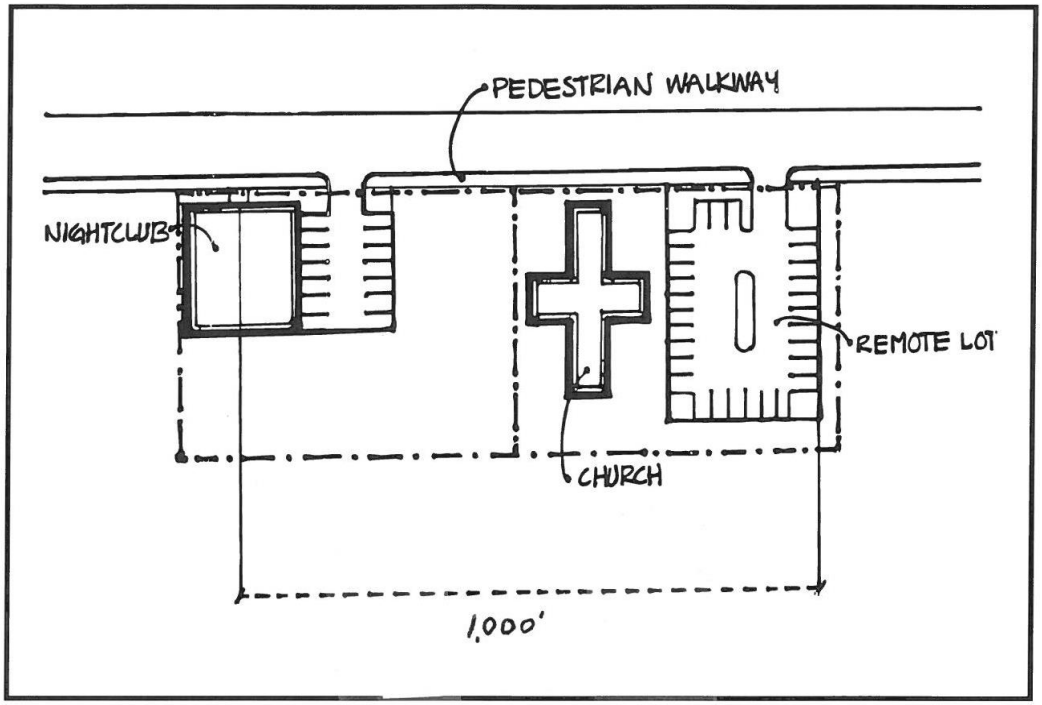


Figure 1.05.114. Remote and Shared Parking

Section 9. Shared parking

A shared parking area may contain required parking spaces for more than one use on the same lot or on an approved remote parking lot as depicted in Figure 1.05.114 above. The total number of spaces must comply with the required parking for all uses combined.

If, however, the combined multiple uses can use the same spaces at different times, the same spaces may be credited to required parking for each separate use, provided a special exception has been granted by the Zoning Board of Adjustment. The applicant for a multiple use parking lot must present satisfactory legal documentation of a shared parking agreement and a time schedule for allocation of shared spaces. A written agreement guaranteeing retention of a specified number and time schedule for allocation of parking spaces by the shared uses shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, filed with the application for building permit, recorded at the applicant's expense in the Office of Judge of Probate, and shall be in full force and effect until released by resolution of the Zoning Board of Adjustment. All required documentation shall be maintained in the official case file of the Zoning Board of Adjustment.

Section 10. Parking inside structures.

Required parking spaces may be provided in parking garages, roof parking on buildings, parking within buildings, and underground parking. Such parking spaces shall meet the parking space and aisle width requirements of this Chapter.

Section 11. Residential Driveways.

A. All driveways, maneuvering areas, and parking spaces must be a suitable hard surface or pervious surface (see Chapter 5, Section 7, C.2) as approved by the City Engineer.

B. Driveways must provide continuous access to a parking space in a side or rear yard or driveways must provide continuous access to a garage within house or an attached carport that is built of similar materials to the main structure.

C. Parking spaces in side yard must extend 18 feet beyond front edge of house.

D. Parking spaces in side yard must also be at least 18 feet by nine feet.

E. Maneuvering areas in front yards shall be limited to 20 percent of the required front yard, including hammer-heads and circular drives, and must connect to an existing driveway providing continuous access to a parking space in the side or rear yard or a garage within the structure.

F. All maneuvering areas, including hammer-heads, and circular drives shall be considered parking spaces and shall count towards the maximum parking after a 100 percent increase has been applied to the maximum parking requirement for residential uses. Driveways providing access to legal parking spaces shall not be counted as parking; provided that the driveway is designed to follow the shortest possible route to said legal parking spaces.

G. Driveways shall be no more than 12 feet wide at the right-of-way; except for driveways providing access to two-car garages, in which case, said driveway shall be no wider than 20 feet.

Article II. Required off-street loading spaces.

Section 1. Applicability.

Except as provided in the B-4 and MU-D Mixed Use Downtown District, any use with a gross floor area (GFA) of 6,000 square feet or more which requires deliveries and shipments must provide off-street loading spaces in accordance with Table 1.05.201 Required Off-Street Loading Spaces. All plans submitted with a building permit application shall contain a table which clearly summarizes the required number of off-street loading spaces, the use requiring loading spaces (e.g., storage warehouse), the GFA and corresponding loading spaces required (e.g., 30,000 sf of GFA -2 spaces), and the number of loading spaces provided.

Section 2. Non-listed uses.
In situations where the required number of loading spaces is not determinable by the Table 1.05.201, the Director is authorized to determine the loading space requirements.

Section 3. Fractional spaces.
When determining the total required spaces, any fractional space shall be rounded up to the next whole number.

Section 4. Use of required spaces.
Required loading spaces, associated aisles, and access driveways shall be used exclusively for vehicle loading and unloading. No parking space, structure, sign, outdoor storage, sales display, vehicle sales, or any other use other than loading shall be permitted within a required loading area.

Section 5. Table of Required Off-Street Loading Spaces.

Every retail establishment, office building, funeral home, multifamily apartment buildings of 20 or more units, restaurants, nursing home, or similar use shall provide off-street loading spaces, as follows:

TABLE 1.05.201 REQUIRED OFF-STREET LOADING SPACES

GFA of Building	Required # of Loading Spaces
20,000 - 35,000	1
35,001 - 80,000	2
80,001 – 128,000	3
128,001 – 199,000	4
199,001 – 256,000	5
256,001 – 320,000	6
320,001 – 392,000	7
each additional 72,000 square feet	1

Every public assembly use: auditorium, convention hall, exhibition hall, stadium, and industrial use: manufacturing use, storage warehouse, freight terminal, or hospital and hotels of 30,000 square feet or more, and similar uses shall provide off-street loading spaces, as follows:

GFA of Building	Required # of Loading Spaces
6,000 - 30,000	1
30,001 - 45,000	2
45,001 – 120,000	3
120,001 – 198,000	4
198,001 – 291,000	5
291,001 – 390,000	6
390,001 – 489,000	7
489,001 – 588,000	8
588,001 – 690,000	9
each additional 105,0000 square feet	1

Section 6. Off-street loading design standards.

A. **Dimensional standards.** Each loading space shall have a minimum rectangular area of 12 feet width and 55 feet length, exclusive of driveway and maneuvering space, except when the Director determines that the space can be reduced in size or eliminated. Each space shall allow vertical clearance of 14 feet height as depicted in Figure 1.05.201.

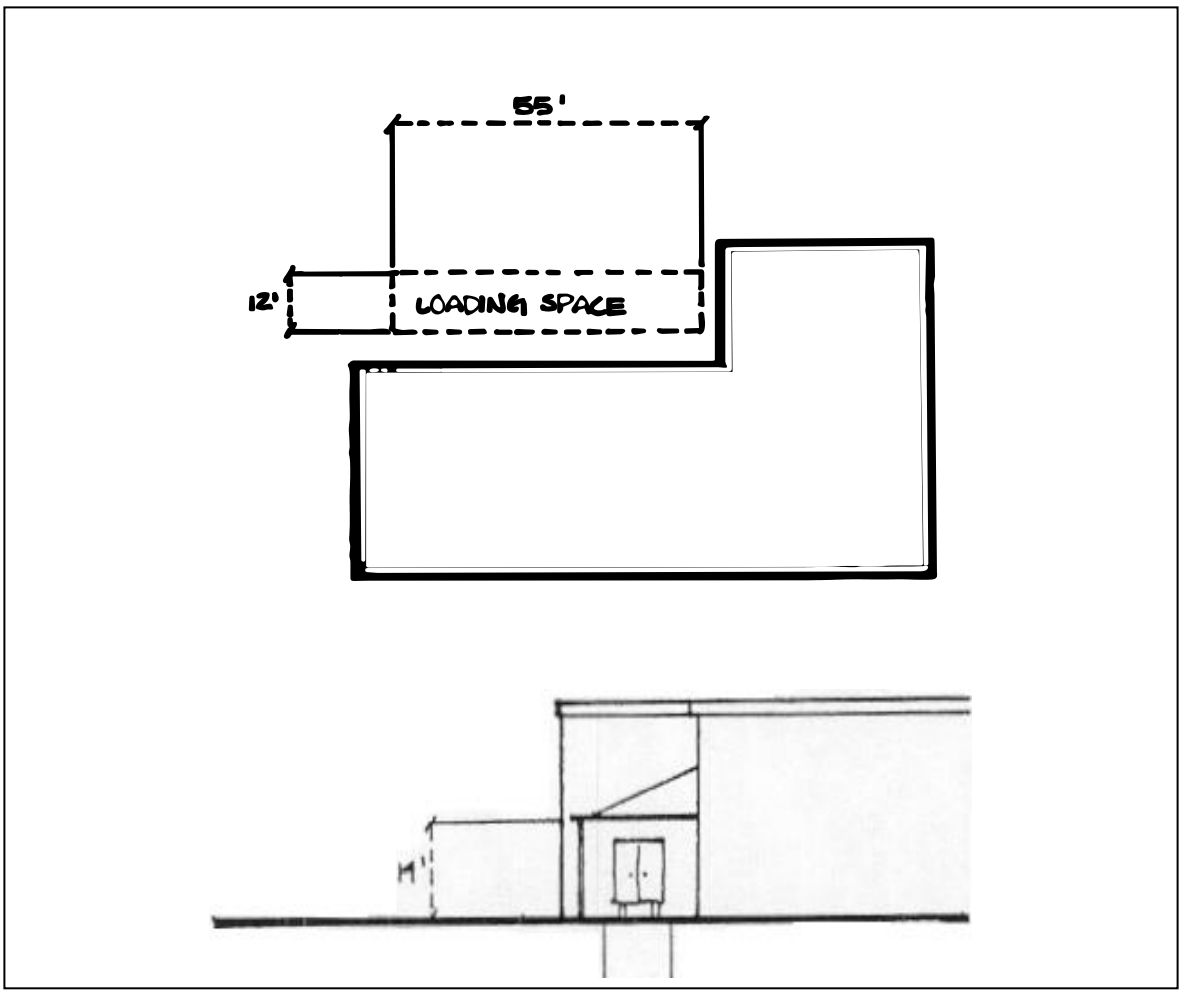


Figure 1.05.201. Loading Space Dimensions

B. **Yard and setback restrictions.** No loading space shall be located within the required front yard.

C. **Arrangement of spaces.**

1. No loading space shall be used to meet the parking space requirement, interfere with the on-site circulation of traffic, or allow a truck to extend into any street right-of-way or over any property line.

2. Loading areas shall be designed so that vehicles may enter or exit such areas without backing onto a public street, other than an improved public alley of sufficient maneuvering width.

D. **Lighting.** All lighting fixtures used to illuminate loading areas shall not direct light on adjacent streets or properties.

E. **Location.** All required loading spaces shall be located on the same lot as the principal use served by the spaces.

Section 7. Conflicting requirements.

Whenever the requirements of this Article are more or less restrictive or in any way conflict with any other provision of this Ordinance or any statute, law, code, regulation, ordinance, or enforceable guideline, the more restrictive requirements shall apply.

Article I. General Provisions

Section 1. Purpose and intent.
The general purpose of this chapter is to set standards for landscaping, buffering, and screening to implement the goals of the comprehensive plan. Further, this chapter establishes standards for screening and landscaping parking areas to reduce their impact on adjacent properties and public thoroughfares, as well as to mitigate the environmental impacts of large areas of unbroken pavement; establishes standards for buffering between different zone districts or selected land uses to mitigate the results of differing activities; and sets standards for plant materials, maintenance of required plants, and standards for the screening of unsightly areas.

Section 2. Landscape plan required.
A landscape plan shall accompany any application for master development plan or final site plan approval unless exempted by Section 5, Exceptions. The plan shall show location, size, spacing, species, plant schedule, planting instructions, fences, walls and all proposed materials intended to fulfill the requirements of this chapter. The plan shall also show location of all utilities easements, lighting and either an underground sprinkler system or hose bib attachments or a statement on the plan from a Landscape Architect that indicates a watering system is not needed due to the use of xeriscape.

Section 3. Standards for form and quality of plants.
Plants installed as a result of the provisions of this chapter shall meet the standards for size, form and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition), and shall be listed on the plant list in Table 1.06.301 at the end of this chapter. Species of trees shall be varied throughout a landscape plan so that no one species of tree equals more than 25 percent of the total number of trees required.

Section 4. Spacing standards.
Unless specific minimums or maximums are set out in the following articles, landscape plantings required under this chapter may be irregularly planted and spaced at random.

Section 5. Exceptions.
The requirements of this chapter shall not apply to:

A. Improvements or repairs to interior and exterior features, such as painting and roofing of existing structures.

B. Construction previously authorized by a building permit that remains valid on the effective date of this Ordinance. Any development whose building permit expires shall not be exempt.

C. The interior planting requirements of Article II, Section 4 shall not apply to auto sales lots, service loading areas or to tractor trailer staging, loading and parking areas, but these areas shall mitigate the effects of stormwater runoff as approved by the Director.

Section 6. Special screening regulations.
Screening of unsightly areas and landscaping of residential areas shall be accomplished as follows:

A. Dumpsters and other trash receptacles for all structures other than single-family or two-family residences shall be screened from public streets and adjoining property. Receptacles shall be placed on a concrete pad and shall be enclosed by an opaque fence or wall at least eight feet in height. An enclosure shall have an opaque gate. The enclosure shall be built of wood, masonry or other permanent materials and evergreen plants may be used in part to meet the requirement of opacity. On sites which are developed at the time of adoption of the ordinance codified in this chapter and which are subsequently upgraded, dumpsters shall be screened to meet the standards set out in this section if any single expansion of the site increases the total building area.

B. Buffer Required for Double Frontage Lot. In cases where residential lots are developed with frontage and access to a street within the subdivision and the rear of the lot is oriented toward a public right-of-way, the rear of such double frontage lots shall be buffered from the public right-of-way according to the following standards:

Street Type	Buffer Standard
2 lane street	Standard A
3 lane street	Standard B
4 or more lane street	Standard C

C. Mechanical equipment, antennae or satellite dishes exceeding eighteen inches in diameter shall not be located within required buffers or required front yard setbacks. Mechanical equipment or satellite dishes exceeding eighteen inches in diameter located atop a building shall be screened from all abutting public streets and residential properties by enclosure within the roof form of the building or a screen.

D. Parking areas servicing multifamily and non-residential uses which have ten or more parking spaces and are located abutting residentially zoned properties shall be screened by a permanent opaque fence or wall at least six feet in height, in addition to the parking area perimeter landscaping or buffer required.

E. The exterior service area of a commercial, manufacturing or industrial building, if oriented toward a public street, shall be screened as follows:

1. When oriented to a street with 2 or 3 lanes, screen with a Standard C buffer.
2. When oriented to a street with 4 or more lanes, screen with a Standard B buffer.

F. In addition to the requirements imposed by Articles II and III of this chapter, areas used for the temporary or permanent storage of inoperable or damaged vehicles shall be screened from properties zoned residential and from public streets by means of an opaque fence or wall not less than eight feet in height.

G. Special Conditions for Heavy Industrial Uses. In all districts, when a use that is only permitted in I-2 or M-2 Industrial District and it is adjacent to a Dwelling District, the heavy industrial use shall conform to the buffering and operational provisions of Chapters 6, Article III within three years of September 18, 2018 or the effective date of this Ordinance amendment, whichever is later.

H. In all R-5, R-6, R-7, D-5, B-1, C-1, B-2, C-2, an MU-L, MU-M districts, excluding single-family and two-family dwellings, in addition to landscape requirements for parking areas, 5 percent of the remainder of the lot, exclusive of areas occupied by structures and parking, shall be landscaped. Said landscaping shall include a combination of shrubs, trees and ground cover.

I. Buffer Required for Utility Installations and Cemeteries. In cases where utility installations or cemeteries are developed adjacent to residentially or commercially zoned property, the utility installation shall be screened by a buffer according to the following standards:

Zoning District	**Buffer Standard**
C-1, C-2 AND AG	Standard A
MU-L,MU-M,MU-H, MU-D,PRD,MXD AND HID	Standard B
D-1,D-2,D-3,D-4,D-5, AND D-6	Standard C

J. In all E-1, R-1, D-1, R-2, D-2, R-3, D-3, R-4, R-4A, D-4, R-8 and D-6 districts shall be landscaped according to the following standards:

1. On all single-family, two-family, triplex and quadplex lots, one canopy tree, two understory trees and six shrubs shall be planted on the lot. If a lot is larger than 10,000 square feet, then two canopy trees, three understory trees and eight shrubs shall be planted per lot.

Section 7. Maintenance of required landscape materials.
The property owner shall maintain landscaping required by this chapter in accordance with the following standards:

A. Use of Required Landscape Area. No required landscape area shall be used for accessory structures, garbage or trash collection, parking, or any other functional use contrary to the intent and purpose of this article.

B. Watering. All required landscaping, excluding landscaping planted on single-family or two-family residential property, shall be watered by one of the following methods, unless all plant material listed on landscape plan is listed on Table 1.06.301 as a xeriscape species:

   1. An underground sprinkler system;

   2. An outside hose attachment within 100 feet of all landscaping.

C. Replacement of Dead Materials. The property owner shall replace required plants which die or are otherwise removed from site for any reason. Replacements shall be installed at the earliest possible time within a planting season, and replacements shall be as shown on the approved landscape plan.

Article II. Parking Area Screening and Landscaping

Section 1. Purpose and intent.
The purpose of this article is to lessen the adverse visual and environmental effects that large parking areas can have on the community through the use of minimum landscaping standards. This article establishes the minimum standards by which parking areas will be screened from adjacent public streets or from adjacent properties. In addition, this article delineates standards for landscaping within the interiors of parking areas.

Section 2. Applicability.
The following requirements are cumulative, not exclusive.

A. Perimeter Parking Area Landscaping Required. The perimeter parking area landscaping requirements of this article shall apply to all off-street parking facilities adjacent to a public street or to a property line which:
   1. Have five or more parking spaces; or
   2. Are larger than 1,750 square feet in area.

   Parking areas within the B-3, MU-H, B-4 AND MU-D zoning districts shall be exempt from the side property line planting requirements of this article.

B. Interior Parking Area Landscaping Required. The interior parking area landscaping requirements of this article shall apply to all off-street parking facilities which:

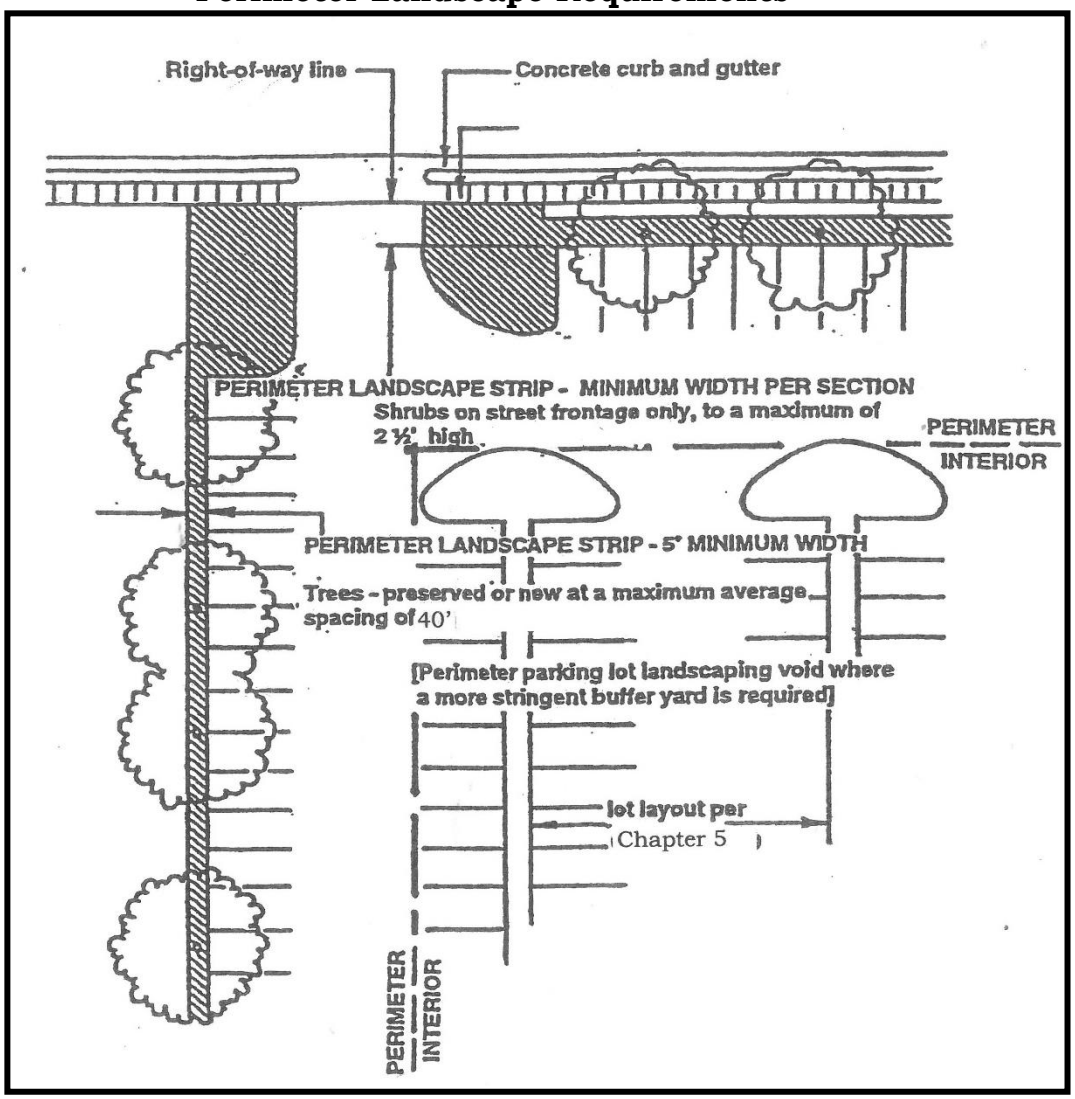
   1. Have 20 or more parking spaces; or
   2. Are over 3,500 square feet in area.

   Principal use parking areas located in the B-3, MU-H, B-4 AND MU-D districts on properties with less than 100 feet of public street frontage or with less than 30 parking spaces shall reduce the interior planting requirements of this title by 50%.

C. Required parking area screening and landscaping shall not be permitted in utility or drainage easements unless approved by the affected utility and, if approved, the property owner shall execute and record a restrictive covenant agreeing to full replacement of plant materials, by the owner, which may be removed by the utility in the exercise of its rights within the easement.

Section 3. Perimeter landscaping requirements.
Unless supplanted by more stringent standards in Article III of this Chapter, Landscape Buffer Yard Requirements, the perimeters of parking lots, as depicted in Figure 1.06.201 shall be landscaped as follows:

Figure 1.06.201
Perimeter Landscape Requirements

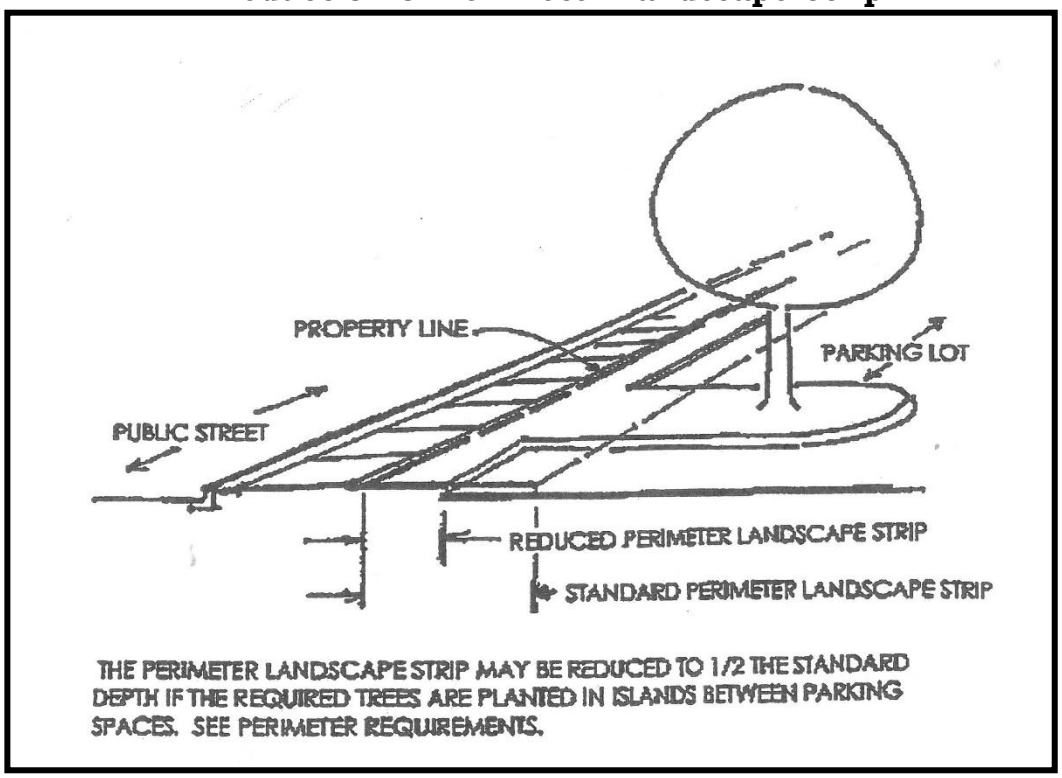


A. Parking Areas Adjacent to Public Streets. Parking areas adjacent to public streets shall be separated from the edge of the right-of-way by a perimeter landscape strip which shall be landscaped per the standards set out in

subsection C of this section. Perimeter landscape strips shall be continuous and unbroken except for driveways or sidewalks required to access the parking area, and should be designed to utilize devices such as bio-retention cells, vegetated swales, infiltration trenches, and dry wells to reduce run-off and offset the use of engineered retention systems, in whole or in part. No single driveway/sidewalk penetration shall exceed 35 feet, unless the Traffic Engineer approves a larger driveway.

1. Perimeter landscape strips adjacent to public streets with four or more travel lanes shall be a minimum of 10 feet in width, unless: (a) the strip includes a permanent finished masonry wall no less than 30 inches in height; or (b) the required trees are planted in parking lot islands adjacent to the perimeter of the lot. In such cases the perimeter landscape strip may be reduced to five feet in width, as depicted in Figure 1.06.202; or (c) when the site is located in a B-3, MU-H, B-4 or MU-D, the planting strip shall be reduced to 48 square foot tree wells for each required street tree.

Figure 1.06.202
Reduction of Perimeter Landscape Strip



2. Perimeter landscape strips adjacent to public streets with less than four travel lanes shall be a minimum of five feet in width, unless: (a) the strip includes a permanent finished masonry wall no less than 30 inches in height; or (b) the required trees are planted in parking lot islands adjacent to the perimeter of the lot. In such cases the perimeter landscape strip may be reduced to two and one-half feet in width, as depicted in Figure 1.06.202; or (c) when the site is located in a B-3, MU-H, B-4 or MU-D, the planting strip shall be reduced to 48 square foot tree wells for each required street tree.

3. Permanent landscape strips which use earthen berms are desirable for the reliability of the screening effect they provide. If the proposal includes an earthen berm within the perimeter landscape strip, the continuous strip of evergreen shrubs called out in subsection C of this section (Landscape Materials) may be deleted. Berms shall not have slopes steeper than 2:1 (horizontal to vertical). Berms with slopes flatter than 4:1 may be stabilized with lawn grasses, and berms with slopes in the range of 2:1 to 4:1 shall be stabilized by a continuous perennial plant groundcover which does not require mowing in order to maintain a neat appearance. The wall or combination of berm and perennial groundcover shall be a minimum of two and one-half feet in height.

B. Parking Areas Adjacent to Side Property Lines. Except for in the B-3, MU-H, B-4 and MU-D, a perimeter landscape strip shall separate a driveway or parking area from an adjacent side property line by one of the following standards: (a) a five-foot (minimum) wide planting strip shall be provided if required trees are to be planted within the strip; (b) a two and one-half foot (minimum) planting strip may be provided to accommodate shrubs if all required trees are planted within tree islands located adjacent to the property line; or (c) two adjacent properties may share equally in the establishment of a seven-foot (minimum) planting strip along the common property line. In instances where the common perimeter planting strip is part of a plan for shared access, each owner may count the respective area contributed toward that common planting strip toward the interior planting area requirements for the lot. All perimeter landscaping strips along a side property line shall be planted to satisfy the planting requirements of subsection C of this section, and should be designed to utilize devices such as bio-retention cells, vegetated swales, infiltration trenches, and dry wells to reduce run-off and offset the use of engineered retention systems, in whole or in part.

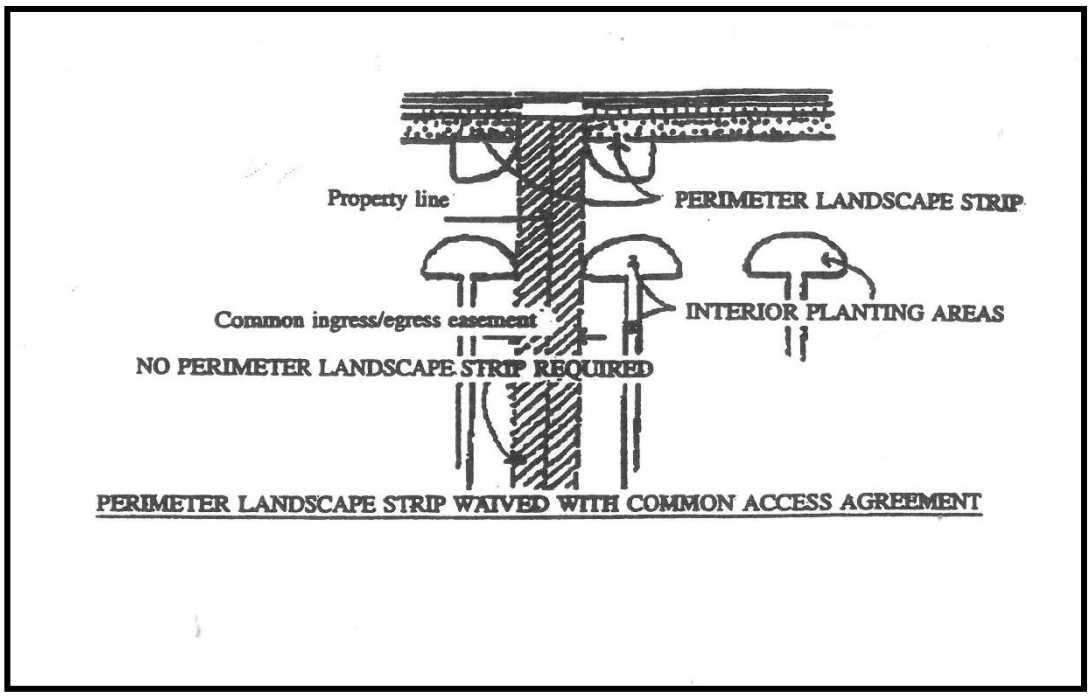
C. Landscape Materials. When parking lots are adjacent to a public street or common property line, a minimum of one street tree along public streets and one canopy tree along common property lines shall be planted for each 40 feet of parking area perimeter, or portion thereof; for principal use parking lots located within the mixed use high and downtown districts, street trees shall be installed at the rate of one tree per 20 feet of street frontage. Trees planted to meet this requirement shall be listed on Table 1.06.301 and measure a minimum of two inches in caliper, and six

feet in height, as applicable for the type of material specified. Except for B-3, MU-H, B-4 and MU-D districts, the remaining area within the perimeter landscape strip which fronts on a street right-of way shall be planted with one continuous opaque row of evergreen shrubs which shall be expected to mature at a height of at least two and one-half feet, except as modified for berms or walls. The remainder of the area within all perimeter strips not occupied by trees or shrubs shall be covered by organic or mineral mulches, other shrubs, groundcover plants or grassed lawns. The use of concrete, asphalt or other impervious surfaces shall be prohibited.

D. Corner Visibility. Trees and other landscaping required in the perimeter landscape strip shall be maintained to assure unobstructed site lines per the Traffic Engineer.

E. Adjacent Parking Areas with Shared Access. Parking areas on adjacent properties, which are designed to share a common access from the public right-of-way and a vehicular travel-way along their common property line shall be exempt from the requirement for a parking area perimeter landscape strip along their common property line, as depicted in Figure 1.06.203, upon the recording of an easement agreement which provides for the mutual right of ingress and egress for both property owners.

Figure 1.06.203
Waiver of Landscape Strip

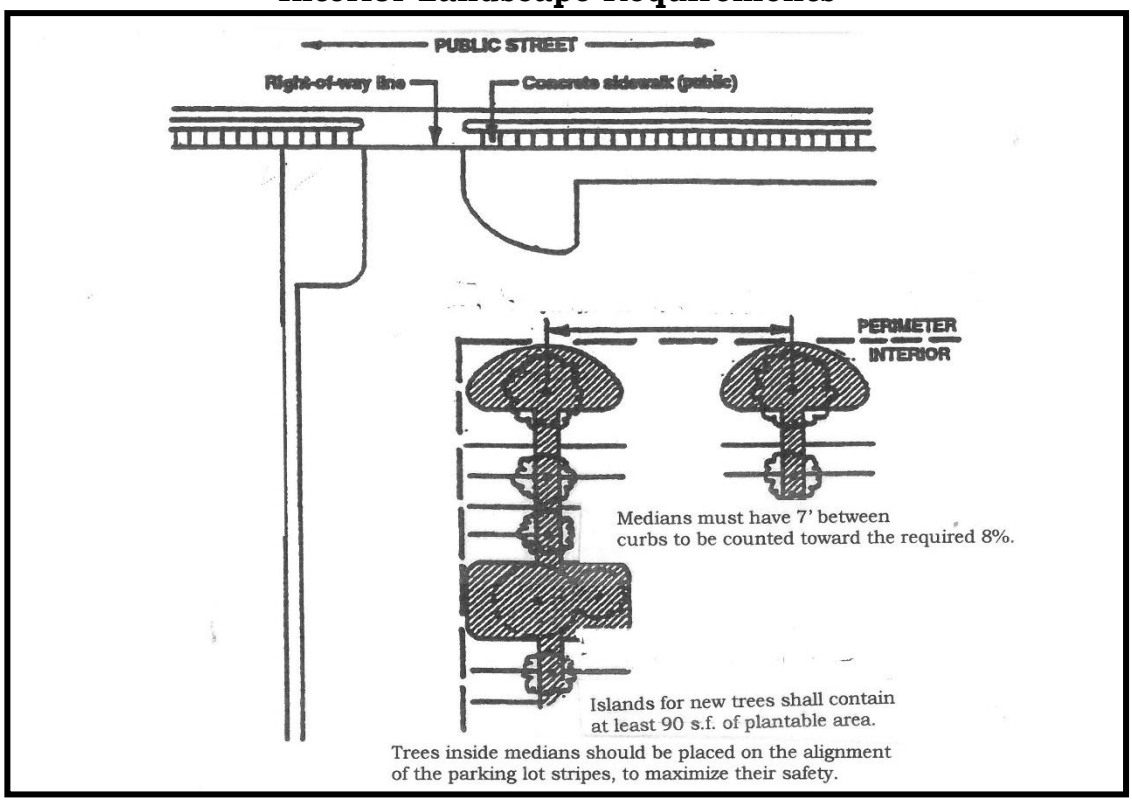


Section 4. Interior planting requirements.

A. General Requirements. Except for parking lots containing fewer than 30 spaces within B-4, MU-H, B-4 and MU-D districts, at least eight percent of the gross area of the parking area shall be landscaped in interior planting areas that are to be located within or adjacent to the parking area as tree islands, at the end of parking bays or inside seven foot wide or greater medians, as depicted in Figure 1.06.204, and should be designed to utilize devices such as bio-retention cells, vegetated swales, infiltration trenches, and dry wells to reduce run-off and offset the use of engineered retention systems, in whole or in part. Parking lots containing fewer than 30 parking spaces within B-3, MU-H, B-4 and MU-D districts shall be exempt from the eight percent landscaping requirement and the seven foot median requirement, but shall be required to install street trees as described below less 50 percent. Interior planting areas shall be located to provide shade in large expanses of paving and contribute to orderly circulation of vehicular and pedestrian traffic.

1. Trees shall be required at the minimum of one canopy tree, as listed on Table 1.06.301, for every eight parking spaces. Required trees shall be at least six feet in height and two inch caliper. For principal use parking lots located in the B-3, MU-H, B-4 and MU-D districts not otherwise exempt from the interior planting requirements, street frontage trees planted to satisfy the requirements of Section 3 of this Article shall count towards the interior planting requirements of this section.

Figure 1.06.204
Interior Landscape Requirements



B. Minimum Size of Interior Planting Areas.

1. In all districts except mixed use high and downtown, a minimum of 90 square feet of planting area shall be required for each new canopy tree.
2. For parking lots within the B-3, MU-H, B-4 and MU-D zoning districts, a minimum planting or tree grate area of 48 square feet shall be required for all new and existing trees.

Section 5. Nonconforming parking areas.
When the gross area of a nonconforming parking area is increased, compliance with this article is required as follows:

A. Expansion by 25 Percent or Less. When a parking area is expanded by not more than 25 percent, only the expanded area must be brought into compliance with this article.

B. Expansion by More than 25 Percent. When a parking area is expanded by more than 25 percent, the entire parking area (pre-existing and expanded) shall be brought into compliance with this article.

Article III. Buffer Requirements

Section 1. Purpose and intent.
The purpose of this article is to protect the value and integrity of property from the potential adverse effects of non-compatible land uses. To that end, this article requires that buffers be provided at the boundaries of selected zoning districts. The buffer standards of this article are also employed by other chapters of this title to accomplish special screening and buffering objectives. The width of the buffer and the intensity of plantings required may vary depending upon the relative intensities of the abutting zoning districts or the activity itself. In most cases, the property owner may choose among a number of buffer yard widths and plantings to satisfy the requirement.

Section 2. Exemptions.
Except when the principal use is allowed in an I-2 district, no buffer shall be required in the following situations:

A. When a zoning boundary falls along a public street containing four or more travel lanes, or along an elevated railroad bed, utility line easement of 50 feet wide or greater, or controlled access highway.

B. When a zoning boundary falls along a public street or alley within the mixed use high and downtown districts.

C. When a zoning boundary falls along an alley in the MU-H OR MU-D districts and uses on both sides of the alley are residential. In all other situations, a minimum B-4 buffer may be substituted for the required buffer.

Section 3. Determination of landscape buffer yard requirements.
Generally, a buffer shall be located at the perimeter of the building site along zoning district boundaries, or otherwise coincident with the edge of a specified facility that is to be screened, and shall not be located in any portion of a public right-of-way. When a zoning district boundary falls along a public street of less than four travel lanes, a B-2 buffer may be substituted in lieu of the standard buffer required by Table 1.06.301, except when the more intense use allowed is located in an M-2 or I-2 district. In applying the buffer standards of Table 1.06.301, the director may take into consideration the future zoning designation of the abutting property as envisioned by the comprehensive plan to the extent that existing land uses are reasonably protected by an effective buffer. When the gross floor area of a building legally existing on the effective date of the ordinance codified in this section is enlarged by more than twenty-five percent, that perimeter portion of the property in proximity to the area of expansion shall be brought into conformance with the buffer standard of this code to the greatest extent considered reasonable by the director. When incremental expansions occur over time, the total of all expansions shall be used by the director in applying the provisions of this section. The following procedure shall be followed to determine the standard of buffer required along a zoning district boundary:

A. Identify the zone district for the proposed site as well as for the abutting site(s);

B. Determine the buffer standard required on each building site boundary (or portion thereof) by referring to Table 1.06.301

C. Select the desired width/screening option from those listed in Table 1.06.302, buffer standards. Any of the listed width or screening variations shall satisfy the requirement between abutting zone districts.

Section 4. Buffer design and materials.

A. Existing Native Plant Material. The use of existing plant material is strongly encouraged in buffer, but the applicant must demonstrate by survey that all trees and plants to be substituted for a requirement are of adequate size and health. Existing natural groundcover should be retained where possible by avoiding scraping, grading and sodding within the buffer. Where the planting requirements of Section 7, buffer standards, require additional trees or shrubs to be installed in an existing natural area, installation should minimize disturbances to native species, and should be designed to utilize devices such as bio-retention cells, vegetated swales, infiltration trenches, and dry wells to reduce run-off and offset the use of engineered retention systems, in whole or in part.

B. Trees. Where the planting requirements of Section 7 indicate that additional trees shall be installed, required trees shall be a minimum of six feet in height or two inches in caliper, as appropriate. At least one-half of the required trees shall be locally adapted natural evergreen species. Trees shall be distributed throughout the yards, so that there are no horizontal gaps between trees greater than 30 feet as measured parallel to the property line. Required canopy trees shall have an expected mature height of 30 feet or greater. Required understory trees shall have an expected mature height of at least 15 feet.

C. Shrubs. Shrubs planted to meet the minimum standards of this article shall be a minimum of one and one-half feet in height when planted and at least one-half shall be expected to reach five feet or greater in height within five years of planting. At least one-half of the required shrubs shall be locally adapted evergreen species. Shrubs planted on berms may have a lesser mature height provided that the combined height of the berm and plantings after five years is at least five feet. Shrubs shall be planted in such a way as to form continuous coverage with no shrub being greater than five feet from another as measured parallel to the property line. Shrubs may be planted in staggered rows or any other pattern which still achieves the desired continuous coverage. Pedestrian areas and other places where surveillance for the purpose of preventing crime is a design objective may be planted with the smaller of the required shrubs, but at least fifty percent of the shrubs installed to meet the requirements of this title shall be capable of attaining five feet in height at maturity.

D. Utility and Drainage Easements. Required buffer shall not be permitted in utility or drainage easements unless approved by the affected utility and, if approved, the property owner shall execute and record a restrictive covenant agreeing to full replacement of plant materials, by the owner, which may be removed by the utility in the exercise of its rights within the easement.

E. Parking Area Landscaping. Perimeter plantings required for parking area landscaping may be counted toward satisfying buffer requirements when the perimeter planting area coincides with the yard.

F. Compatibility of Landscaping Materials. Supplemental plantings should be chosen to enhance the existing vegetation within the buffer. The species used in the supplemental plantings should be species that occur naturally in the landscape, and should be selected for their noninvasive properties.

G. Opaque Fences.

1. Outside of the mixed use high and downtown districts, when utilized to satisfy a screening requirement of this title, opaque fences shall be constructed of permanently affixed materials that comprise an integral part of the fence itself. The use of plastic or fabric material shall not qualify as an opaque fence.

2. Within the mixed use high and downtown districts, when walls or fences are used as part of buffer, the following materials shall be used and the landscaping shall be installed on the side of the wall facing the less intensive use:

   a. Fences provided in Buffer A and B may only be constructed of natural wood. Sheet plastic, sheet metal, corrugated metal, and plywood fencing shall not be allowed. The finished side of fences shall face the lower intensity use.

   b. Walls provided in Buffer C, and D may only be constructed of brick, stone, or stucco over concrete block, split-faced or fluted block. Walls shall not be constructed of industrial waste materials (tires, pallets, etc.).

Section 5. Other uses within buffers.

A. Sidewalks or bike trails may occur within buffer provided that the required effect of the yard is not compromised.

B. In no event, however, shall the following uses be permitted in buffers: playfields, stables, swimming pools, golf courses, tennis courts, and other recreational facilities; parking areas and other vehicular use areas; dumpsters, equipment storage and other open storage; buildings or overhangs.

C. Stormwater Retention/Detention Facilities. Surface stormwater retention/detention facilities shall not be permitted to encroach into buffer. Subterranean facilities and devices such as bio-retention cells, vegetated swales, infiltration trenches, and dry wells which are designed in a manner so as not to interfere with the proper installation and maintenance of the yard are allowed.

D. Buffer yards shall be continuous and unbroken except for driveways or sidewalks required to access parking areas or streets. Driveway/sidewalk penetrations shall cross the buffer yard as close to perpendicular as possible and shall not exceed 25 percent of the entire buffer yard, with no single penetration to exceed 35 feet, unless allowed an exception by the Traffic Engineer.

Section 6. Table of buffer requirements.
Buffers shall be provided along zoning district boundaries to standards established by Table 1.06.301. If adjoining uses are considered similar, the Director may reduce or eliminate the required buffer.

Table 1.06.301 BUFFER REQUIREMENTS

	ZONING DISTRICT PROVIDING BUFFER YARD							
		AG, A-1, A-2, E-1, R-1, D-1, R-2, D-2, R-3, D-3	R-4, R-4A, D-4, D-6, R-8	R-5, D-5, R-6, R-7	B-1, C-1, MU-L MU-M	B-2, C-2, B-3,MU-H, B-4 MU-D, PRD, B-6, HID	M-1, M-1A, I-1, I-3	M-2, I-2, M-4, I-4
ABUTTING DISTRICT	AG, A-1, A-2, E-1, R-1, D-1, R-2, D-2, R-3, D-3	—	A	B	B	C	C	D
	R-4, R-4A, D-4, D-6, R-8	—	—	A	B	C	C	D
	R-5, D-5, R-6, R-7	—	—	—	—	—	C	D
	B-1, C-1, MU-L MU-M	—	—	—	—	—	C	D
	B-2, C-2, B-3,MU-H, B-4 MU-D, PRD, B-6, HID	—	—	—	—	—	B	D
	M-1, M-1A, I-1, I-3	—	—	—	—	—	—	A
	M-2, I-2, M-4, I-4	—	—	—	—	—	—	—

Section 7. Buffer standards.

A. Application of Buffer Standards. The specifications contained in Table 1.06.302 shall be used to select the desired buffer option for the building site. These yard requirements are stated in terms of minimum yard width and the density of required plant material per linear foot of yard. To determine the total number of plants required, the length of each side of property requiring a buffer shall be divided by 100 and multiplied by the number of plants shown in the illustration.

Table 1.06.302 BUFFER STANDARDS

	Number of Canopy Trees	Number of Under-story Trees	Number of Shrubs	Width	Wall or Opaque Fence
A-1	1.2	.4	4	15 feet	
A-2	1.8	.6	6	10 feet	
A-3	2.4	.8	8	5 feet	
B-1	3.5	1.4	14	20 feet	
B-2	4	1.5	16	15 feet	
B-3	4.5	1.8	18	10 feet	
B-4	3	1	10	10 feet	6 feet
C-1	4.8	2.4	19	30 feet	
C-2	5.4	2.7	22	25 feet	
C-3	6	3	24	20 feet	
C-4	3	2	10	10 feet	6 feet
D-1	8	4	24	50 feet	
D-2	9	4.5	27	40 feet	
D-3	10	5	30	30 feet	
D-4	4	3	15	15 feet	8 feet

Figures 1.06.301, 1.06.302, 1.06.303 and 1.06.304 on the following pages depict buffer as determined in Section 6 and 7 of this Chapter.

Figure 1.06.301
Standard A –Buffer

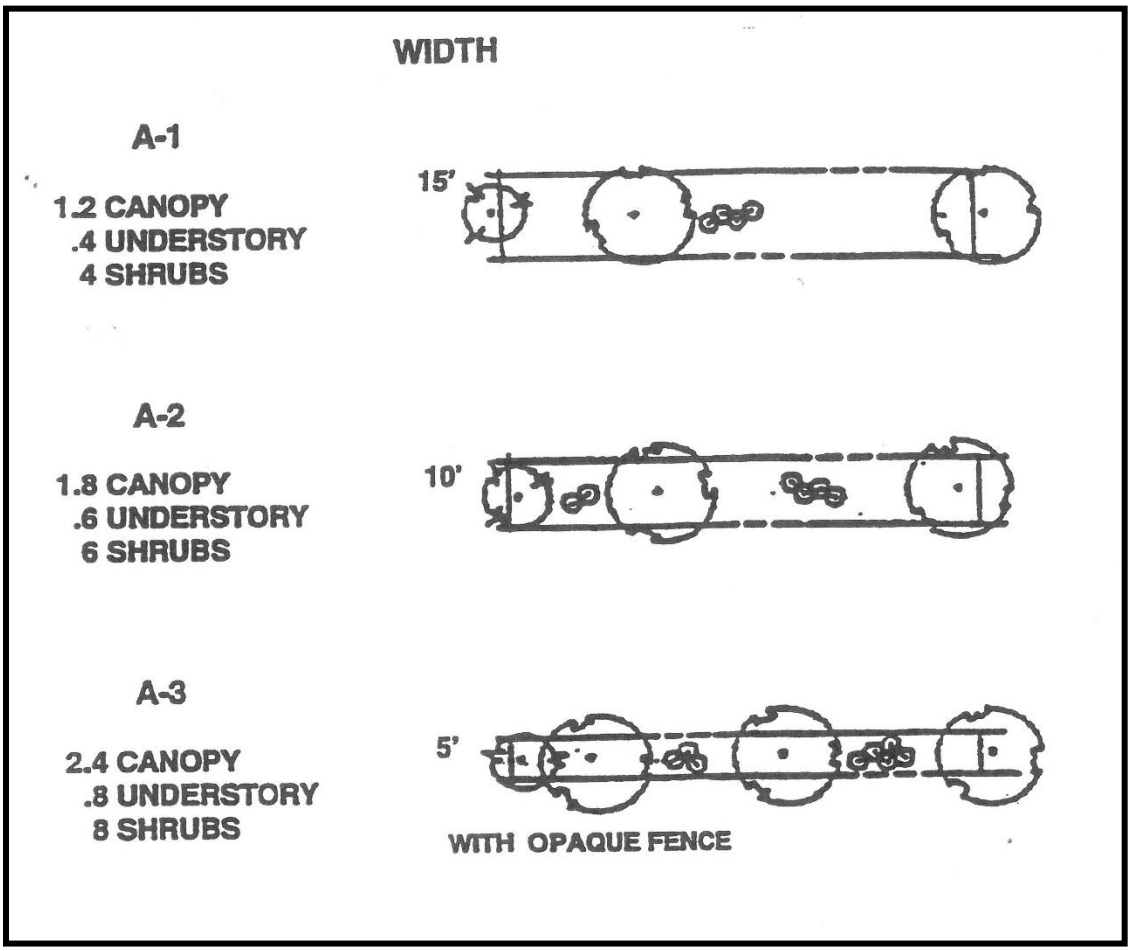


Figure 1.06.302
Standard B –Buffer

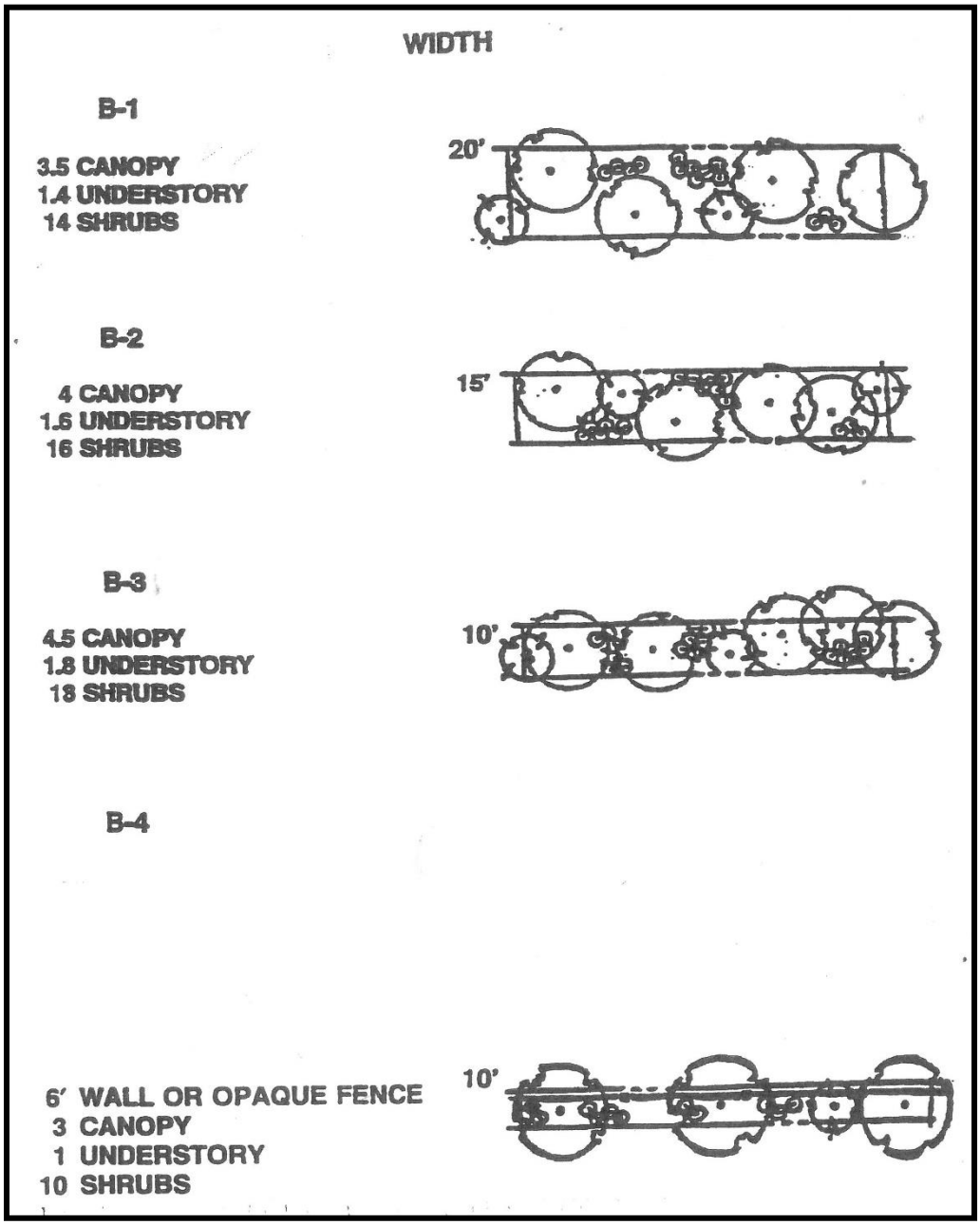


Figure 1.06.303
Standard C –Buffer

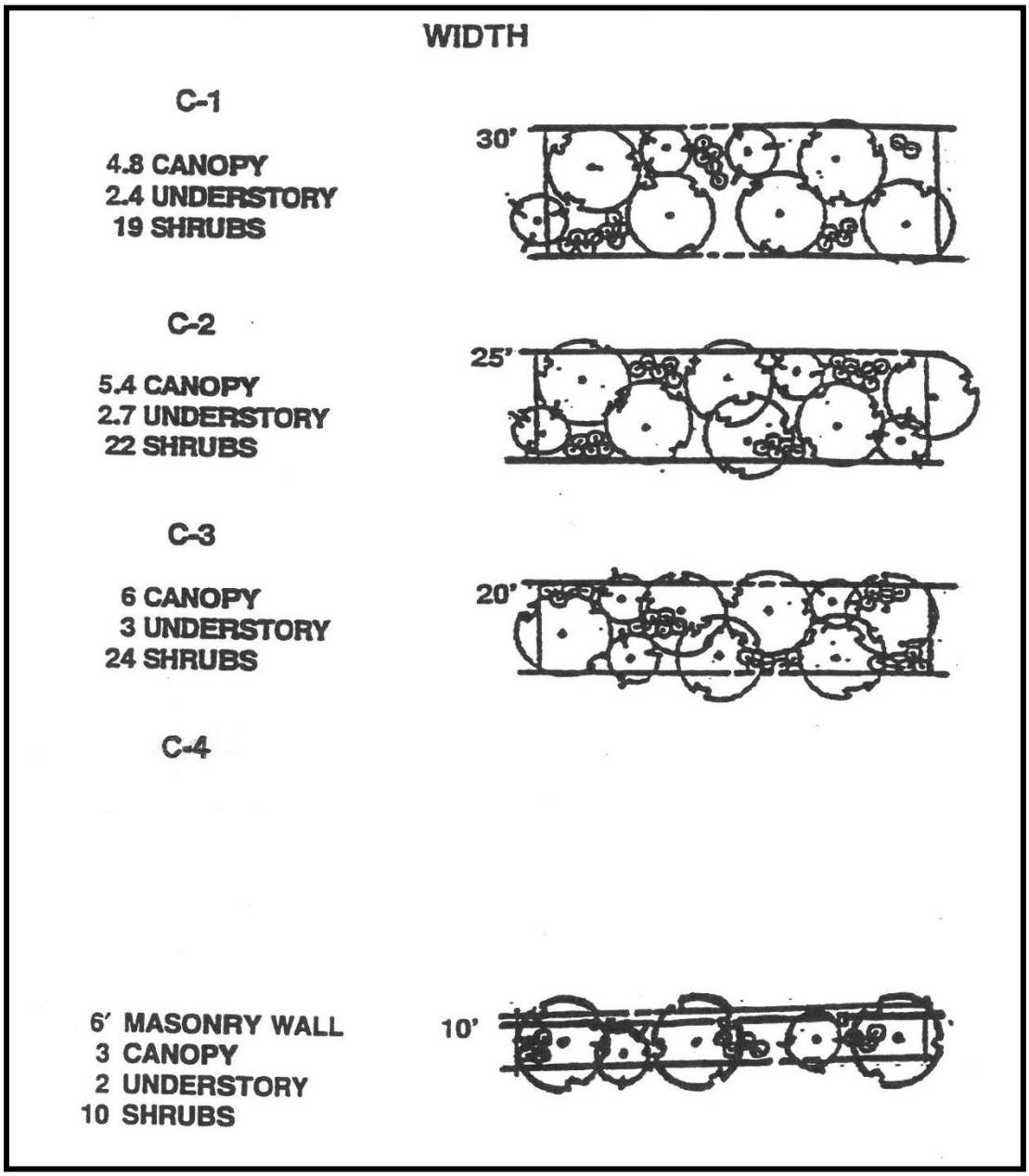


Figure 1.06.304
Standard D –Buffer

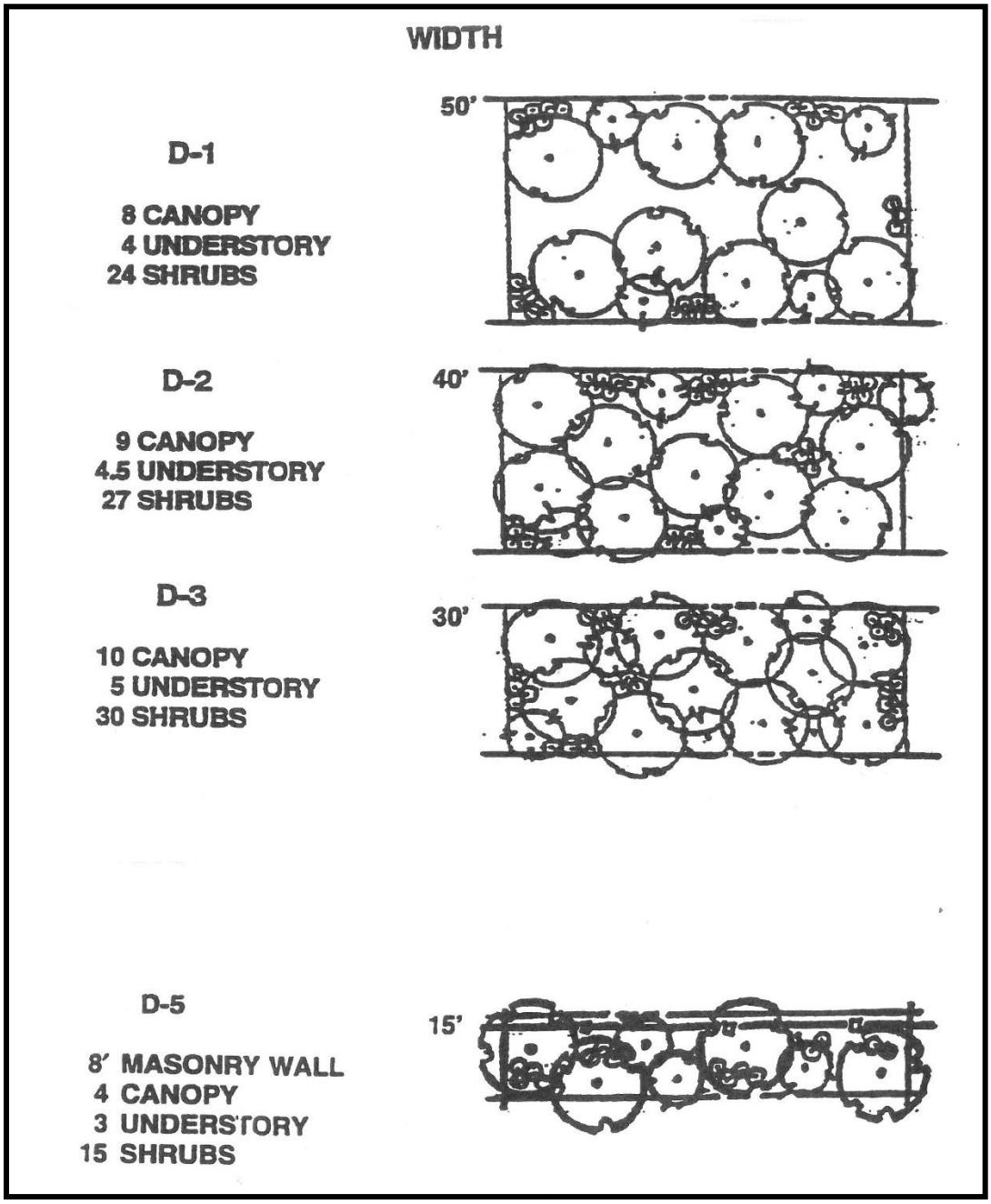


Table 1.06.301

Plant List Birmingham, Alabama		
DECIDUOUS CANOPY TREES		
Common Name	**Scientific Name**	**Xeriscape**
Red Maple	Acer rubrum	
Freeman maple	Acer x freemanii	
Chalkbark maple	Acer leucoderme	yes
Sugar Maple	Acer saccharum	yes
River Birch	Betula nigra	
Hackberry, Sugarberry	Celtis laevigata	yes
Persimmon	Diospyros virginiana	
American Beech	Fagus grandifolia	
White Ash	Fraxinus americana	
Green Ash	Fraxinus pennsylvanica	
Ginkgo	Ginkgo biloba	yes
Golden Raintree	Koelreuteria paniculata	yes
Tuliptree	Liriodendron tulipifera	yes
Dawn Redwood	Metasequoia glypto	
Black Tupelo	Nyssa sylvatica	yes
Eastern Hophornbeam	Ostrya virginiana	
Chinese Pistache	Pistacia chinensis	yes
White Oak	Quercus alba	yes
Scarlet Oak	Quercus coccinea	
Cherrybark Oak	Quercus falcata	yes
Laurel Oak	Quercus laurifolia	
Overcup Oak	Quercus lyrata	
Bur Oak	Quercus macrocarpa	
Swamp Chestnut Oak	Quercus michauxii	yes
Water Oak	Quercus nigra	
Nutall Oak	Quercus nuttallii	yes
Pin Oak	Quercus palustris	
Willow Oak	Quercus phellos	yes
Live Oak	Quercus virginiana	yes
Shumard Oak	Quercus shumardii	yes
Post Oak	Quercus stellata	
Pond Cypress	Taxodium ascendens	yes
Baldcypress	Taxodium distichum	yes
Winged Elm	Ulmus alata	yes
Cedar Elm	Ulmus crassifolia	yes
Chinese Elm	Ulmus parvifolia	yes

DECIDUOUS CANOPY TREES		
Common Name	**Scientific Name**	**Xeriscape**
Japanese Zelkova	Zelkova serrata	
Evergreen Canopy Trees		
Common Name	**Scientific Name**	**Xeriscape**
Deodar Cedar	Cedrus deodara	
Leyland Cypress	Cupressocyparis leylandii	
Southern Magnolia	Magnolia grandiflora	
Spruce Pine	Pinus glabra	yes
Longleaf Pine	Pinus palustris	
Virginia Pine	Pinus virginiana	
Street Trees		
Common Name	**Scientific Name**	**Xeriscape**
Florida Maple	Acer barbatum	yes
Trident Maple	Acer buergeranum	yes
Hedge Maple	Acer campestre	
European Hornbeam	Carpinus betulus 'Fastigiata'	
Princeton Sentry Maidenhair	Ginkgo biloba 'Princeton Sentry'	
Thornless Honeylocust	Gleditsia tricanthos var. inermis	
Bur Oak	Quercus macrocarpa	
Shawnee Brave Baldcypress	Taxodium distichum	yes
'Drake' Chinese Elm	Ulmus parvifolia	
Japanese Zelkova	Zelkova serrata	
Littleleaf Linden	Tilia Cordata	
Southern Live Oak	Quercus virgianiana	yes
Green Vase Zelkova	Zelkova serrata 'Green Vase'	
Musashino Zelkova	Zelkova serrata 'Musashino'	
Chinese Pistache	Pistacia chinesis	
Autumn Purple Ash	Fraxinus Americana	
Rosehill Ash	Fraxinus Americana 'Rosehill'	
Ginkgo 'Autumn Gold'	Ginkgo biloba 'Autumn Gold'	
Goldenrain	Koelreuteria paniculata	
Laural Saratoga	Laurus nobilis 'Saratoga'	

Ground Cover		
Common Name	**Scientific Name**	**Xeriscape**
Andorra Juniper	Juniperus h. plumosa	
Blue Rug Juniper	Juniperus horizontalis	yes
Bar Harbor Juniper	Juniperus horizontalis	yes
Parsons's Juniper	Juniperus davuricai	yes
Big Blue Liriope	Liriope muscari	
Mondo Grass	Ophiopogon japonicus	
Understory Trees		
Common Name	**Scientific Name**	**Xeriscape**
Japanese Maple	Acer palmatum	
Nellie R. Stevens Holly	Ilex x 'Nellie R. Stevens'	
Crepe Myrtle	Lagerstroemia indica	
Fortunes Osmanthus/Tea Olive	Osmanthus x fortunei	
American Sweet Olive	Osmanthus americanus	yes
Southern Waxmyrtle	Myrica cerifera	yes
Eastern Redbud	Cercis canadensis	
White Fringetree	Chionanthus virginicus	
Chinese Fringetree	Chionanthus retusus	
Dogwood	Cornus florida	
Kousa Dogwood	Cornus kousa	
American Smoke Tree	Cotinus obovatus	
Carolina Silverbell	Halesia carolina	
Lusterleaf Holly	Ilex latifolia	
American Holly	Ilex opaca	
Savannah, Foster Hollies	Ilex x attenuata - cultivars	
Eastern Red Cedar	Juniperus virginiana	yes
Panicled Golden Raintree	Koelreuteria paniculata	yes
Common Crapemyrtle	Lagerstroemia indica/fauriei	yes
Japanese Magnolia	Magnolia x soulangiana	
Sweetbay Magnolia	Magnolia virginiana	
Sourwood	Oxydendrum arboreum	
Japanese Black Pine	Pinus thunbergiana	
Carolina Cherry-laurel	Prunus caroliniana	

Understory Trees		
Common Name	**Scientific Name**	**Xeriscape**
Japanese Flowering Cherry	Prunus serrulata 'Kwanzan'	
Foster Holly	Ilex attenuata 'Fosteri'	
Lilac Chastetree	Vitex agnus-castus	yes
Yoshino Cherry	Prunus x yedoensis	
Common Sassafras	Sassafras albidum	yes
Shrubs		
Common Name	**Scientific Name**	**Xeriscape**
Glossy Abelia	Abelia x grandiflora	yes
Bottlebrush Buckeye	Aesculus parviflora	yes
Wintergreen Barberry	Berberis julianae	
Sargent Barberry	Berberis sargentiana	
Crimson Pygmy Barberry	Berberis thunbergii	yes
Butterfly-Bush	Buddleia davidii	
Wintergreen boxwood	Buxus microphylla cultivars	
Japanese Boxwood	Buxus microphylla japonica	
Korean Boxwood	Buxus microphylla koreana	
American Beautyberry	Callicarpa americana	yes
Sweetshrub	Calycanthus floridus	yes
Buttonbush	Cephalanthus occidentalis	yes
Common quince	Chaenomeles speciosa	
Summersweet	Clethra alnifolia	yes
Buckwheat Tree	Cliftonia monophylla	yes
Common Smokebush	Cotinus coggygria	yes
Bronze Elaeagnus	Elaeagnus pungens reflexa	yes
Ebbengei elaeagnus	Elaeagwus ebbengai	yes
Burning Bush	Euonymus alatus	
Pearlbush	Exochorda racemosa	
Border Forsythia	Forsythia x intermedia	
Witch Alder	Fothergilla major	yes
Dwarf Huckleberry	Gaylussacia dumosa	yes
Witch Hazel	Hamamelis virginiana	yes
Shrub althea	Hibiscus syriacus	yes

Shrubs		
Common Name	**Scientific Name**	**Xeriscape**
Big Leaf Hydrangea	Hydrangea macrophylla	
Oakleaf Hydrangea	Hydrangea quercifolia	yes
Dahoon	Ilex cassine	yes
Bigleaf Gallberry Holly	Ilex coriacea	yes
Burford Chinese Holly	Ilex cornuta 'Burfordii'	
Dwarf Burford Holly	Ilex cornuta 'Burfordii Nana'	
Carissa Holly	Ilex cornuta 'Carissa'	
Needlepoint Holly	Ilex cornuta 'Needlepoint'	
Rotunda Chinese Holly	Ilex cornuta 'Rotunda'	
Compacta Japanese Holly	Ilex crenata 'Compacta'	
Convexleaf Japanese Holly	Ilex crenata 'Convexa'	
Heller Japanese Holly	Ilex crenata 'Helleri'	
Hetz Japanese Holly	Ilex crenata 'Hetzii'	
Roundleaf Japanese Holly	Ilex crenata 'Rotundifolia'	
Inkberry	Ilex glabra	
Lusterleaf Holly	Ilex latifolia	
Winterberry Holly	Ilex verticillata	yes
Yaupon Holly	Ilex vomitoria	yes
Weeping Yaupon	Ilex vomitoria 'Pendula'	yes
Brilliant Holly	Ilex x aquipernyi	
Savannah Holly	Ilex x attenuata 'Savannah'	
Star Anise	Illicium floridanum	yes
Small Anise-tree	Illicium parviflorum	yes
Virginia Sweetspire	Itea virginica	yes
Florida Jasmine	Jasminum floridum	
Winter Jasmine	Jasminum nudiflorum	
Juniper	Juniperus chinensis spp.	
Mountain Laurel	Kalmia latifolia	yes
Japanese kerria	Kerria japonica	
Beautybush	Kolkwitzia amabilis	
Leucothoe	Leucothoe axillaris	yes
Rainbow Leucothoe	Leucothoe populifolia	
Curlyleaf Ligustrum	Ligustrum japonicum 'Rotundifolium'	

Shrubs		
Common Name	**Scientific Name**	**Xeriscape**
Winter Honeysuckle	Lonicera fragrantissima	
Lyonia	Lyonia lucida	yes
Star Magnolia	Magnolia stellata	
Banana Shrub	Michelia figo	
Holly Osmanthus	Osmanthus heterophyllus	yes
Yellow Native Azalea	Rhododendron austrinum	yes
Honeysuckle Azalea	Rhododendron canescens	yes
Summer Azalea	Rhododendron serrulatum	yes
Staghorn Sumac	Rhus typhina	yes
Dwarf Palmetto	Sabal minor	yes
Reeves Spirea	Spiraea cantoniensis	
Double Bridalwreath Spirea	Spiraea prunifolia	
Thunberg Spirea	Spiraea thunbergii	
A. Waterer Bumalda Spirea	Spiraea x bumalda	
Vanhoutte Spirea	Spiraea x vanhouttei	
Snowbell	Styrax americanus	yes
Tree Huckleberry	Vaccinium arboreum	yes
Elliott's Blueberry	Vaccinium elliottii	yes
Korean Spicebush	Viburnum carlesii	
Arrow-wood Viburnum	Viburnum dentatum	yes
Japanese Snowball	Viburnum plicatum	
Blackhaw Viburnum	Viburnum prunifolium	
Burkwood Viburnum	Viburnum x burkwoodi	

B. Allowable Design Variations. The buffer is normally calculated as parallel to the property line. However, design variations, especially when used to incorporate native vegetation into the yard area, shall be considered. The edges of the buffer may meander provided that:

1. The total area of the yard is equal to or greater than the total area of the required buffer; and
2. The yard measures no less than the minimum width permitted by the applicable buffer standard at all points along the perimeter of the property line requiring a buffer.

C. Fractional Requirements. When the requirements of this article result in a fractional number of plantings, the fraction shall be rounded to up to the nearest whole number.

D. Yard Exceeds 20 Percent of Lot Area. In circumstances where the ground area required for the buffer exceeds 20 percent of the total lot area, the width and the number of trees and shrubs within the yard may be reduced up to 50 percent provided that a solid wall or closed wooden fence at least six feet in height is provided along the length of the reduced buffer.

E. If conditions exist such as shallow bedrock, then the buffer yard shall be reduced, provided that a solid opaque fence wall or fence and landscaping shall be installed as approved by the director.

F. Grading and Use of Berms. Proposals for grading within a buffer shall demonstrate superior enhancement of the buffer function compared to retention of the existing grades. Grading should not endanger or remove existing trees which occur within a buffer, unless the proposal clearly demonstrates an enhanced buffer. The use of earthen berms within a buffer is encouraged when disturbance to existing vegetation can be minimized. Where berms are incorporated into the yard, the required plantings may have a lesser mature height, provided that the combined height of the berm and plantings will equal the required mature heights of plantings as set forth in Article 2, Section 3, (C).

G. Waiver of Buffer. Buffer requirements may be waived by a demonstration of unusual site grade conditions which would clearly negate the effects of the required yard. The applicant shall furnish sections or profiles (drawn to scale) through the property line along the yard which is proposed for waiver. These drawings shall demonstrate the existing and proposed grades on both sides of the property line, as well as the principal structures on both properties. The sections or profiles shall show the line of sight for a pedestrian (taken at four and one-half feet above grade) from principal entrances and from the highest point on the site to be buffered. Such profiles or sections shall clearly demonstrate that the effect of the change in grade would negate the effect of a mature buffer 30 feet in height.

H. Redundant Landscape Requirements. When a buffer overlaps an area that would normally require perimeter landscaping, the buffer may substitute for the required perimeter landscaping provided that the landscaping required for the buffer is equal to or greater than the required perimeter landscaping.

Chapter 7 Reserved

Article I. Overlay Districts Established

Section 1. Purpose and intent.
Overlay districts are established by this Ordinance as a means of addressing specific aspects of land use control or development design that transcend conventional zoning district provisions. Included are the following overlay districts:

1. Article II. Floodplain Zone Overlay - intended to protect and develop responsibly in the floodplain
2. Article III. US Highway 280 Overlay District Regulations - a special overlay to promote the development of the US Highway 280 corridor
3. Article IV. Highland Park Neighborhood Form-Based Overlay District Regulations - a special form based overlay intended to preserve and protect existing development patterns in the Highland Park Neighborhood and ensure the compatibility of new development
4. Article V. Healthy Food Overlay District Regulations - a Healthy Food Overlay District designed to increase access to fresh foods for properties located in food deserts.

Section 2. Applicability.
An overlay district shall represent a mapped geographic area applied to the official zoning map according to the amendment procedures of Chapter 9, Article II. Overlay districts may be applied over any zoning district established by this Ordinance, and may encompass one or more of those districts. Unless expressly stated otherwise in this chapter, all lands encumbered by an overlay district shall conform to all other applicable provisions of this Ordinance.

Article II. Floodplain Zone Overlay

Section 1. Statutory Authorization.

A. This Article is adopted pursuant to the following Statutory Authorization wherein: The Legislature of the State of Alabama has in Chapter 45, Section 1, 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 Birmingham, Alabama does ordain as follows:

Section 2. Findings of Fact.

A. The flood hazard areas of Birmingham, 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.

B. 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 3. Statement of Purpose.

A. It is the purpose of these regulations to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by the following provisions designed to:
   1. 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;
   2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
   3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
   4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
   5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 4. Objectives.

A. The basic underlying objectives that guided the preparation of these regulations are:
   1. To protect human life and health;
   2. To balance the benefits of reduced flood damages with the impacts on property values and economic development;
   3. 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;

4. 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 blight;
5. To minimize expenditure of public money for costly flood control projects;
6. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
7. To minimize prolonged business interruptions; and
8. Through public education and outreach that potential purchasers of private property subject to flooding are aware that such property is in a Special Flood Hazard Area.

Section 5. Definitions.

A. Any other provision in this Ordinance to the contrary notwithstanding for the purposes of this Article, the following words, terms and phrases shall have the meanings ascribed to them in this Section. Unless specifically defined herein or in Chapter 1, Article III of this Ordinance, words or phrases used in these provisions shall be interpreted so as to give them the meaning they have in common usage and to give this Article it's most reasonable application. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number, and words in the singular number shall include the plural number.

1. **A Zone.** The Area of Special Flood Hazard without base flood elevations determined.
2. **AE Zone.** The Area of Special Flood Hazard with base flood elevations determined.
3. **Accessory Structure (Appurtenant structure).** A structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
4. **Actual Cash Value (ACV).** The cost to replace an insured item of property at the time of loss, less the value of physical depreciation.
5. **Addition (to an existing building).** 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 independent perimeter load-bearing walls is new construction.
6. **Administrative Officer.** The person(s) appointed to administer, interpret and implement the provisions of this Article in accordance with the provisions of Section 7 of this Article.
7. **Appeal.** A request for a review of the Administrative Officers' interpretation of any provision of this Article or a request for a variance.
8. **Area of shallow flooding.** 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.

9. **Area of special flood hazard.** The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

10. **Base Flood Elevation (BFE)**. The elevation of surface water resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, AR/AO, V1–V30, and VE.

11. **Base flood.** Means the flood having a one percent chance of being equaled or exceeded in any given year.

12. **Basement.** Any area of a building having its floor subgrade (below ground level) on all sides.

13. **Breakaway wall.** 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.

14. **Building.** A structure with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or A manufactured home (a "manufactured home," also known as a mobile home, is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or a travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

15. **Building Official.** The Building Official shall be appointed by the Mayor of the City of Birmingham and shall have all of the authority and carry out all of the duties of the Building Official pursuant to the City of Birmingham Technical Code 2010, as amended.

16. **Community Number.** A 6-digit designation identifying each NFIP community. The first 2 numbers are the state code. The next 4 are the FEMA-assigned community number. An alphabetical suffix is added to a community number to identify revisions in the Flood Insurance Rate Map (FIRM) for that community.

17. **Community Floodplain Management Map.** Any map produced by the City utilizing best available base flood elevation and floodway data that is from a federal, state, or other accepted technical source.

18. **Community Rating System (CRS).** A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to

develop extra measures to provide protection from flooding.

19. **Community Flood Hazard Area (CFHA).** An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified City Official from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. This includes areas downstream from dams.

20. **Critical Facility.** Means facilities for which the effects of even a slight chance of flooding would be too great. The minimum floodplain of concern for critical facilities is the 0.2 percent chance flood level. Critical facilities include, but are not limited to facilities critical to the health and safety of the public such as: emergency operations centers, designated public shelters, schools, nursing homes, hospitals, police, fire and emergency response installations, vital data storage centers, power generation and water and other utilities (including related infrastructure such as principal points of utility systems) and installations which produce, use or store hazardous materials or hazardous waste (as defined under the *Clean Water Act* and other Federal statutes and regulations).

21. **Cumulative Substantial Improvement.** Occurs when cumulative improvements to a structure triggers substantial improvements. ***See Substantial Improvements***.

22. **Dam.** Any artificial barrier, including appurtenant works, constructed to impound or divert water, waste water, liquid borne materials, or solids that may flow if saturated. All structures necessary to maintain the water level in an impoundment or to divert a stream from its course will be considered a dam.

23. **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations, or storage of materials or equipment.

24. **Doublewide Manufactured (Mobile) Home.** A manufactured (mobile) home that, when assembled as a non-movable, permanent building, is at least 16 feet wide and has an area within its perimeter walls of at least 600 square feet.

25. **Elevated Building.** A non-basement building (1) built to have the top of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. "Elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

26. **Elevation Certificate.** A FEMA form used as a certified statement that verifies a building's elevation information.

27. **Enclosure.** That portion of an elevated building below the lowest elevated floor

that is either partially or fully shut-in by rigid walls.

28. **Encroachment.** The advance or infringement of uses, plant growth, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

29. **Executive Order 11988 (Floodplain Management).** This order requires that no federally assisted activities be conducted in or have the potential to affect identified Special Flood Hazard Areas, unless there is no practicable alternative.

30. **Executive Order 11990 (Wetlands Protection).** This order requires the avoidance of adverse impacts associated with the destruction or modification of wetlands.

31. **Existing construction.** Means structures for which the "start of construction" commenced before May 5, 1981, the effective date of the initial flood plain management ordinance adopted by the City. "Existing construction" may also be referred to as "existing structures."

32. **Existing manufactured home park or subdivision.** 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 before May 5, 1981, the effective date of the initial flood plain management ordinance adopted by the City.

33. **Expansion to an existing manufactured home park or subdivision.** 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).

34. **Finished Floor.** A floor that can be inhabited, not a storage area like a garage.

35. **Flood or flooding.**
    A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
        1. The overflow of inland or tidal water.
        2. The unusual and rapid accumulation or runoff of surface waters from any source.
        3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph A(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
    B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated by cyclical levels or suddenly caused by and unusually highwater level in a natural body of water, accompanied by a

severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph A(1) of this definition.

36. ***Flood Disaster Protection Act (FDPA) of 1973.*** A Federal Act that made the purchase of flood insurance mandatory for the protection of property located in Special Flood Hazard Areas.

37. **Flood Insurance Rate Map (FIRM).** Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community.

38. **Flood Insurance Study (FIS)**. The document which provides an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards.

39. **Floodplain.** Any land area susceptible to being inundated by water from any source.

40. **Floodplain Administrator.** The Floodplain Administrator for the City of Birmingham, or his designee, who is designated by the Director, approves all floodplain permits and maintains all official records regarding development within the floodplain overlay zone.

41. **Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works, and floodplain management regulations.

42. **Flood proofing.** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

43. **Floodway (Regulatory).** 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 one foot.

44. **Flood Protection Elevation (FPE).** Is equal to the elevation that is one foot higher than the Base Flood Elevation.

45. **Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

46. **Functionally Dependent Facility or Use.** A facility or use which cannot perform 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, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

47. **Highest Adjacent Grade (HAG).** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

48. **Historic Structure.** Any structure that meets one or more of the following criteria:
    A. Listed individually in the National Register of Historic Places (a listing maintained by the 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 in 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 in 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.

49. **Improvement Cost.** A method used to determine "substantial improvement" that includes the value of all costs for improvements and/or repairs to a structure. Cost shall include all structural costs for labor and materials, as well as all finish materials, built-in appliances, hardware, profit and overhead but excluding plans, surveys, permit fees, debris removal and clean-up, items not considered real property, and accessory structures. The improvement cost shall be determined by the latest edition of "Building Valuation Data" of current average construction value per square foot published by the International Code Council or a written estimate of labor and materials prepared and certified by the contractor.

50. **Increased Cost of Compliance.** Coverage for expenses a property owner must incur, above and beyond the cost to repair the physical damage the structure actually sustained from a flooding event, to comply with mitigation requirements of state or local floodplain management ordinances or laws. Acceptable mitigation measures are elevation, floodproofing, relocation, demolition or any combination thereof.

51. **Letter of Map Change (LOMC).** An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC"s are broken down into the following

categories:

A. **Letter of Map Amendment (LOMA**): An amendment based on technical data showing that a property was incorrectly included in a designated SFHA, was not elevated by fill (only by a natural grade elevation), and will not be inundated by the one percent chance flood. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

B. **Letter of Map Revision (LOMR)**: A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.

C. **Conditional Letter of Map Revision (CLOMR)**: A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

52. **Lowest Adjacent Grade (LAG).** The elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is placed for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

53. **Lowest Floor Elevation (LFE).** The measured distance of a building's lowest floor above the National Geodetic Vertical Datum (NGVD) or other datum specified on the FIRM for that location.

54. **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 10 of this Article.

55. **Manufactured Home.** A structure, transportable in one or more sections, which is 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.

56. **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

57. **Market Value of the Building.** A method used to determine "substantial improvement", and includes the market value of the building only, excluding land. Market value shall be determined by the most recent appraisal by the County tax assessor or by a certified appraisal report using the comparable sales method, whichever is the greater value. The amount a buyer not subject to coercion is willing to pay for a given item or property.

58. **Mean Sea Level.** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the flood plain. For purposes of this Article, the term is synonymous with National Geodetic Vertical Datum (NGVD). For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

59. **National Geodetic Vertical Datum (NGVD).** As corrected in 1929, is a vertical control used as a reference for establishing various elevations within the flood plain.

60. **Natural Grade.** The grade unaffected by construction techniques such as fill, landscaping, or berming.

61. **New Construction.** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction: structures for which the start of construction commenced on or after May 5, 1981, the effective date of the initial flood plain management ordinance adopted by the City and includes any subsequent improvements to such structures.

62. **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 May 5, 1981, the effective date of the initial flood plain management ordinance adopted by the City.

63. **North American Vertical Datum (NAVD) of 1988.** The vertical control datum established for vertical control surveying in the Unites States of America based upon the General Adjustment of the North American Datum of 1988. It replaces the National Geodetic Vertical Datum (NGVD) of 1929.

64. **Physical Map Revision (PMR).** Is an action whereby one or more map panels are physically revised and republished. It is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

65. **Recreational Vehicle.** Is a vehicle which is:
    a. built on a single chassis;
    b. 400 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 designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

66. **Remedy of Violation.** Means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

67. **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.

68. **Repetitive Loss Structure.** Any insurable building for which two or more claims of more than $1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten days apart but, within ten years of each other. A RL property may or may not be currently insured by the NFIP.

69. **Replacement Cost Value (RCV)**. The cost to replace property with the same kind of material and construction without deduction for depreciation.

70. **Residential Condominium Building**. A building owned and administered as a condominium, containing one or more family units and in which at least 75 percent of the floor area is residential.

71. **Section 1316.** Section of the *National Flood Insurance Act of 1968, as amended*, which states that no new flood insurance coverage shall be provided for any property that FEMA finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

72. **Severe Repetitive Loss (SRL) Properties.** Any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:
    a) Four or more separate claim payments of more than $5,000 each (including building and contents payments); or
    b) Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.

73. **Special Flood Hazard Area (SFHA)**. An area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V. For the purpose of determining Community Rating System premium discounts, all AR and A99 zones are treated as non-SFHAs.

74. **Significant Hazard Dam.** A dam assigned the significant hazard potential classification where failure may cause damage to main roads, minor railroads, or cause interruption of use, or service of relatively important public utilities.

75. **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.

76. **Structure.** For floodplain management purposes, is a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a recreational vehicle, a parked trailer, manufactured home or some similar vehicle.

77. **Subrogation.** An action brought by FEMA when flood damages have occurred, a flood insurance claim has been paid, and all or part of the damage can be attributed to acts or omissions by a community or other third party.

78. **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's 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 flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

79. **Substantial Improvement.** Any combination of addition, expansion, enlargement, or modification of a structure taking place over a designated 10-year period in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the structure before the "start of construction" of the improvement. The designated 10-year period begins at the date of the initial

improvement to the structure. The costs for determining substantial improvement include the costs of additions. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The term does not apply to:

A. Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions, provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners or;
B. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

80. **Substantially improved existing manufactured home parks or subdivisions.** Means 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.

81. **Suspension.** Means the removal, with or without probation, of a participating community from the NFIP because the community failed to adopt and enforce the compliant floodplain management regulations required for participation in the NFIP.

82. **Variance.** A grant of relief by the Board from the requirements of this Article which permits construction in a manner otherwise prohibited by this Article where specific enforcement would result in practical difficulty.

83. **Violation.** The failure of a structure or other development to be fully compliant with this Ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

84. **Watercourse.** Any flowing body of water including a river, creek, stream, or a branch.

85. **Water surface elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

86. **Wet floodproofing.** A method of construction which allows water to enter a structure in such a way that will minimize damage to the structure and its contents. Wet floodproofing is appropriate for functionally dependent use and uses that facilitate open space use by variance only, structures utilized for parking or limited storage, or when all other techniques are not technically feasible. Wet floodproofing shall not be utilized as a method to satisfy the requirements of this ordinance for bringing substantially damaged or improved structures into compliance. Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings.

87. **X Zones (shaded).** Areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance flood with average depths of less than one foot, or with contributing drainage area less than one square mile, and areas protected by certified levees from the base flood.

88. **X Zones (unshaded).** Areas determined to be outside the 0.2 percent chance floodplain.

89. **Zone.** A geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Section 6. General Provisions.

A. **Lands to which this Article applies.**

1. In addition to the other requirements of this Article and other Ordinances in the City of Birmingham, this Article shall apply to all Special Flood Hazard Areas within the municipal limits of Birmingham, Alabama.

2. A floodplain determination letter may be requested to determine if a specific property is within the floodplain. An application for said letter may be requested from the Floodplain Administrator and shall be accompanied by a fee as adopted by the Council from time to time located in Chapter 9, Article VIII of this ordinance.

B. **Basis for special flood hazard areas.** The Special Flood Hazard Areas identified by the Federal Emergency Management Agency(FEMA) in its Flood Insurance Study (FIS) for Jefferson County, Alabama and incorporated areas, revised September 3, 2010 and the Special Flood Hazard Areas identified by the Federal Emergency Management Agency(FEMA) in its Flood Insurance Study (FIS) for Shelby County, Alabama and incorporated areas, revised February 3, 2013, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this Ordinance. Special Flood Hazard Areas may also include those areas known to have flooded repetitively, or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated into the FIS. As soon as practicable, but not later than six months after the date such information becomes available, the City's Floodplain Administrator shall notify FEMA of the changes by submitting a Letter of Map Revision with supporting technical or scientific data.

C. **Use of preliminary flood hazard data.** When Flood Insurance Studies and Preliminary Flood Insurance Rate Maps have been provided by FEMA:

1. Prior to the issuance of a Letter of Final Determination (LFD) by FEMA, the use of the preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in the effective flood hazard data provided by FEMA. Such preliminary data may be subject to revision through valid appeals.
2. Upon the issuance of a Letter of Final Determination (LFD) by FEMA, the revised flood hazard data shall be used and replace all previously effective flood hazard data provided by FEMA for the purposes of administrating these regulations.

Where adopted regulatory standards conflict, the more stringent base flood elevation shall prevail. Preliminary FIS data may be subject to change by a valid appeal.

D. **Floodplain Development Permit.** A completed Floodplain Development Permit Application shall be required in conformance with the provisions of this Article prior

to the commencement of any development activities, within the municipal limits of the City of Birmingham, including but not limited to construction of or improvements to buildings or other structures, utilities, roads, bridges, infrastructure, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of vehicles, equipment or materials, whether conducted by a private individual, business, or firm, a non-profit agency, or a Federal, State, or local public agency. Federal agencies are not exempt from adherence to the requirements of this Article. For fees associated with Floodplain Development Permits, please see Article VIII.

E. **Compliance.** No structure or land shall hereafter be located, extended, converted or structurally altered and no development shall be undertaken without full compliance with the terms of this Article and other applicable regulations. Compliance with this Article shall be deemed protective for all zoning classifications.

F. **Non-conforming structures located within the special flood hazard area.** The lawful use of a structure existing at the Effective Date of this Ordinance may be continued although such structure or use does not conform to this Ordinance, except any expansion, damage or enlargement of a nonconforming structure shall comply with applicable requirements of Chapter 9, Article VII of this Ordinance.

G. **Maintenance Required.**

1. The storage, disposal or dumping of debris, brush, trash, garbage, litter, or similar materials within a Municipal Separate Storm Sewer System (MS4) and the disposal, accumulation, or dumping of debris, brush, trash, garbage, litter, or other materials which can obstruct or interfere with the discharge of flood waters within the Floodway shall be prohibited.

2. The City shall have the right to cross private property for the purposes of inspecting and maintaining all publicly-maintained drainage ways and all Floodways.

H. **Abrogation and Greater Restrictions.** This Article is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this Article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This Article shall not abrogate the rights obtained under any State or Federal permit.

I. **Interpretation.**

1. In the interpretation and application of this Article all provisions shall be:

   a. considered as minimum requirements; and
   b. liberally construed in favor of the governing body, and;
   c. deemed neither to limit nor repeal any other powers granted under State statutes.

2. Where Base Flood Elevations have been established and there appears to be a discrepancy between actual field conditions or best available topographic data and the flood zone boundaries shown on the Flood Insurance Rate Map (FIRM), the more restrictive boundary interpretation may govern for the purpose of delineating Special Flood Hazard Areas (SFHAs) regulated by this Ordinance.

Where best available topographic data indicates a property or any portion of a property should be excluded from the FIRM flood zone designation, a Letter of Map Amendment may be filed with FEMA to remove such area from the Special Flood Hazard Areas regulated by this Ordinance.

J. **Repetitive Loss Structures.** The City's Floodplain Administrator may declare any existing structure as a repetitive loss structure as required to qualify the structure for Increased Cost of Compliance (ICC) benefits allowed by a National Flood Insurance Program flood policy claim. To be declared a repetitive loss structure, the following conditions must be met:

1. The structure must have a flood insurance policy that includes the increased cost of compliance coverage and;
2. The structure must have been flooded twice during a ten-year period with each flood event causing damage for which the repair cost equaled or exceeded 25% of the market value of the structure.

K. **Warning and disclaimer of liability.** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article 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 Article shall not create liability on the part of the City of Birmingham or by any officer or employee thereof for any flood damages that results from reliance on this Article or any administrative decision lawfully made thereunder.

L. **Enforcement, Penalties, and Violations.** 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.

1. Notice of Violation. If the Building Official or other authorized city official determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

    a. The name and address of the owner or the applicant or the responsible person;
    b. The address or other description of the site upon which the violation is occurring;
    c. A statement specifying the nature of the violation;

d. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action; and
e. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.

2. Penalties. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Building Official or other authorized city official shall first notify the applicant or other responsible person in writing of its intended action, and shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Building Official or other authorized city official may take any one or more of the following actions or impose any one or more of the following penalties:

   a. Stop Work Order. The Building Official or other authorized city official may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
   b. Suspension, revocation, or modifications of permit. The Building Official or other authorized city official may suspend, revoke, or modify the permit authorizing the development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Floodplain Administrator may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
   c. Penalties. 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 or imprisoned for not more than 180 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each act of violation and each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.

3. Appeals. When an applicant believes that an interpretation, notice of violation, stop work order, suspension, revocation, or modification of permit has been issued in error, they may appeal the decision by filing a written notice of appeal to the Director within thirty days after the Building Official or other authorized city official has notified the applicant of his decision. Appeals of the Building Official's decisions shall be heard by the Board.

Section 7. Designations Duties and Responsibilities of the Floodplain Administrator.

A. **Designation of Administrative Officers.** The Director shall designate a Floodplain Administrator who shall be responsible for administering, interpreting and implementing the provisions of this Article jointly with the Director (for general application to the Zoning Ordinance, see Chapter 9, Article III, Sections 2 and 5).

B. **Duties of the Floodplain Administrator shall include, but not be limited to:**

1. Review all Floodplain Development Permit Applications and accompanying submittal to determine whether proposed building sites will be reasonably safe from flooding and assure that the permit requirements of this Ordinance have been satisfied.
2. Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permits are known, require that copies of such permits be provided and maintained on file with the Floodplain Development Permit Application.
3. When Base Flood Elevation data or Floodway data have not been provided in accordance with Section 6(B), then the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and Floodway data available from a Federal, State, or other sources so as to administer the provisions of Section 10 of this Article.
4. Establish, verify and record the actual Flood Protection Elevation (FPE) elevation in relation to Mean Sea Level (or Highest Adjacent Grade) to which any New Construction or Substantially Improved structures have been elevated.
5. When elevation is utilized for a structure, the Floodplain Administrator shall require certification of foundation design compliance from a Registered Professional Engineer or Architect.
6. Establish, verify and record the actual elevation in relation to Mean Sea Level (or Highest Adjacent Grade) to which any New Construction or Substantially Improved structures have been flood-proofed.
7. When floodproofing is utilized for a structure, the Floodplain Administrator shall obtain certification of floodproofing design compliance from a Registered Professional Engineer or Architect.
8. Determine when a structure is subject to the "Substantial Damage," "Repetitive Loss" and "Substantial Improvement" provisions of this Ordinance.

9. 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 Department of Economic and Community Affairs/Office of Water Resources (OWR).
10. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA and OWR to ensure accuracy of the City's flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
11. Where interpretation is needed as to the exact location of boundaries of Special Flood Hazard Areas, the Floodplain Administrator shall make the necessary interpretation. Where there appears to be a conflict between a mapped boundary as shown on the FIRM and actual field conditions or best available topographic data, the Floodplain Administrator may determine the boundary according to the more restrictive boundary interpretation. Any person contesting the location of the boundary determination of the Floodplain Administrator may be given a reasonable opportunity to appeal the interpretation as provided in this Article. Where best available topographic data indicates a property or any portion of a property should be excluded from the FIRM flood zone designation, a Letter of Map Amendment may be filed with FEMA to remove such area from the Special Flood Hazard Areas regulated by this Ordinance.
12. Provide written notice to subject property owners of the existence of a violation of the provisions of this Article and inform said owner of available means to Remedy a Violation.
13. Maintain all records pertaining to the provisions of this Article in the office of the Floodplain Administrator.
14. Assure all Conditional Letters of Map Change and Letters of Map Change are filed with FEMA for applications that would result in changes to Floodway boundaries, Base Flood Elevations, Special Flood Hazard Area boundaries and provide a signature on behalf of the City of Birmingham, if acceptable as required, on all Community Acknowledgments of such applications.
15. Maintain the Flood Insurance Study database, incorporating all FEMA-issued Letters of Map Change.
16. Review and provide a Letter of Comment for all appeals to the Board.
17. Review any application submissions requiring an engineering certification of hydrologic or hydraulic studies.

Section 8. Permit Application and Plan Submittal Requirements.

A. An Application to develop in the Special Flood Hazard Area shall accompany an application for any development related permits, subdivision plat or other development approval such as new construction, addition, substantial improved/damage, existing structures/stand-alone utility permits, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, and shall be made to the Floodplain

Administrator on forms furnished by the Floodplain Administrator, prior to any development activities, and may include, but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing and/or proposed structures, fill, storage of materials; drainage facilities, and the location of the foregoing. All drawings that are for assembly must be sealed by an Alabama licensed architect or engineer. Specifically, the following information is required:

1. A site plan (including all required flood protection information such as any flood plain/floodway limits, BFEs, FFE (where applicable), FIRM panel and suffix, effective map date, and dry floodproofing certification when using dry-flooding for flood protection);
2. An emergency response plan when using dry floodproofing for flood protection;
3. No-Rise Certification/Analysis for floodway developments only;
4. Base Flood Elevation determination for Approximate Zone developments only;
5. If applicable, a copy of the variance resolution for flood-related granted variances.

C. **Construction Stage and Completion.**

1. **As-Built Plans and Elevation/Floodproofing Certificate(s) required**. For all New Construction, and Substantial Improvements or Cumulative Substantial Improvement the permit holder shall provide to the Floodplain Administrator as-built certifications of compliance with this Article, including the Flood Protection Elevation using the appropriate FEMA Elevation and/or Floodproofing Certificate:
2. **Immediately after the Lowest Floor or floodproofing is completed.** Where elevation is required, the FEMA Elevation and/or Floodproofing Certificate shall be supplemented by certification by a Registered Professional Engineer or Architect that the as-built foundation design complies with all requirements of this Article; and
3. **Upon completion of New Construction, and Substantial Improvements or Cumulative Substantial Improvements prior to occupancy.** Additionally, the permit holder shall provide to the Floodplain Administrator an as-built certification and supporting data by a Registered Professional Engineer or Architect that the development has been inspected and fully complies with all of the applicable flood hazard reduction standards of this Article.

Section 9. Variances.

A. The Board of the City as established in Chapter 9 of this Ordinance shall hear and decide on appeals and request for variances from the requirements of this Article.
B. The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Administrative Officer in the enforcement or administration of this Article.
C. Any person aggrieved by the decision of the Board may appeal such decision in accordance with Chapter 9, Article V, Section 6 of this Ordinance.

D. Variances may be issued for the following:
   1. **Structures Functionally Dependent on Close Proximity to Water:** Certain structures that must be located near water are functionally dependent uses and are permitted to be wet floodproofed after the issuance of a variance from NFIP elevation and dry floodproofing requirements. These structures may include certain types of docking, seafood processing, and port facilities associated with marine activities.
   2. **Historic Buildings:** For the repair and rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation of a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
   3. **Accessory Structures:** Used solely for parking (two-car detached garages or smaller), or limited storage (small, low-cost sheds) and non- habitable. This low cost should not exceed 10,000 dollars.

E. In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other parts of this Article and:
   1. Danger that materials may be swept into other lands to the injury of others;
   2. Danger to life and property due to flooding or erosion damage;
   3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
   4. Importance of the services provided by the proposed facility to the community;
   5. Necessity to the facility of a waterfront location, where applicable;
   6. Availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
   7. Compatibility of the proposed use with existing and anticipated development;
   8. Relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
   9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
   10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
   11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

F. Upon consideration of the factors listed above and the purposes of this Article, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

G. Variances shall not be issued within any designated floodway if any increase in flood level during the base flood discharge would result.

H. 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 a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

I. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship; and
3. A determination that the granting of the 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 laws or ordinances of the City.

J. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating the cost of flood insurance will be commensurable with the increased risk resulting from the reduced lowest floor elevation.

K. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

Section 10. Provisions for Flood Hazard Reduction.

A. **General Standards**. In all Special Flood Hazard Areas the following provisions apply:

1. New Construction and Substantial Improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure and surrounding soils. A Registered Professional Engineer or Architect shall develop or review the structural design, specifications and plans for the foundation of the building and certify that the design and methods of construction are in accordance with accepted practices to withstand flotation, collapse, lateral movement, erosion and scour, undermining, and the effects of water and wind acting simultaneously on all building components during the Base Flood.
2. New Construction and Substantial Improvements shall be constructed with materials and utility equipment resistant to flood damage to the required Flood Protection Elevation.
3. New Construction and Substantial Improvements shall be constructed by methods and practices that minimize flood damage to the required Flood Protection Elevation.
4. **Elevated Buildings.** All New Construction and Substantial Improvements shall be elevated at or above the Flood Protection Elevation and be resistant to flood damage to or above the Flood Protection Elevation, in accordance with the following criteria:
   a. Where flood protection is provided by elevation on fill, the building shall be constructed on properly designed and compacted fill (ASTM D-698 or equivalent) that extends beyond the building walls before dropping below the Flood Protection Elevation and has appropriate protection from erosion

and scour. A Registered Professional Engineer must approve the design of the fill.

b. Where elevated buildings include fully enclosed areas formed by foundation and other exterior walls below the Flood Protection Elevation, such areas shall be designed to preclude finished living space below the Base Flood Elevation. The enclosure shall be restricted to an unfinished and flood-resistant enclosure and 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. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters**. {Total enclosed areas shall be limited to 299 square feet or less and to areas where the lowest floor is less than four feet high}.**

c. Designs for complying with this requirement must be certified by a Registered Professional Engineer and meet the following minimum criteria:
   i. Provide a minimum of two openings, on different sides of each enclosed area; if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls;
   ii. The total net area of all openings shall be at least one square inch for each square foot of enclosed area, or the openings shall be designed and the construction documents shall include a statement that the design and installation will provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters;
   iii. The bottom of all openings shall be no higher than one foot above interior grade (which must be equal to in elevation or higher than the exterior grade); Openings shall allow the passage of a three inch sphere.
   iv. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions and automatically equalize hydrostatic flood loads on exterior walls, and;
   v. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and,
   vi. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

5. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and 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 to the Flood Protection Elevation.
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

7. New and replacement sanitary sewage systems, including septic systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
8. 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.
9. Any development, use, or activity within the Special Flood Hazard Area floodplain that may be hazardous to public health or water quality is prohibited. These prohibited developments and activities include: non-residential structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials; and similar uses deemed hazardous by the Floodplain Administrator. However, replacement of existing underground fuel storage tanks may be permitted provided the tanks are designed by a Registered Professional Engineer to be anchored to resist the buoyancy effects of a rising water table and comply with all applicable safety code standards.
10. All New and Substantially Improved critical facilities, as defined in **Section 5** of this Article shall be elevated at or above the 500-year flood elevation or the flood of record, whichever is higher, or flood proofed in lieu of elevation, except as necessary for operation of wastewater treatment plants and facilities, and utility distribution and collection systems. The critical facility must be connected to a public road outside the 500-year floodplain by at least one access drive or road that is, to the maximum extent practicable, elevated no lower than six (6) inches below the 500-year flood elevation, except a lower elevation may be required for grade transitions and traffic visibility.
11. Outdoor storage of unsecured, floatable materials, such as dumpsters, storage bins, barrels, lumber, debris, and other materials which may float and cause damage to property during flood conditions is prohibited. All such materials must be elevated to the Flood Protection Elevation or be adequately secured to prevent floatation.
12. Any alteration, repair, reconstruction or improvement to a development, which is not compliant with the provisions of this Article and determined not to be a Substantial Improvement, shall be undertaken only if the non-conformity is not furthered, extended or replaced. Any Addition to a non-conforming structure, regardless of the costs of such improvements, shall fully comply with the provisions of this Article.

Section 11. Specific Standards.

In all areas of special flood hazard where base flood elevation data has been provided, the following provisions are required:

A. **Residential Construction -** New construction or substantial improvement of any residential 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 movement of flood waters shall be provided in accordance with standards of Section 10 (A.4)

B. **Non-residential Construction** - New construction and substantial improvement of any non-residential structure located in a Special Flood Hazard Area 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 Section 8(B).

C. **Standards for Manufactured Homes and Recreational Vehicles**
   1. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring requirements.
   2. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
   3. The lowest floor of the manufactured home is elevated no lower than one foot above the base flood elevation, or
   4. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade.
   5. The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement.
   6. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of this section.

D. All temporary structures (i.e. recreational vehicles) placed on sites must either:
   1. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use and
   2. All applicants for a temporary structure is an SFHA must submit to the City's Building Official, prior to the issuance of a building permit, a specified time period for which the temporary use will be permitted and a plan for the removal of such structures in the event of a hurricane or flood warning notification:
   3. The name, address and phone number of the individual responsible for the removal of the temporary structure.
   4. The time at which the structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification).
   5. A copy of a contract or other suitable instrument of agreement with a trucking company to ensure the availability of removal for removal of the structure when needed.

6. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of Section (A.8)11(B). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.

Section 12. Standards for Floodways and Encroachments.

A. Encroachments within the *Regulatory Floodway*, including earthen *fill*, *New Construction*, *Substantial Improvements* or other *development,* with the exception of impervious parking areas (see Chapter 5, Section 4.N), are permitted, 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 a no-rise certification with applicable supporting technical data and analysis thereof. This restriction complies with the Federal requirements of 44 CFR 60.3 (d) (3). Submittal of a no-rise technical analysis may be requested, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, and shall be made to the Floodplain Administrator on forms furnished by the Floodplain Administrator.

1. Notwithstanding any other provisions of this Ordinance, *encroachments* within the *Regulatory Floodway* that would result in an increase in *Base Flood Elevations* are permitted in accordance with 44 CFR 60.3 (d)(4), provided: (1) an application for a Conditional Letter of Map Revision (CLOMR) is first submitted to FEMA for a conditional *FIRM* and *Floodway* revision, (2) the application fulfills the requirements for such revisions as established under the provisions 44 CFR 65.12, and (3) the application is approved by FEMA.

B. *Encroachments* within the *Floodway Fringe* area are permitted.

A FEMA application for Conditional *Letter of Map Revision* (CLOMR) or Conditional *Letter of Map Revision Based on Fill* (CLOMR-F) shall be required prior to the issuance of a Floodplain Development Permit for any *development* which will result in the modification of the *Floodway*. After completion of all work within the *Special Flood Hazard Area* or the *Floodway*, a *Letter of Map Revision* (*LOMR*) or *Letter of Map Revision Based on Fill* (*LOMR-F*) shall be filed with FEMA with the Community Acknowledgement of the Floodplain Administrator. Where an applicant for a *Letter of Map Revision* is unable to obtain a Community Acknowledgement from the Floodplain Administrator, the applicant may still file the application with FEMA, provided written evidence is provided indicating the Floodplain Administrator has been requested to sign a Community Acknowledgement, as provided by 44 CFR 65.4(b). Submittal for a CLOMR, LOMR OR PMR technical analysis may be requested, which shall be accompanied by a fee as adopted by the Council from time to time and is located in Chapter 9, Article VIII of this ordinance, and shall be made to the Floodplain Administrator on forms furnished by the Floodplain Administrator.

1. When unable to fully comply with the above-listed requirements, *functionally*

*dependent use*s and activities, such as marinas, boat launches, docks, piers, and the like, are permitted but subject to the *encroachment* provisions of this Section.

Section 13. Standards for streams without established base flood elevations and/or floodway (A-Zones).

The following provisions apply to areas located within the Special Flood Hazard Areas established in Subsection 2(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:

A. When Base Flood Elevation data or Floodway data have not been provided, then the Floodplain Administrator shall obtain, review, and reasonably utilize any scientific or historic Base Flood Elevation and Floodway data available from any Federal, State, or other source, in order to administer the provisions of Section 10. Additionally, a permit applicant may have prepared an engineering analysis to establish Base Flood Elevation and Floodway data. Only if data are not available from these sources, then the provisions in paragraphs **B**, and **C**, below shall apply.

B. In Special Flood Hazard Areas without Base Flood Elevation data and where a Floodway cannot be established by the Floodplain Administrator or engineering analysis, as provided in paragraph A. above, an area on each side of the stream equal to 25 feet shall be measured from the top of each stream bank. This measured area shall be subject to the Floodway restrictions of Section 12.

   1. The area on each side of the stream subject to the *Floodway* restrictions shall be measured from the top of the steam bank under base flow conditions.
   2. In no event shall the area on each side of the stream subject to the above-listed Floodway restrictions be greater than the limits of the Special Flood Hazard Area.

C. In Special Flood Hazard Areas without Base Flood Elevation data and where Base Flood Elevations cannot be established by the Floodplain Administrator, as provided in paragraph A. above, the Flood Protection Elevation shall be three feet above the Highest Adjacent Grade at the building site.

D. The applicant shall provide to the Floodplain Administrator certification from a registered land surveyor of the Highest Adjacent Grade at the building site and the Lowest Floor elevation level. The certification shall become a permanent part of the permit file.

   1. Where required, elevation of the Lowest Floor shall be provided in accordance with the standards of Section 10(A.4).
   2. Where allowed, floodproofing of the Lowest Floor shall be provided in accordance with Section 10(A.4).

Section 14. Standards For Areas Of Shallow Flooding (AO ZONES)

Special Flood Hazard Areas established in Section 6(B) may include designated "AO" shallow *flooding* areas. These areas have *Base Flood* depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

A. 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 above the Highest Adjacent Grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 10(A.4), "Elevated buildings." In lieu of elevation, Substantial Improvements and Additions to existing non-residential buildings may be floodproofed to the Flood Protection Elevation in accordance with the standards of Section 10(A.4) and Section 11(B).

   The Floodplain Administrator shall certify the Lowest Floor elevation level, and the record shall become a permanent part of the permit file.

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

Section 15. Standards for Subdivision Proposals for Subdivision and Other New Developments

A. In the interest of public safety and so as to avoid property owners being subject to the federally mandated purchase of *flood* insurance it is strongly encouraged that all *Special Flood Hazard Areas* within a *Subdivision* be set aside as a common open space for recreational, aesthetic and environmental uses. The creation of such common open spaces may allow for increased density pursuant to Chapter 3, Article II of this Ordinance. Where such open space is set aside, ownership by a neighborhood association, land trust, or other responsible entity, and attendant maintenance obligations shall be addressed as part of the *Subdivision* proposal. All *Subdivision* proposals shall comply with the following minimum requirements:

   1. All *Subdivision* proposals shall be consistent with the need to minimize *flood* damage.

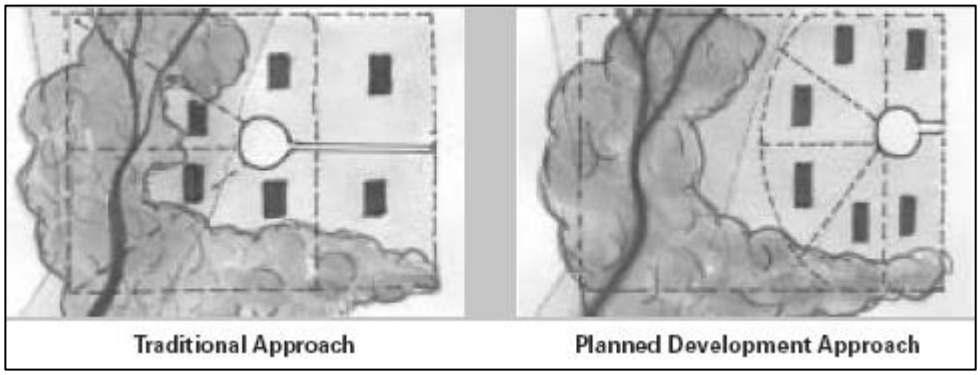
   2. All *Subdivision* proposals shall have *Public Utilities* and facilities such as sewer, gas, electrical and water systems located and constructed to minimize *flood* damage.

   3. All *Subdivision* proposals shall have adequate drainage provided to reduce exposure to *flood* hazards.

   4. The *Subdivision* of a *Special Flood Hazard Area* shall require a minimum lot size of ten (10) acres. However, clustering of lots within a planned *residential*

Subdivision to preserve open space, as depicted in Figure 1.08.201, is encouraged and may be credited toward open space required by other ordinances or regulations. For all *residential subdivisions* of six (6) or more lots, where any portion of a *Special Flood Hazard Area* has been set aside as permanent open space and dedicated to a public agency, land trust, homeowner association or other entity, lots within the area(s) remaining outside of the *Special Flood Hazard Area* may be clustered. The minimum lot area for clustered lots may be reduced below the minimum zoning requirement, provided the overall density (measured by average lot area per unit) of the clustered lots does not exceed the density of the traditional subdivision without clustering and preservation of common open space. Clustering of lots shall otherwise be in accordance with this Ordinance and Subdivision Regulations of the City.

Figure 1.08.201



5. All subdivision and other development proposals must meet the City of Birmingham's Engineering Design Guidelines for Subdivisions or Commercial Developments, 2008, as amended. Plans shall include a Drainage Plan which is designed to limit peak runoff from the site to predevelopment levels for the one, ten, twenty-five, and 100-year rainfall event. These plans shall be designed to limit adverse impacts to downstream channels and floodplains. Single residential lots involving less than one acre of land disturbance are not subject to this regulation. A Maintenance Plan will be required for all flood control structures.

6. All development will also be reviewed for Compliance with the City of Birmingham adopted Stormwater Design Manual and all subsequent revisions.

7. All streets, drives, and parking areas constructed within a *Subdivision* after the *Effective Date of this Ordinance* shall be elevated to the maximum extent practicable, as determined by the *Registered Professional Engineer*, based upon

site conditions and proposed land use. Transitions in grade may be required to tie into existing streets, drives, and parking areas or for traffic safety and visibility purposes.

8. Where Base Flood data is available (AE zones), the Special Flood Hazard Area, including all FIRM zones and Floodway boundaries, where applicable, FIRM panel reference, and Base Flood Elevations for each affected lot shall be clearly shown on all preliminary plats and final plats submitted for approval.

9. Whepre Base Flood Elevation and Floodway data is not available (A zones), Base Flood Elevation and Floodway data shall be provided for Subdivision proposals and all other proposed developments, including Manufactured Home Parks and Subdivisions, greater than fifty (50) lots or five (5) acres, whichever is less. The Base Flood Elevation and Floodway data shall be certified by a Registered Professional Engineer and be developed using FEMA-approved models and methodologies. The regulatory FIRM flood zone and Floodway delineations, Special Flood Hazard Areas, FIRM panel reference, and Base Flood Elevations for each affected lot shall be clearly shown on all plans, preliminary plats and final plats submitted for approval. Base Flood data and flood zone delineations shall be submitted to FEMA through a Letter of Map Revision.

10. Base Flood Elevation and Floodway data may be developed for Subdivisions and developments within an A zone of smaller size than that specified in paragraph 8 above, in which case, the reporting requirements of paragraph 8 above shall apply. Where no Base Flood Elevation and Floodway data is available for a proposed development or Subdivision in an A zone, the Floodplain Administrator shall estimate the Base Flood Elevations and Floodway delineations in accordance the provisions of Section 13, and such data shall be shown and marked as "estimated" on all plans and plats submitted for approval.

Section 16. Severability

If any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Article III. U.S. Highway 280 Overlay District Regulations

Section 1. Administration.

A. Intent and Purpose - Recognizing the special nature of the Highway 280 Corridor and the impact of the appearance of this corridor and its importance to the local economy, the intent of this Article is to establish minimum standards and regulations for all building development, including access management, building design and orientation, site development, signage and landscaping, that will help insure that development is aesthetically pleasing and economically viable. To this end, the regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article, are regulations of the U.S. Highway 280 Overlay District. These regulations shall apply to all lands within the U.S. Highway 280 Corridor as identified on the herein attached map entitled "U.S. Highway 280 Overlay District Boundary Map," which is also incorporated into and depicted on the Zone Map of the City of Birmingham.

The purposes of these regulations are to ensure creativity and compatibility of the planning and design among land uses in the corridor as well as to encourage a responsible land ethic. Additionally, these regulations have been developed with consideration of the character of the corridor in an attempt to ensure quality development and redevelopment as it occurs, to conserve the valve of property as well as to enhance the investment of all those locating within the corridor.

The U.S. Highway 280 Overlay District is designed to work in conjunction with the underlying zoning district (s), present and future, in order to exercise reasonable control over the land and to accomplish the stated purposes.

In addition to the development regulations set forth herein, the City has determined that access management is integral to development within the corridor. To this end, all development projects will be encouraged to be designed to minimize congestion on Highway 280, by incorporating one or more of the following principles into the site design as applicable:

1. Limit the number of conflict points by limiting left turning movements and cross highway through movements.

2. Separate conflict areas by adequate spacing between driveway and street intersections.

3. Reduce interference with through traffic by providing turning lanes, designing driveways with large turning radii and restricting turning movements in and out of driveways.

4. Provide sufficient spacing for at-grade signalized intersections.

5. Provide adequate on-site and intra-site circulation and parking areas in order to minimize the number of driveways to the highway.

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

B. Compliance - In consideration of an application for a building permit for property located I the Highway 280 Overlay District, the property owner or his or her agent shall submit a site plan and accompanying information to the Department of Planning, Engineering & Permits for review and approval. The site plan shall be drawn to a scale no smaller than one inch equals 50 feet and shall show the following information:

1. All dimensions and distances, property lines, easements, landscaping, buffers and public and private rights-of-way
2. Existing and proposed buildings and structures, including signs, trash containers, fences, walls, light poles, power poles, outdoor utility equipment and structures, and roof and ground mounted mechanical appurtenance units
3. Location, height, size, materials, color and lighting of all signs
4. Bodies of water, water detention areas, drainage structures and sanitary sewer lines and facilities and water distribution lines
5. Driveways, accommodations for bicycles and pedestrians, parking areas, existing and proposed parking spaces, access aisles and other vehicle maneuvering areas; along with all required landscaping
6. All existing and proposed built improvements, natural features such as rock outcroppings, streams, and other landscape elements; plant materials keyed to a Planting Schedule with botanical names, common names, cultivar (if any), quantity of materials, size of materials at time of planting and plantscaping.
7. Sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this Article are fully satisfied
8. The site plan shall be accompanied by:
   a. A grading plan which shows all areas of cut and fill and the grade of all finished floor elevations in relation to the elevation of the Highway 280 pavement which adjoins the property
   b. An access management plan which shows compliance with Section 2.0. Proposed median access cuts must be approved by the Alabama DOT prior to submission of the site plan and access management plan.
   c. Certification that building orientation, materials and design comply with the requirements of Section 3.0.
   d. An exterior lighting plan which shows compliance with Section 5.0, including the proposed foot candles of artificial light on and off premises.
   e. A sign plan which shows compliance with Section 7.
   f. A landscape plan and an irrigation plan which shows compliance with Section 8.
   g. An erosion and sedimentation plan which meets or exceeds the requirements of the City of Birmingham Soil and Erosion Control Ordinance.
   h. Other plans or specifications necessary to show compliance with this Article.

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

C. Uses Permitted in the U.S. Highway 280 Overlay District - The uses permitted under any zone district classification coupled with the U.S. Highway 280 Overlay District are not affected by such overlay district designation. Only the potential development of the subject property is affected.

D. Interpretation - In the interpretation and application of this Article, all provisions shall be: (1) considered as minimum requirements, and (2) liberally construed in favor of the governing body.

Section 2. Highway 280 Access.

A. All parcels which front onto Highway 280 and which adjoin private property are encouraged to either share access with adjoining properties or have access to a frontage road.
   1. The number and location of access points to Highway 280 shall be determined as part of the site plan review process.
   2. The development of each parcel in areas where a frontage road is either available or planned shall incorporate the frontage road into the site design.
   3. In areas where a frontage road is not available or planned, each parcel shall be encouraged to share paved highway access drives with adjoining properties.
   4. Access to Highway 280 may be prohibited from any tract having access to a street intersecting Highway 280 or any tract with frontage on Highway 280 which has access through an existing joint-use access easement or driveway. Otherwise, access to Highway 280 shall be limited to one driveway unless otherwise permitted.
   5. Maximum practical spacing between driveways shall be required. Unless otherwise approved, no driveway accessing Highway 280 shall be located:
      a. Closer than 300 feet from the nearest adjacent driveway, unless no other access is available to a parcel of land;
      b. Where the number of feet of sight distance is less than ten times the posted speed limit;
      c. On the inside radius of a curve; or,
      d. Where the roadway grade of Highway 280 exceeds seven and one-half percent (7.5%).
   6. Minimum spacing between local streets intersecting Highway 280 shall be 600 feet and between collector streets shall be 1,320 feet; and improvements to intersections will be based upon a review of a professional traffic analysis.
   7. The number of median breaks on Highway 280 should be minimized. All future connecting streets should align with median breaks to the greatest extent practicable.

Section 3. Building Design and Orientation

A. The following standards shall apply to all development in the corridor, except single

family detached dwellings:

1. Minimum building setback from the Highway 280 right-of-way shall be 50 feet. Minimum front building setback from other public street rights-of-way shall be 40 feet. Minimum side and rear building setbacks from other public street rights-of-way shall be 25 feet.
2. Service and loading areas, outdoor storage areas, trash receptacles, utility equipment, mechanical units, satellite dishes and similar appurtenances shall be located so as to minimize visibility from public property and shall be visually screened from view from off the premises. Trash receptacles shall be located within a four-sided structure which completely conceals the trash receptacle. The color and architecture of the structure shall be compatible with that of the building which it serves.
3. The outdoor display of sales merchandise and outdoor storage when permitted, shall not be visible from public property, except automobiles, live plants, and vending machines.
4. Mechanical units shall be ground mounted whenever possible. However, in all cases, roof mounted units and ground mounted units shall be screened from view from public property.
5. Building orientation shall be such that loading and service areas do not face Highway 280, except in the case of double frontage lots, where such areas must be located in a rear or side yard which faces the highway. All loading and service areas shall be screened from view from off the premises.
6. In order to prolong the life of buildings, reduce the need for periodic maintenance and maintain a character which is commensurate with the public interest, the following materials shall be used as primary exterior building wall finishes on portions of the building which are visible from the Highway 280 right-of-way: brick, stone, glass, wood, stucco, imitation stucco, precast concrete, poured concrete, and/or split-face concrete block.
7. Nonstructural awnings, covered with cloth, plastic or other fabric, shall not project more than seven feet from the building wall shall not be lower than eight feet nor higher than 14 feet above grade and shall not be internally illuminated.

Section 4. Walls and Fences

A. Screening walls and fences shall be compatible in color and materials of the building on the premises.
B. Fences designed to create privacy or separation shall be made of masonry, ornamental metal, durable wood, vinyl that is designed and fabricated to appear as wood, or a combination of these materials. Chain link, plastic or wire fencing is not permitted for fences visible from public property.
C. When visible from public property, solid fences shall have an evergreen-landscaped strip on the Highway 280 side of the fence.
D. Fences and walls shall not restrict traffic intersection sight lines.

Section 5. Exterior Lighting

A. Lighting shall have underground electric service, except where the lights, service poles and wires are not visible from public property.

B. The intensity, location and design of lighting shall be such that not more than one-foot candle of light is cast upon adjacent property or the public right-of-way. Light fixtures shall be designed to cast light downward. Where necessary, cut off devices shall be used to minimize glare off premises.
C. Exterior lights shall not exceed 20 feet in height.
D. Wooden light poles are prohibited on private property.
E. Light poles and fixtures shall be compatible with the architecture of the buildings on the premises.
F. Flashing, blinking or intermittent lights or bare neon tubing, are prohibited.

Section 6. Grading and Drainage

A. Except for retaining walls, smooth topographic transition shall be provided throughout the site and between properties. Slopes steeper than 1:3 rise to run are prohibited.
B. The exterior surface of retaining walls shall be compatible with the architecture and site design of the property.
C. Retaining walls which exceed eight feet in height and are visible from public property, shall be visually screened with vegetation.
D. In areas which are visible from public property, subsurface drainage structures and grass swales shall be used to manage storm water. Open ditches are prohibited.
E. The use of crushed granite or limestone for slope stabilization and storm drainage is prohibited in the public right-of-way and areas which are visible from the through and auxiliary lanes of Highway 280.
F. Prior to the issuance of a certificate of occupancy for the premises, all slopes shall be stabilized with grass or other evergreen groundcover or other vegetation.

Section 7. Signs

A. Permits Required. A sign permit shall be obtained from the Department of Planning, Engineering & Permits prior to the erection or placement of a sign which is regulated by this Section.
B. Exempt Signs. The following signs are exempt from the requirements of this Section, provided they do not create a safety hazard as determined by the appropriate governmental authority.
    1. Directional signs which do not exceed four square feet of copy area nor three feet in height, located in parking or vehicle maneuvering areas, which are intended to direct traffic through the area and do not contain any advertising
    2. Regulatory, statutory and traffic control signs necessary to promote the public health, safety and welfare; as required by the municipal, county, state or federal government
    3. Legal notices, memorial and historical markers and other official government signs
    4. Holiday lights and decorations
    5. Signs incorporated into vending machines by a manufacturer or distributor, which identify or advertise only the product or service dispensed by the machine, including gasoline pumps, and telephone booths

6. Merchandise displayed behind storefront windows so long as no part of the display moves or contains flashing lights
7. Advertising and identifying signs located on taxicabs, buses, trailers, trucks or vehicle bumpers
8. Public warning signs to indicate the dangers of trespassing, swimming, animals or similar hazards
9. Works of art that do not constitute advertising
10. Signs carried by a person
11. One temporary, construction sign not to exceed 16 square feet in area, nor six feet in height
12. Projecting (or Blade) Signs subject to administrative review provided that said sign(s) shall not extend more than four feet from the vertical surface of the building to which it is mounted, shall be a minimum of eight feet above the exterior grade, and the total sign face area (excluding bracket or mounting device) shall not exceed 16 square feet for one sign (total for both faces), 24 square feet for two signs (total four faces), or 30 square feet for three signs (total six faces). The maximum number of projecting signs per building or tenant space shall be based on actual linear feet of frontage. Only one sign is exempted for frontage of less than 50 feet, two signs for frontage of greater than 50 feet but less than 100 feet, and three signs for frontage of greater than 100 feet with a maximum of three signs per building or tenant space. (Ord. 08-71).

C. Prohibited Signs

The following signs are prohibited, unless otherwise exempted or permitted by this Article.

1. Signs which do not comply with the adopted building, electrical or fire codes
2. Any sign which constitutes a safety hazard, as determined by the appropriate governmental authority, including signs which obstruct visibility at intersections
3. Signs which are not permanently attached to the ground or a building, including, portable signs, inflatable signs, banners and similar devices
4. Off-premise signs
5. Signs located in the public right-of-way and signs attached to trees or poles, including signs attached to private property located in the public right-of-way
6. Animated signs, including signs which move, revolve, rotate, or appear to be animated by mechanical, electronic or other means
7. Signs with flashing, blinking, moving or intermittent light or with light which varies in intensity or color, except time and temperature signs
8. Strings of light bulbs, inflatable signs, and signs which emit noise, odor or visible matter such as smoke or steam
9. Wind driven signs including banners, flags, pennants, ribbons, spinners, streamers, captive balloons and similar devices
10. Roof signs
11. Signs that incorporate projected images, emit any sound that is intended to

attract attention or involve the use of live animals

12. Signs or sign structures that interfere, in any way, with the free use of any fire escape, emergency exit or standpipe, or that obstructs any window to such an extent that light or ventilation is reduced to a point below that required by any provision of these regulations
13. Signs that resemble any official sign or marker erected by any governmental agency, or that by reason of position, shape or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color or illumination that may be reasonably confused with or construed as, or conceal, a traffic-control device; or, non-governmental signs that use the words "STOP," "LOOK," "DANGER," or any similar word, phrase or symbol
14. Signs that contain any writing or control mechanism that causes unreasonable interference with radio, television or other communication signals

D. General Regulations for all Signs Throughout the Corridor

The following regulations are applicable for signs on private property throughout the corridor:

1. Not more than one flag of governmental, religious, charitable, or fraternal organizations may be displayed on any one parcel of land. The flag shall not exceed 15 square feet in area and shall be flown from a pole, the top of which shall be less than 35 feet in height.
2. No sign shall have more than two faces.

E. Temporary Signs

1. Each business, institution or public building may have one temporary banner affixed to the building wall, which advertises a sale or special event. However, each business, institution or public building shall be limited to not more than a total of 30 days each calendar year, during which such a temporary sign may be displayed, except that no such sign may be erected for a period of 10 days or more. A temporary sign permit shall be obtained prior to erection of the sign.
2. Each new business may have one illuminated, temporary sign, which may be a banner, which shall not to exceed 32 square feet in sign face area and shall be attached to the building wall of the premises for a period not to exceed 30 days, or until a permanent sign is installed, whichever time period is shorter. A temporary sign permit shall be obtained prior to erection of the sign.
3. Commercial property may have one, non-illuminated, free standing, temporary identification sign per facing street, while the property is being developed, which shall not exceed 48 square feet of sign face area nor 10 feet in height. For a single tenant project, the sign shall be removed when the project is complete, or the permanent sign has been erected, whichever occurs first. For multi-tenant projects, the sign shall be removed when 75 percent of the tenant

spaces have been leased, or the permanent sign has been erected, whichever occurs first.

4. Residential subdivisions with five or more lots may have one free standing, on-premise, temporary identification sign while the subdivision is being developed, which shall not exceed 32 square feet of sign face area nor 10 feet in height. The sign shall not be illuminated and shall be removed within 120 days after construction begins on the first dwelling in the subdivision, or the permanent subdivision identification sign has been erected, whichever occurs first.
5. Each premises may have one on-premise sign, which advertises the sale or lease of the property, which does not exceed six square feet of sign face area when located in a single family residential zoning district, and 24 square feet in all other zoning districts. The signs shall be removed upon the sale or lease of the premises.

F. Signs Permitted for Retail and Service Establishments Which Are Not Located in a Shopping Center

Each building may have one building wall sign or one canopy sign per facing street. However, in no case can a building have more than two building wall signs. Each building may have only one freestanding sign. Reader boards with moveable copy may be incorporated into the sign face area of a freestanding sign. Sign face area of a reader board shall be included as part of the maximum free standing sign face area permitted by this Section.

1. Freestanding Sign, More Than Eight Feet in Height
   a. Maximum height of the sign shall be 20 feet above the average elevation of the ground at the base of the sign, or 10 feet above the center line elevation of the public street or highway which is closest to the sign. Said elevation shall be measured at the point on the centerline which is closest to the sign. Berms shall not be used to increase the height of a free standing sign.
   b. The maximum sign face area of an internally illuminated sign shall be 55 square feet.
   c. The maximum sign face area of a non-illuminated or indirectly illuminated sign shall be 66 square feet.
   d. Signs shall be setback at least 10 feet from any property line.

2. Freestanding Sign, Eight Feet or Less in Height
   a. Maximum height of the sign shall be eight feet above the average elevation of the ground at the base of the sign. Berms shall not be used to increase the height of a free standing sign.
   b. The maximum sign face area of an internally illuminated sign shall be 66 square feet. Sign face area of the sign may be increased .5 square feet for each additional foot of building setback from the property line in excess of 50 feet, up to a maximum sign face area of 100 square feet.

c. The maximum sign face area of a non-illuminated or indirectly illuminated sign shall be 80 square feet. Sign face area of the sign may be increased .5 square feet for each additional foot of building setback from the property line in excess of 50 feet, up to a maximum sign face area of 100 square feet.
d. Signs shall be set back at least 10 feet from any property line.

3. Building Wall and Canopy Signs

   The maximum sign face area shall be 15 percent of the building wall area to which the sign or canopy is attached, up to a maximum sign face area of 150 square feet. The maximum sign face area may be increased one square foot for every five feet of building set back in excess of 50 feet, up to a maximum of 210 square feet.

G. Signs Permitted for Retail and Service Establishments Located in a Shopping Center

Each tenant space may have one building wall sign or one canopy sign. A tenant space with more than 50,000 square feet of gross floor area may have one building wall sign or one canopy sign per facing street, if the tenant space is located at the end of the shopping center building which faces a public street intersection.

1. The building wall sign or canopy sign for each business shall be attached to a front or side building wall which encloses that business premises.
2. The maximum sign face area shall be 15 percent of the building wall area to which the sign or canopy is attached, up to a maximum sign face area of 150 square feet. The maximum sign face area may be increased one square foot for every five feet of building setback in excess of 50 feet, up to a maximum sign face area of 210 square feet.

H. Shopping Center Identification Signs

Each shopping center may have one freestanding sign which identifies the name of the shopping center. Tenant signs are permitted, provided that the combined total sign face area for both tenant signs and the shopping center identification sign does not exceed the maximum allowable sign face area shown in Section (H)(1)(b)(c).

1. Freestanding Sign
   a. Maximum height of the sign shall be 20 feet above the average elevation of the ground at the base of the sign, if the average grade is at or lower in elevation than the centerline of the nearest public street; or 10 feet above the average elevation of the ground at the base of the sign, if the average grade is higher in elevation than the center line elevation of the nearest public street. Said elevation shall be measured at the point on the centerline which is closest to the sign. Berms shall not be used to

increase the height of a free standing sign.

b. For shopping centers with more than 300 continuous feet of public road frontage, maximum height of the sign shall be 30 feet above the average elevation of the ground at the base of the sign, if the average grade is at or lower in elevation than the centerline of the nearest public street; or 18 feet above the average elevation of the ground at the base of the sign, if the average grade is higher in elevation than the center line of the nearest public street. Said elevation shall be measured at the point on the centerline which is closest to the sign. Berms shall not be used to increase the height of a free standing sign.
c. The maximum sign face area of an internally illuminated sign shall be 55 square feet. Sign face area may be increased one square foot for every eight feet of continuous public street frontage in excess of 300 feet, up to a maximum sign face area of 96 square feet.
d. The maximum sign face area of a non-illuminated or indirectly illuminated sign shall be 66 square feet. Sign face area may be increased one square foot for every five feet of continuous public street frontage in excess of 300 feet, up to a maximum sign face area of 120 square feet.
e. Signs shall be setback at least 10 feet from any property line.

I. Signs Permitted for Office, Manufacturing, Industrial and Institutional Buildings

Each office, manufacturing, industrial or institutional building may have one freestanding sign; and one building wall sign per facing street, but in no case more than two wall signs.

1. Freestanding Signs
   a. Maximum height shall be eight feet above the average elevation of the ground at the base of the sign. Berms shall not be used to increase the height of a free standing sign.
   b. The maximum sign face area of an internally illuminated sign shall be 32 square feet; 80 square feet for office buildings with gross floor area greater than 100,000 square feet which are not located in an office park.

   c. The maximum sign face area of a non-illuminated or indirectly illuminated sign shall be 48 square feet; 120 square feet for office buildings with gross floor area greater than 100,000 square feet which are not located in an office park.
   d. Signs shall be setback at least 10 feet from any property line.

2. Building Wall Signs

   The maximum sign face area shall be 15 percent of the building wall area to which the sign is attached, up to a maximum sign face area of 60 square feet. In addition, each retail establishment located in an office or institution

building may have one building wall sign which shall not exceed 30 square feet of sign face area and shall be attached to the building wall of the retail tenant space.

3. Office Parks, Manufacturing and Industrial Parks, Institutional Campuses and Mixed Use Developments

   Each office park, manufacturing and industrial park, institutional campus and mixed use development which contains more than two buildings, other than accessory buildings, may have one freestanding sign per public street entrance, which identifies the name of the park or campus.

1. Maximum height of the sign shall be eight feet above the average elevation of the ground at the base of the sign. Berms shall not be used to increase the height of a free standing sign.
2. The maximum sign face area of an internally illuminated sign shall be 48 square feet; 100 square feet for developments with buildings which contain a total of more than 500,000 square feet of gross floor area.
3. The maximum sign face area of a non-illuminated or indirectly illuminated sign shall be 60 square feet; 120 square feet for developments with buildings which contain a total of more than 500,000 square feet of gross floor area.
4. Signs shall be setback at least 10 feet from any property line. Signs with sign face area of 100 square feet or more, shall be setback at least 50 feet from any property line.

J. Signs Permitted for Multiple Dwellings

Each complex or community of multiple dwellings is permitted one freestanding sign per public street entrance.

1. Maximum height of the sign shall be six feet above the average elevation of the ground at the base of the sign. Berms shall not be used to increase the height of a free standing sign.
2. All signs shall be non-illuminated or indirectly illuminated and the maximum sign face area shall not exceed 32 square feet. Signs may not be located in the public right-of-way.
3. Signs shall be set back at least 10 feet from any property line.
4. All such signs shall be maintained perpetually by the developer, the owner of the sign, a pertinent homeowner's association or some other person who is legally accountable. Such accountability is required before a permit shall be issued. If, following the issuance of a permit and subsequent erection of such signs, no accountable person accepts legal responsibility to maintain the signs and no other provision has been made for maintenance, the signs shall be removed by the developer or owner.

K. Signs Permitted for Single Family Dwellings

1. Each approved home occupation may have one non-illuminated building wall sign which does not exceed one square foot of sign face area and which identifies the name of the business.
2. Each residential subdivision is permitted a maximum of one, non-illuminated or indirectly illuminated freestanding sign per public street entrance to the subdivision. The sign shall only identify the name of the subdivision and shall be incorporated into landscaping which compliments the design of the signs and creates an entrance feature for the subdivision. The sign shall not be located in the public street right-of-way.
   a. Maximum height of the sign shall be six feet above the average elevation of the ground at the base of the sign. Berms shall not be used to increase the height of a free standing sign. The maximum sign face area of the non-illuminated or indirectly illuminated ground sign shall be 32 square feet. Signs shall be set back at least five feet from any property line.

L. Sign Definitions

Awning or Canopy Sign. A sign that is mounted, painted on or attached to an awning or canopy

Banner. A sign, not otherwise classified as a temporary sign, made of cloth, canvas, plastic sheeting or any other flexible material, not rigidly attached to a building or the ground through a permanent support structure

Building. A structure having a roof supported by columns or walls

Building Wall Sign. A sign attached parallel to, supported by and not more than 14 inches from, the exterior wall of a building. The sign may be painted on the surface of the wall or erected and confined within the limits of said wall

Construction Sign. A sign pertaining only to the construction, alteration, rehabilitation or remodeling of buildings, identifying only those parties involved in construction on the premises and future activity for which the construction is intended
Freestanding Sign. A permanent sign which is not attached to a building

Indirectly Illuminated Sign. A sign which is illuminated by a light source which is external to the sign cabinet or structure

Internally Illuminated Sign. A sign which is illuminated by a light source which is behind the sign face

Institution. A nonprofit or quasi-public use such as a church, library, public or private school, hospital, or publicly owned or operated building, structure or property used for

a public purpose

Mixed Use Development. A development which contains any combination of retail, office, institution or multi-family residential uses

Off-Premise Sign. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located

Portable Sign. Any sign not permanently attached to the ground or another permanent structure; including but not limited to: signs designed to be transported by means of wheels, "A" frame signs, menu and sandwich board signs, balloons used as signs, umbrellas used for advertising and signs attached to or painted on vehicles, parked and visible from the public right-of-way, unless said vehicles are used in the normal day to day operations of the business

Premises. A lot, parcel or tract of land together with the buildings and structures thereon, having a separate street address

Projecting (or Blade) Sign. A sign that is attached to the exterior wall of a building and extends perpendicular more than 14 inches from the wall of the building

Public Property. Property owned by a municipality, a county, the State of Alabama or the United States government, except property used for public utility purposes. All public street rights-of-way are public property

Real Estate Sign. A sign indicating that the property on which the sign is located is for sale, lease or development, to announce an open-house event in connection with the sale or lease of a building, or to identity a model home

Roof Sign. A sign which is attached to and supported by a building and extends above the exterior wall of the building to which it is attached

Shopping Center. A building which contains two or more retail establishments.

Sign. A name, identification, image, description, display or illustration which is affixed to, printed or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business

Sign Face Area. The sign face area of any sign with only one sign face, shall be computed by means of the smallest geometric figure that encompasses the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed

The sign face area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are not more than 42 inches apart, with a horizontal angle no greater than 30 degrees, the sign area shall be computed by the measurement of one of the sign faces.

Sign Height. The vertical distance measured from the lowest finished grade elevation directly beneath the center of the sign to the highest elevation of the sign

Temporary Sign. A sign not permanently and rigidly affixed to the ground or a building.

Section 8. Buffers and Landscaping

A. Purpose. The buffers and landscaping standards are provided to enhance the physical appearance of buildings, their designated parking areas, and the positive impact of parking areas on adjacent land uses.
B. Impervious Surfaces. Except for single family dwellings, impervious surfaces such as rooftops and pavement areas for each development shall not cover more than 80 percent of a lot or parcel.
C. Buffers.
   1. Applicability. The following table shows required buffers in the corridor. When the use in Row A is developed adjacent to the use in Column B, the use in Row A shall provide the required buffer. Required buffers shall be located along all property lines that separate property which is currently used for the uses stipulated in the following table.
   2. Buffers. Required buffers may be natural areas, planted areas or a combination of both. All required buffers shall meet or exceed the standards of this Section.

Table I: Buffers

WIDTH OF REQUIRED BUFFER EXPRESSED IN FEET					
Row A					
Column B	Single Fam. Residential	Multi-Fam. Residential	Office and Institution	Retail Business	Manufacturing & Industrial
Single Fam. Residential	0	15	15	25	25

Multi-Fam. Residential	0	0	15	20	25
Office and Institution	0	0	0	15	25
Retail Business	0	0	0	0	25
Manufacturing & Industrial	0	0	0	0	0

3. Maintenance. The property owner shall be responsible for maintenance, repair and replacement of all landscaping materials and irrigation systems required by this Article. All plant material shall be tended and maintained in a healthy growing condition, replaced when dead and kept free of weeds, refuse and debris.
4. Irrigation. All required buffers shall be irrigated with a fully automated irrigation system; except for those buffers which are approved as natural buffers. Automatic controllers shall be screened from view, locked and not easily accessible to pedestrian traffic. Required back flow prevention devices connected to the water system shall be screened from view and shall not be set in lawn areas. Shrub and lawn sprinkler heads adjacent to pedestrian walks, parking spaces, driveways and structures shall be high pop-ups installed one half inch from the edge of curbs and walks and six feet from architectural structures. The owner shall keep the irrigation system in proper working condition as a part of a regular maintenance program.

D. Landscaping for Parking Areas

1. General Requirements. The following requirements shall be met concerning improvements to parking lots:
   a. Landscape plans for developments that require 100 or more off-street parking spaces shall be prepared by a registered landscape architect or a licensed landscape designer. All submitted plans shall bear the architect's/ designer's seal, signature and State of Alabama registration number.
   b. All cuts and fills and/or terraces shall have sufficient vegetative cover installed so as to prevent erosion.
2. Landscape Plan Requirements. The following plan requirements shall be fulfilled:

a. All landscaping plans shall be drawn at an appropriate scale so as to convey the design intent, to the appropriate planning and zoning authority.
b. All submitted plans shall include: the title of development, name and address of owner/developer/agent; name and address of person/ firm preparing the plans; date of preparation, scale, north arrow and dates of all revisions; a location map of site to nearest public street intersection; boundaries of property in concern; location and description of all adjacent properties, streets and easements; parcel identification and zoning classification; number of parking spaces; total square footage of impervious areas and landscaping; and the location and dimensions of entrance/exit points.

3. Applicability. These regulations apply to all areas, (hereinafter referred to as parking areas), which are open to the general public or visible from public property, and used for off-street parking and loading, vehicle maneuvering and the retail sale of motor fuels.
4. These regulations shall apply to new parking areas and to any enlargement of parking areas by twenty-five (25) percent or more. The enlargement of any existing parking area by twenty-five (25) percent or more shall require that the existing and new parking areas conform the requirements of this Article. Multilevel parking structures are exempt from the interior planting requirements.
5. Design Standards. Only large trees may be planted to comply with the requirements of this Section, except when site visibility at intersections or when overhead utilities prevent the use of large trees, in which case medium or small trees may be used. Interior landscaped islands and perimeter planting areas shall be planted with trees equal to or greater than one tree for each 900 square feet of impervious parking area. Only trees listed in the Tree Selection List and noted with (*) may be planted within or on the perimeter of a parking area.
6. Large parking areas shall be designed as a series of smaller lots that provide space for not more than 100 cars. The smaller lots shall be separated by internal planting areas that form a perimeter which is at least nine feet wide, planted with large trees and shrubs. These planted areas shall be counted as part of the 10 percent internal planting requirement for parking areas.
7. Perimeter Planting. The width of required perimeter planting areas, which are located within required buffer areas, may be included as part of the minimum buffer width, provided that the plant materials meet the minimum standards for a buffer.
8. Parking areas shall be separated from the Highway 280 right-of-way by a 15-foot wide perimeter planting area. The perimeter planting area shall contain a double staggered row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity. Shrubs should be spaced to allow

growth of species type. Deciduous trees shall be equal in number to one tree per 25 feet of Highway 280 frontage. Large trees shall be planted on 35 foot centers and small and medium size trees shall be planted on 25 foot centers.

9. Parking areas shall be separated from other public road rights-of-way by a 10-foot wide perimeter planting area. The perimeter planting area shall contain a double staggered row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity. Shrubs should be spaced to allow growth of species type. Deciduous trees shall be equal in number to one tree per 25 feet of public street frontage. Large trees shall be planted on 35 foot centers and small and medium size trees shall be planted on 25 foot centers.
10. Parking areas shall be separated from other private property by an eight-foot wide perimeter planting area. The perimeter planting area shall contain a double staggered row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity. Shrubs should be spaced to allow growth of species type. Deciduous trees shall be equal in number to one tree per 50 feet of abutting property line. Large trees shall be planted on 35 foot centers and small and medium size trees shall be planted on 25 foot centers.
11. Interior Planting. Notwithstanding the requirements of any other provisions in this Article, whenever the impervious surface of a parking area exceeds 8,000 square feet, an area equal to 10 percent of the impervious surface area shall be provided for landscaping islands in the interior of the parking area. Plant material located within six feet of a building shall not be included as part of the minimum interior planting requirement. The interior parking area planting requirement is in addition to the required perimeter planting. Gasoline service stations and automobile sales lots are exempt from the interior planting requirements.
12. The interior islands shall be at least nine feet by 20 feet, planted with a combination of large trees and evergreen shrubs. One landscaped island shall be required for each row of 12 contiguous parking spaces. Each landscaped island shall contain at least one large tree which meets the minimum requirements of this Article.
13. Maintenance. The property owner shall be responsible for the maintenance, repair and replacement of all landscaping materials, barriers and irrigation systems required by this Article. All plant material shall be maintained in perpetuity in a healthy growing condition, replaced when dead and kept free of weeds, refuse and debris.
14. Irrigation. All required landscaping shall be irrigated by an automatic irrigation system; except required interior landscaping within an existing parking area which is being landscaped to comply with the requirements of this ordinance. Pop-up heads or drip emitters shall be installed for

shrub and lawn irrigation of areas next to buildings/structures, driveways, parking spaces and pedestrian walks.

15. All installation, spacing and maintenance of plant materials shall conform to the American Standard for Nursery Stock, latest edition, published by The American Association of Nurserymen and Standardized Plant Names latest edition, by The American Joint Committee on Horticultural Nomenclature.
16. Trees. Only trees in the Tree Selection List may be planted in required landscaping and buffer areas.
    a. Shade trees shall be a minimum of 2 ½ inch caliper in size at planting.
    b. Flowering trees shall be at least six feet in height at planting.
    c. Pines shall be at least five gallon, or five feet in height at planting. Spacing of pine trees in containers shall be a maximum of eight feet on centers.
17. Tree Selection List
18. Trees permitted in landscaped buffers are noted with the # sign.
19. Trees permitted in parking areas are noted with the * sign. All tree heights listed are heights at maturity.

SMALL DECIDUOUS TREES (Trees from 10' - 40' in height)
Acer barbatum / Florida Maple #
Betula nigra / River Birch # *
Cercidiphyllum japonicum / Katsura Tree # *
Cercis canadensis / Redbud # *
Koelreuteria paniculata / Goldenrain Tree # *
Lagerstroemia indica / Crape Myrtle # *
Prunus c. pissardi / Purple Leaf Plum
Prunus serrulata 'Kwanzan' / Kwanzan Cherry *
Prunus x incam 'Okame' / Okame Cherry *
Prunus yedoemsis / Yoshino Cherry *
Pyrus calleryana 'Bradford' / Bradford Pear *

LARGE DECIDUOUS TREES (Trees at least 40' in height)
Acer rubrum / Red Maple # *
Fraxinus americana / White Ash *
Ginkgo biloba / Ginkgo # *
Platanus occidentalis / Sycamore #
Quercus acutissima / Sawtooth Oak *
Quercus alba / White Oak *
Quercus coccinea / Scarlet Oak*
Quercus falcata / Southern Red Oak *
Quercus nigra / Water Oak *
Quercus palustris / Pin Oak *
Quercus phellos / Willow Oak # *

Quercus shumardii / Shumard Oak # *
Zelkova serrata / Zelkova # *

SMALL EVERGREEN TREES (Trees less than 25 ' in height)
llex x attenuata 'Fosteri' / Foster's Holly # *
llex opaca / American Holly # *
East Palatka # *
Hume No. 2 # *
Lusterleaf # *
Nellie R. Stevens # *
Savannah # *
Ilex vomitoria / Tree Form Yaupon Holly *
Juniperus virginiana / Eastern Red Cedar # *
Myrica cerifera / Wax Myrtle # *

MEDIUM EVERGREEN TREES (Trees from 25' to 50' in height)
Cupressocyparis leylandii / Leyland Cypress # *
Juniperus virginiana / Eastern Red Cedar # *
Pinus echinata / Shortleaf Pine *
Pinus thunbergiana / Japanese Black Pine#

LARGE EVERGREEN TREES (Trees at least 50' in height)
Magnolia grandiflora / Southern Magnolia # *
Pinus caibaea / Slash Pine *
Pinus strobus / Eastern White Pine *
Pinus taeda / Loblolly Pine # *
Pinus Virginiana / Virginia Pine # *

20. Shrubs. Shrubs used for screening shall be evergreen and shall obscure the view of the screened item upon installation. Only the following shrubs may be planted in required landscaping and buffer areas, in compliance with the following size / spacing relationships.

Ilex c. compacta / Compacta Holly
Ilex c. burfordi / Burford Holly # *
Ilex. c. burford nana / Dwarf Burford Holly
Ilex c. needlepoint / Needlepoint Holly
Juniperus p. nana / Dwarf Pfitzer Juniper
Ilex vomitoria nana / Dwarf Yaupon Holly
Illicium anisatum / Japanese Anise Shrub
Ligustrum japiconica / Lusterleaf Ligustrum # *
Photinia x fraseri / Photinia Fraseri
Photinia x. fraseri / Red Tip Photinia # *
Ilex c. repandens / Repandens Holly
Prunus l. schipkaensis / Schip Laurel

Eleagnus pungens / Thorny Eleagnus
Myrica cerifera / Wax Myrtle
Prunus l. zabeliana / Zabel Laurel

Table II: Shrub Size and Spacing

Size in Gallons	Spacing
1 (8" pot minimum)	Two feet on center
2	Two and one-half feet on center
3	Three feet on center
5	Four feet on center

21. Ground covers. Ground covers shall be of a single species and planted in large masses. Only the following ground covers may be planted in required landscaping areas in compliance with the following size/spacing relationships.

    Juniperus h. plumosa / Andorra Juniper
    Liriope muscari / Big Blue Liriope
    Ophiopogon japonicus / Mondo Grass
    Juniperus davuricai parsoni / Parsons's Juniper
    Juniperus conferta / Shore Juniper

Table III: Ground Cover Size and Spacing

Size	Spacing
One Quart	Nine inches on center
One Gallon (8" inch pot minimum)	Eighteen inches on center

Article IV. Highland Park Neighborhood Form-Based Overlay District Regulations

Section 1. Intent and Purpose

A. Intent**.** The intent of this Article is to establish minimum standards and regulations for building development, building and frontage category and orientation, site development, signage and landscaping for the Highland Park Neighborhood. Such standards and regulations will help ensure that development is aesthetically pleasing and compatible with surrounding streetscape and land uses.

This Overlay District is designed to encourage new development that will complement the existing historic character of the neighborhood as well as help to create and sustain a pedestrian friendly environment. It is intended that this Overlay District will only apply to properties that are bordered by a sidewalk. As its principle focus is on new development, it will not be applied retroactively to existing projects.

A unique feature that distinguishes this Overlay District from the existing zoning ordinance is that setback requirements are correlated to the buildings frontage category. The frontage category determines the minimum and maximum setback.

B**.** Purpose. This Overlay District is a regulatory tool that can be used to guide the future growth and character of Highland Park by means of a specific Regulating Plan. The Regulating Plan's purpose is to implement a community's vision as a traditional neighborhood that emphasizes the street and pedestrian travel and access. The result of the plan is the placement of the Overlay District "over" the underlying zoning, thereby modifying the underlying zoning's area dimensional and parking regulations.

The standards of the Overlay District address the buildings in relation to their placement on a lot, the size and height of buildings, and, perhaps most importantly, how they relate to the street and adjacent buildings. The form-based overlay also addresses parking, pedestrian and vehicular access, landscaping and signage.

C**.** The Highland Park Neighborhood Form-Based Overlay includes the following key components:

- A Regulating Plan: The maps and text delineating the regulated area where the overlay standards apply.
- Building Category Standards: Regulations that specify the placement, size and massing of buildings and frontages.
- Landscape Standards: Regulations governing landscape design and planting on private property, most commonly parking areas, and the way in which they affect the public realm.
- Sign Standards: Regulations describing allowable sign sizes, materials, placement, and type of illumination.

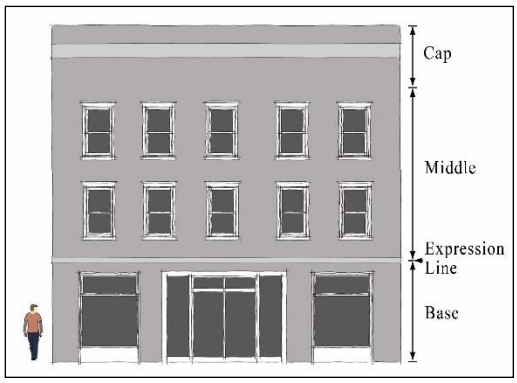
Section 2. Definitions

The following terms shall have the meaning provided herein. Terms not defined herein shall have the meaning provided in the City of Birmingham Zoning Ordinance and/or City Subdivision Regulations.

Building Form: The placement, shape, size and massing (height, width and depth) of frontage categories.

Building Height: The is the measurement of the vertical distance in feet from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height between eaves and ridge for gable, hip and gambrel roofs.

Façade: The face or exterior wall of a building that is also the Primary Frontage, almost always containing one or more entrances and characterized by an elaboration of stylistic details. Facades have three divisions that include the base, middle, and cap.

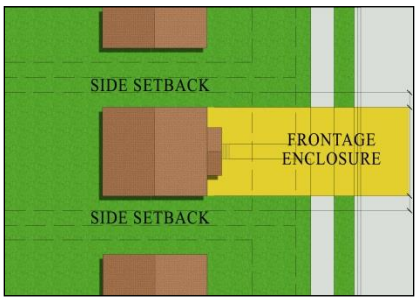


Base: The lowest of the three divisions of a building's façade. In multi-story buildings the base is generally the ground floor, articulated by entries, porches or stoops.

Middle: The division of the façade that is between the base and the cap. This division is generally the largest.

Cap: The uppermost division of a building's façade. For non-residential buildings, a cornice is often the cap, or is suggested by some other articulation at the top of the wall.

Expression Line: A horizontal architectural or decorative feature of the façade that differentiates the building's base from middle and cap elements above.



Frontage Enclosure: The percentage of the lot width that has buildings and/or street walls within the required (minimum and maximum) setback area. If a property has an established front yard setback (as detailed in Section (6)(B)) the frontage enclosure area begins at the established front yard setback.

Frontage Categories: The collection of building typologies listed in the Highland Park Neighborhood Form-Based Overlay District. These categories include the configurations of building elements within the primary frontage. There are eight frontage categories listed for the Neighborhood Form-Based Overlay District: Civic, Common Yard, Forecourt, Gallery, Porch with Short Lawn, Shopfront, Stoop, Terrace or Lightwell.

Glazing: Clear or translucent material through which light is transmitted into a building, usually glass, but also including acrylic and other materials.

Landing: The horizontal platform at the end of a stair flight or between two flights of stairs or at an entrance to a building. An entry landing may be covered.

Mixed Use Developments: Sites developed within the Highland Park Neighborhood

Form-Based Overlay District having multiple land uses all on the same legal lot.
Overlay District: A set of regulations that imposes additional area, dimensional and other development standards onto an underlying zoning district.
Porch: An entrance area to a building, covered by a roof and having structural supports that goes to the ground.
Primary Frontage: The street or public frontage providing the primary or most important approach to the main entrance of the building.
Public Realm: Publicly owned and accessible property such as public rights-of-way, parks and plazas.
Regulating Plan: Maps and supporting documentation that delineate the area where the Highland Park Neighborhood Form-Based Overlay development standards apply.
Secondary Frontage: The street frontage of a lot other than the primary frontage. Secondary frontages may or may not include an entrance to a building.
Street Frontage: All of the property on one side of a street between two intersecting streets; or, if the street is dead-ended, the property abutting on one side between the street's intersection and its dead-end.
Street Wall: A masonry wall that extends from the building's side or rear; possibly part of the frontage enclosure requirement. Street walls are often used as a visual screen and help establish an edge that defines the streets. Street walls may not extend forward from the face of the building.

Section 3. Administration

A. Uses Permitted in the Highland Park Neighborhood Form-Based Overlay District.

The Overlay District does not determine or govern the use of the property. Use is governed by the underlying base zoning.

B. Procedures for Amending the Highland Park Neighborhood Form-Based Overlay District.

A Proposed change or amendment to the regulating plan of the Overlay District may be initiated by the Council, the full Birmingham Planning Commission or the Commission's Zoning Advisory Committee, or by petition of one or more property owners or authorized agents of such owners of property within the Overlay District. The petition for change of the Overlay District by a property owner shall only apply to that individual owner's property. Any petition for change shall be in accordance with the procedures set up in Chapter 9, Article II of this Ordinance.

Procedure for Preparation of Documentation to amend the Overlay District:

1. Review and provide maps and text describing the existing land use plan, zoning and development regulations that apply to the affected properties.
2. Review and provide maps reflecting existing lot lines and building footprints.
3. Provide text describing the change in conditions since the Overlay District was established that justifies a change or amendment to the District.
4. Provide maps of the base zoning and zoning overlays.

C. Compliance. All building and grading permits will be reviewed to ensure consistency with these regulations. The City of Birmingham's Department of Planning, Engineering and Permits (PEP) will review all proposed projects in the Overlay District that require building, grading, sign and other permits that make modifications to existing landscaping and parking.

D. Construction Permit Review. The applicant has the discretion to submit construction documents directly for permits without first getting PEP Planning Division review comments. The permit's documentation must include the information listed below in Subsection E; Development Plans Submittal Requirements. An incomplete permit application will be returned for the additional required information. An application not compliant with these regulations will be denied.

It is recommended that applicants first contact the City of Birmingham's Department of Planning, Engineering and Permits (PEP). The Planning Division staff of PEP will provide the published regulations for projects within the various sub-districts (see Section 4 of this Article) of the Overlay District. It is recommended that the applicant become familiar with the pertinent regulations prior to planning the project and before the development of any working drawings.

In consideration of an application for a permit for property located in the Overlay

District, the property owner or his or her agent may submit documents addressing the submittal information listed in the Development Plan Submittal Requirements below (in Subsection E) to the Planning Division of PEP for review. These documents will be reviewed for compliance with this Article and all sections of this Ordinance. After the review, comments pertaining to zoning compliance will be shared with the applicant.

E. Development Plans Submittal Requirements
This requirement of the Highland Park Neighborhood Form-Based Overlay District only applies to construction of new buildings, the expansion of an existing building that is within the minimum and maximum front yard setback area, new parking lots or alterations of parking lots over 4,000 square feet. Additionally, the Overlay District requirements will only apply to properties that are bordered by a sidewalk. The following requirements replace the existing Site or Development Plan requirements of the underlying (base) zoning.

Submitted plans shall be drawn to a scale no smaller than 1" = 30' and shall include (1) the title of the development, (2) name and address of the owner or developer or agent of either, (3) name and address of the person or firm preparing each of the plans, (4) a North arrow, (5) date of preparation, and (6), if applicable, dates of any submitted revisions. Plans shall also include the following applicable information:

1. All dimensions and distances, property lines, easements, and public and private rights-of-way;
2. Existing and proposed building or structure footprints, including location of any trash containers and the method of screening them;
3. Building or structure elevation drawings;
4. Fences, walls, light poles, overhead utility lines, outdoor utility equipment and structures. This includes the location of all roof- and ground-mounted HVAC units or other mechanical appurtenances;
5. Bodies of water, water detention areas and drainage structures;
6. Location and dimensions of driveways and the number, location, and dimensions of parking spaces; dimensions of access aisles, curbs, vehicle maneuvering areas and pedestrian walkways. Bicycle racks or storage facilities must be provided other than for houses, duplexes and townhouses.
7. With the exception of houses and duplexes, a landscape plan showing compliance with the Landscape Standards b. (Section 10) of this Article;
8. When signage is proposed, a plan showing compliance with the Signage Standards (Section 9) of this Article;
9. Any other plans or specifications necessary to show compliance with this Article.

F. If the property is within a hazard area:
FEMA flood hazard- All development must comply with requirements of the Flood

Plain Zone Districts.

Slide Zone- Development is regulated by the Engineering Division of PEP; projects require affidavits from geotechnical engineers to ensure stability.

G. Interpretation
The interpretation and application of this Article shall be consistent with Chapter 9, Article II, Section 9.

Section 4. Highland Park Neighborhood Form Based Districts
The regulating plan may consist of five sub-districts (FSD), which are as follows:

A. (FSD-1) Reserved Urban Residential: This is the most restrictive of the sub-districts a sub-district with Common Yard and Civic frontage categories.
B. (FSD-2) Limited Urban Residential: a sub-district with Common Yard, Porch with Short Lawn, Terrace or Lightwell, Stoop Forecourt and Civic frontage categories.
C. (FSD-3) General Urban Residential: a sub-district with Common Yard, Porch with Short Lawn, Terrace or Lightwell, Stoop, Forecourt Shopfront and Civic frontage categories.
D. (FSD-4) Limited Urban: a sub-district with Common Yard, Porch with Short Lawn, Terrace or Lightwell, Stoop, Forecourt, Shopfront and Civic frontage categories.
E. (FSD-5) General Urban: a sub-district with Common Yard, Porch with Short Lawn, Terrace or Lightwell, Stoop, Forecourt, Shopfront, Gallery and Civic frontage categories.

Section 5. Frontage Categories
All proposed projects are routed into one of the eight categories based on criteria set forth in each frontage category. A frontage category is not intended to regulate style but does dictate where on the site a structure may be placed. The frontage categories are:

Civic: This frontage category is developed typically for government, public or semi-public agencies. The frontage's design follows the building's function. Public parks are exempt from this overlay.
Common Yard: This frontage category will have a planted deep front yard with the building facade set back substantially from the front lot line. The front yard is visually continuous with adjacent yards. This frontage Category will normally be for a single- or two-family dwelling and have a landing attached to the front of the house at the entrance.
Forecourt: A frontage category, usually a larger building, with the central portion or block of the building set back between two flanking sections that are closer to the front property line, creating an open recessed court. This space can be either landscaped or used for vehicle drop-offs.
Gallery: A frontage category wherein the facade is aligned close to the front property line with an attached cantilevered shed or colonnade overlapping the sidewalk. This category conventionally has ground retail and mixed uses above.

Porch with Short Lawn: This frontage category has a façade that is set back a short distance from the front property line and has a large attached porch across a majority of the front elevation and small planted front yard. This frontage category will normally be used for single and two-family dwellings.
Shopfront: A frontage category wherein the facade is aligned close to the front property line with the building entrance at sidewalk grade. The frontage has substantial glazing on the sidewalk level; typically with an awning extend over the sidewalk. This frontage will normally be associated with a commercial use, such as a restaurant or retail store. Upper floors are frequently in office or residential uses.
Stoop: This frontage category will normally be used for dwellings with a short setback from the front property line. A stoop is a small uncovered landing located at or near surrounding grade.
Terrace or Lightwell: This frontage category will normally be used for multifamily dwellings, with frontage close to the street and with a small landing; either terrace elevated above the street level or a lightwell sunk below the street level, or a combination of both.

Section 6. Building Form Standards

A. Site Development Standards
The intent of the sub-district building form standards are to establish development parameters that reinforce the neighborhood's character. Most significant are the standards addressing minimum and maximum setbacks, frontage enclosures, building heights, parking access and parking location. Together, these standards reflect both the neighborhood's traditional urban form and its expressions for future improvements (See Table 1).

B. Setback Modifications
The required front yards heretofore established shall be modified in the following cases:

1. Where an underlying zoning district on a block face has a minimum required setback and where forty percent or more of the street frontage on the same side of a street between two intersecting streets is presently developed with buildings that have (with a variation of five feet or less) a front yard greater or lesser in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

2. Where an underlying zoning district on a block face has a minimum required setback and where forty percent or more of the street frontage on one side of a street between two intersecting streets is presently developed with buildings that do not have a front yard as described above, then;

   a. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest to the street corners of the adjacent building , or;

   b. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

3. When none of the aforementioned modifications are applicable the form based setback standards apply.

4. For lots with established front yard setbacks the minimum front setback will begin at the established front yard and the maximum front yard setback will be the difference between the minimum and maximum setback as listed on Table 1 as measured from the established front yard.

TABLE 1

FORM SUB-DISTRICTS/ FRONTAGE CATEGORIES	Min. Front Setback 1; 2 ; 3	Max. Front Setback 3	Min. Frontage Enclosure 4	Min. Side Setback	Min. Rear Setback	Max. Building Height 5	Parking Access 6	Parking Location 7	Permitted Uses
FSD-1									
Common Yard	20’	25’	50%	In Accord with Base Zoning	In Accord with Base Zoning	35’	front, side, rear	side, rear	In Accord with Base Zoning
Porch with Short Lawn,	15'	25’	60%			35’	front, side, rear	side, rear	
Civic	15’	25’	60%			35’	side, rear	side, rear	
FSD-2									
Common Yard	20'	25’	50%	In Accord with Base Zoning	In Accord with Base Zoning	35’	front, side, rear	side, rear	In Accord with Base Zoning
Porch with Short Lawn	15’	25’	60%			35’	front, side, rear	side, rear	
Terrace or Lightwell	15'	20'	60%			45'	side, rear	side, rear	
Forecourt	15’	20’	60%			45’	side, rear	side, rear	
Stoop	15’	20’	60%			45’	side, rear	side, rear	
Civic	15’	25’	60%			45’	side, rear	side, rear	
FSD-3									
Common Yard	15’	25’	60%	In Accord with Base Zoning	In Accord with Base Zoning	35’	front, side, rear	side, rear	In Accord with Base Zoning
Porch with Short Lawn	5’	20’	70%			45’	front, side, rear	side, rear	
Terrace or Lightwell	5'	20'	70%			45'	side, rear	side, rear	
Stoop	5’	20’	70%			60’	side, rear	side, rear	
Forecourt	0’	20’	80%			70’	side, rear	side, rear	
Shopfront	0’	20’	80%			70’	side, rear	side, rear	
Civic	0’	25’	70%			60’	side, rear	side, rear	
FSD-4									
Common Yard	15’	20’	60%	In Accord with Base Zoning	In Accord with Base Zoning	35’	front, side, rear	side, rear	In Accord with Base Zoning
Porch with Short Lawn	5’	15’	70%			45’	front, side, rear	side, rear	
Terrace or Lightwell	5'	15'	70%			45'	side, rear	side, rear	
Stoop	5’	15’	80%			60’	side, rear	side, rear	
Shopfront	0’	15’	90%			80’	side, rear	side, rear	
Forecourt	0’	15’	90%			80’	side, rear	side, rear	
Gallery	0’	10’	90%			70’	side, rear	side, rear	
Civic	0’	20’	70%			60’	side, rear	side, rear	
FSD-5									
Common Yard	15’	25’	70%	In Accord with Base Zoning	In Accord with Base Zoning	35’	front, side, rear	side, rear	In Accord with Base Zoning
Porch with Short Lawn	5’	20’	80%			45’	front, side, rear	side, rear	
Terrace or Lightwell	5'	15'	80'			60'	side, rear	side, rear	
Stoop	5’	15’	80%			60’	side, rear	side, rear	
Shopfront	0’	10’	90%			80’	side, rear	side, rear	
Forecourt	0’	10’	90%			80’	side, rear	side, rear	
Gallery	0’	5’	100%			70’	side, rear	side, rear	
Civic	0’	25’	70%			60’	side, rear	side, rear	

Footnotes:

1. Minimum front setback: Includes porches and other design features.
2. Minimum front setback: For corner lots in all sub-districts, the minimum front setback on secondary frontage is 5’ and the maximum front setback is 20’.
3. See Subsection (6)(B) for required front setback modifications.
4. Minimum frontage enclosure: For corner lots, minimum frontage enclosure requirements only apply to primary frontage.
5. Maximum building height: For buildings greater than 45’, an additional 10’ stepback from the building’s front wall is required.
6. Parking Access: Street access is permitted for mid-block properties that do not have alley access.
7. Parking location: See Chapter 5, Article I, Section 9 in the this Ordinance regarding shared parking arrangements.

Section 7. Building Form Requirements

The following building standards apply to all sub-districts and frontage categories in Highland Park Neighborhood Form-Based Overlay Districts. Requirements in the Overlay District only apply to the construction of new buildings, the expansion of an existing building that is within the minimum and maximum front yard setback area, new parking lots or alteration of parking lots over 4,000 square feet. Additionally, the Overlay District requirements will only apply to properties that are bordered by a sidewalk. No building existing on the date which these regulations come into effect shall be modified so that it is less in conformance with this ordinance.

A. Entries. Principal building shall have its main entrance oriented to a public street and accessible from a public sidewalk or plaza. Secondary entrances are exempt from this requirement. The main entrance shall not be closed while a secondary entrance remains opened.

   In some frontage categories, building entrances (excluding emergency egress) facing a public street shall be determined by the following thresholds:

   1. Galleries must have covered walkways at least 10 feet in depth;
   2. Terrace must have an elevated entry over 3' above grade and Lightwells must have a sunken entry over three feet below grade.
   3. Stoops must have landings no more than three feet from grade;
   4. The Porch with Short Lawn frontage category has porch size thresholds of a minimum of eight feet in depth across a majority of the front elevation and maintaining at least 40% openness of the exterior elevation (as measured in square feet).
   5. Forecourt has a qualifying threshold that measures its openness. This threshold includes the width of the courtyard when calculating the enclosure area. The width of the courtyard shall be no less than the width of the largest building wing.

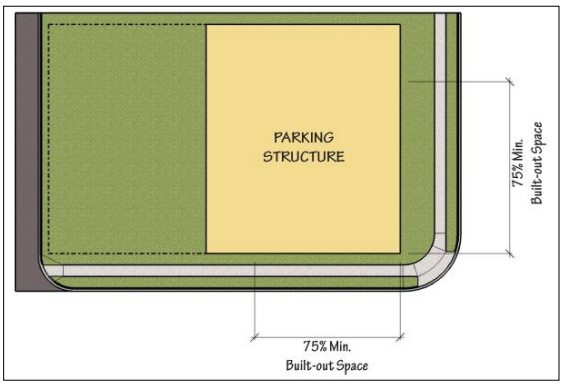
B. Facades:

   1. Window and door openings should have a vertical orientation and vertical alignment between floors.
   2. All forecourt, gallery and shopfront frontage categories may be designed with a discernible base, middle and cap defined by horizontal elements. An expression line should accentuate the base from elements above. Variations in materials and colors can help achieve this standard.
   3. For mixed-use and non-residential buildings, ground-floor front facades shall be not less than 40 percent or more than 90 percent clear glazing; measured between three and 8 eight feet from finished grade. Additional floors beyond the ground floor shall be not less than 25 percent or more than 75 percent clear glazing.

C. Off-Street Parking:

   1. Off-street parking shall not be closer to the public street than the principal buildings on the same lot.
   2. Dwelling parking garage doors that face public streets shall be set back three feet from the front of the building facade.

D. Parking structures:



1. When adjacent to public streets the ground floor of any above ground parking structure should have built-out space suitable for retail, residential, office space. Design shall include said space or provide a façade mimicking said space for a minimum of 75% of the public street frontage.
2. Parking structure walls must utilize materials, colors, and a pattern of openings consistent with surrounding buildings.
3. Parking structure walls facing public streets or residential areas shall minimize openings to avoid noise and light impacts. This shall be accomplished with a minimum 42 inch high solid wall (measured from the finished floor elevation) on the exterior sides of each level.
4. Pole mounted light fixtures on upper decks of parking structures shall use full cut-off fixtures, have a maximum height of 16 feet, include shields for keeping light onsite and prevent the source of the light from being seen off-site. Poles shall be located between internal parking rows rather than at the structure's perimeter.
5. When adjacent to public streets pedestrian circulation elements (stair towers, elevators) shall be located toward and accessible from streets.
6. When on corner lots parking access shall be from secondary streets.
7. Underground parking may be built out to the property lot lines.

E. Street Walls

Unless otherwise restricted in this ordinance. "Street walls" from six to eight feet in height and up to 18 feet in length may be built as part of the frontage enclosure requirement and assist in screening. Street walls must have the same external veneer as the principal building's street frontage(s).

F. Right-of-Way

Any structure or portion thereof which encroaches into the public right-of-way or its airspace will require an approved right-of-way agreement from the Council.

Section 8. Shared Parking

Different uses have different peak parking demand times. These parking peaks may vary for daytime and evening; as well as weekday and weekends. To accommodate those varying peak parking demands, mixed use developments on one lot may use the Shared Parking Table that follows. Parking spaces reserved for any use cannot be used in the Shared Parking Table.

TABLE 2
SHARED PARKING COMPUTATION FOR NEIGHBORHOOD FORM BASED DEVELOPMENT

LAND USE DEVELOPMENT	# OF SPACES NORMALLY REQUIRED A	% ADUST-MENT B	ESTIMATED WEEKDAY DAYTIME A X B	% ADUST-MENT C	ESTIMATED WEEKDAY EVENING A X C	% ADUST-MENT D	ESTIMATED WEEKEND DAYTIME A X D	% ADUST-MENT E	ESTIMATED WEEKEND EVENING A X E
Office		100%		20%		20%		5%	
General Retail		75%		80%		100%		70%	
Hotel or Motel		75%		100%		75%		100%	
Restaurant or Tavern		70%		100%		70%		100%	
Movie Theater		45%		85%		70%		100%	
Dwelling		60%		100%		80%		100%	
Place of Worship		20%		60%		100%		60%	
School or Day Care		100%		20%		15%		5%	
Other Uses		100%		100%		100%		100%	
TOTAL NORMALLY REQUIRED _____ REQUIRED # OF SPACES IS THE GREATEST OF TOTAL I, II, III, OR IV		TOTAL I _____		TOTAL II _____		TOTAL III _____		TOTAL IV _____	

Section 9. Sign Standards

The purpose of the sign standards and guidelines is to encourage uniform and aesthetically pleasing neighborhood signage and provide signage that is complementary and well-integrated for pedestrians while also legible to vehicular traffic. All signs will adhere, at minimum, to the standards laid out in the underlying zoning district and/or Chapter 4, Article V, Section 11, Sign Regulations, of the City of Birmingham Zoning Ordinance, but are also subject to the following additional guidelines and restrictions.

A. Prohibited Signs:

1. Animated, flashing, chasing, pulsating, rotating, video display, running or sequential signs are not permitted accept for signs depicting time, temperature and gasoline prices.
2. All portable signs, as defined in the City of Birmingham Zoning Ordinance, are not permitted.
3. Banners and streamers; except decorative flags, banners and bunting for celebrations, conventions and commemorations authorized by the City ordinances, are not permitted.

B. Construction and Materials:

1. Signs shall be professionally engineered and constructed using high-quality materials.
2. A dull or matte finish is encouraged to reduce glare and enhance legibility.
3. Signs should not obscure key design features, doors or windows.
4. Wall signs for multiple businesses in the same building shall be of similar material and design.

C. When Lit:

1. Signs may be spotlighted or externally lit with a diffused light source and should be shielded in accordance with Chapter4, Article V, Section 11, Subsection 5 of the Zoning Ordinance.
2. Signs may have backlighting to illuminate the background of letters, characters or graphics the sign.
3. Neon signs are allowed.
4. Signs may be internally lit box signs when they have routed or push-through copy and designed so that only the copy is illuminated at night.

Section 10. Landscape Standards

The purpose of the landscape standards is to enhance the physical appearance of buildings, and their designated parking areas, and the positive impact of parking areas on adjacent land uses. Projects involving single family detached homes and duplexes are exempt from these requirements. Other projects with less than 4,000 square feet of parking area are not subject to item C, Landscaping Requirements for Surface Parking of this Section. Requirements in this Section only apply to the construction of new buildings, the expansion of an existing building that is within the minimum and maximum front yard setback area, new parking lots or alteration of parking lots over 4,000 square feet. Additionally, the Overlay District requirements will only apply to properties that are bordered by a sidewalk.

A. Landscape Plan Requirements

1. Landscape plans shall include:
   a. The site's square footage,
   b. Building footprint's square footage,
   c. The parking area's square footage.
   d. The title of development; name and address of owner/developer/agent; name and address of person/firm preparing the plan;
   e. Date of preparation; scale; north arrow; revision dates;
   f. Streets and easements; number of parking spaces;
   g. The location and dimensions of entrance, exits, doors, drives, walkways, paved areas, curbs, fences, drainage and
   h. Other improvements affecting the landscaping.
2. The plan shall also illustrate where each plant is to be installed, details for installing plant material and a composite plant material schedule which totals quantities and lists all plants by common name, botanical name, size or specification and spacing.
3. Landscape Plans shall be prepared by a registered Landscape Architect or Architect. All submitted plans shall bear the architect's seal, signature and State of Alabama registration number.

B. Design Standards

The zoning ordinance has landscape requirements for surface parking areas as well as requirements for the overall site. In addition to citywide requirements, the following requirements also apply. In case of conflicts with the citywide regulations and those of the Highland Park Neighborhood Form Based Overlay District, the more restrictive shall apply. All landscape plans shall be drawn at no greater than 1"=30' in scale so as to convey the design intent.

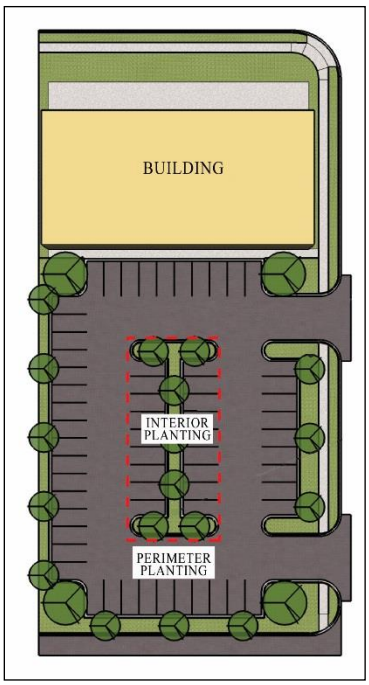
1. Only trees with a mature height of greater than 40' may be planted to comply with the requirements of this Section, except when site visibility at intersections or when overhead utilities prevent the use of large trees, in which case medium or small trees may be used. Large trees shall be no less than 2 1/2 inch caliper at time of installation. Small trees shall have a minimum eight feet in height at time of installation.

2. One tree per every 2,000 square feet of required landscape area shall be installed.
3. A combination of trees, shrubs, grass and groundcovers shall be used.
4. Plant material shall conform to the American Standard for Nursery Stock, latest edition, published by The American Association of Nurserymen.
5. All cuts and fills and/or terraces shall have sufficient vegetative cover installed so as to prevent erosion.

C. Landscape Requirements for Surface Parking:

These requirements apply to all areas used for off-street parking, loading, vehicle maneuvering and are 4,000 square feet or larger. A minimum of five percent of the parking area must be landscaped. The following planting layout must be followed which may exceed the five percent minimum.

1. Perimeter Surface Parking Planting:
   a. A perimeter planting strip shall be adjacent to any public street. These planting strips shall be a minimum of five feet wide.
   b. A perimeter planting strips shall be planted with a combination of trees, shrubs and groundcovers. Shrubs shall be used to screen the right of way from views of parked cars and shall be maintained at no less than 36 inches in height.
   c. The planting strip shall be covered with groundcover or organic or mineral mulch so as no soil is left exposed. The use of concrete, asphalt or other impervious surfaces is prohibited.



2. Interior Surface Parking Plantings:
   These plantings are required for parking areas over 10,000 square feet: Properties used for the retail sale of automobiles are exempt from this requirement.
   a. In addition to the Perimeter Surface Parking Planting requirements, one half (2.5%) of the minimum required five percent of the total square footage of the surface parking area shall be planted with trees, shrubs, grass and ground covers.
   b. Interior parking plantings must be located so that vehicles may maneuver on all sides or project into the parking area at least 18 feet with parking or maneuvering areas on three sides. Interior landscape islands or swales shall have a minimum dimension of five feet at the site where trees are located. The minimum square footage of interior parking islands or swales is 60 square feet.
   c. One landscaped island or swale shall be required for each row of 12 contiguous parking spaces. This island shall be planted with at least one tree each that meets the minimum requirements of this Section.

D. Overall Site Landscape Requirements:

1. Five percent of the site (minus parking area and structures) shall be landscaped.

2. Plantings shall conform to item B, Design Standards of this Section.

E. Special Screening Requirements:

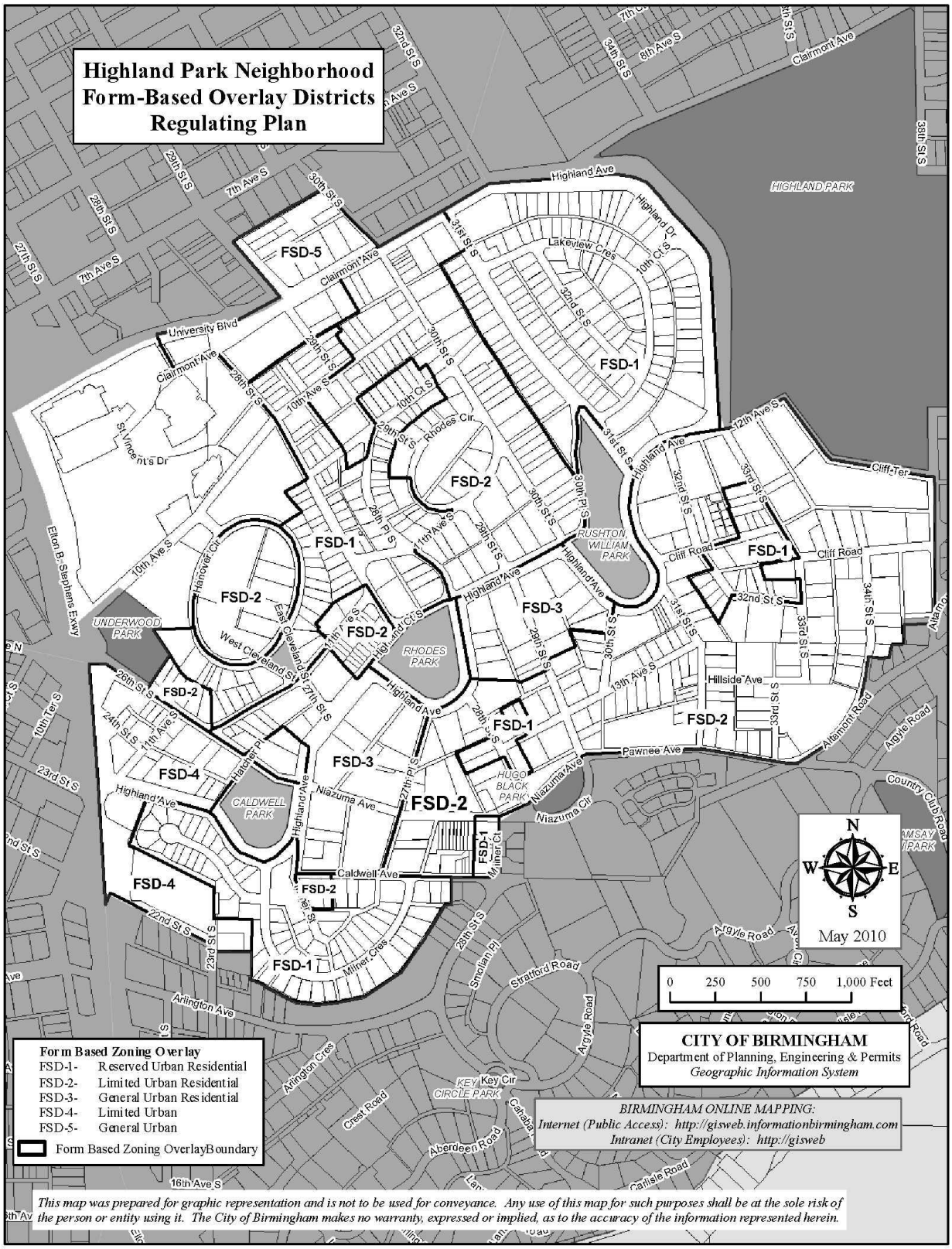
Dumpsters and other trash receptacles for all uses other than single-family or two-family residences shall be screened from public streets or properties which are zoned for residential use. Receptacles shall be below grade or shall be placed on a concrete pad and enclosed on three sides by wall at a height taller than the container. Enclosures' fourth side shall have an opaque gate unless the service opening is oriented away from public streets or adjacent residential properties. The enclosure shall be built of permanent materials with a veneer similar to the principal structure's veneer.

F. Maintenance:

The property owner shall be responsible for the maintenance, repair and replacement of all landscape materials, barriers and irrigation systems required by this Section. All plant material shall be maintained in perpetuity in a healthy growing condition, replaced when dead and kept free of weeds, refuse and debris.

G. Irrigation:

Plant material irrigation is encouraged. It is preferable that non-potable water be used for irrigation. (Ord. 09-148)


Highland Park Neighborhood
Form-Based Overlay Districts
Regulating Plan
FSD-1
FSD-2
FSD-3
FSD-4
FSD-5
HIGHLAND PARK
RUSHTON WILLIAM PARK
RHODES PARK
UNDERWOOD PARK
CALDWELL PARK
HUGO BLACK PARK
KEY CIRCLE PARK
Highland Ave
Clairmont Ave
University Blvd
Cliff Road
Hillside Ave
Pawnee Ave
Niazuma Ave
Caldwell Ave
Arlington Ave
Argyle Road
Stratford Road
Aberdeen Road
Carlisle Road
Crest Road
Altamont Road
Elton B. Stephens Exwy
May 2010
0 250 500 750 1,000 Feet
CITY OF BIRMINGHAM
Department of Planning, Engineering & Permits
Geographic Information System
BIRMINGHAM ONLINE MAPPING:
Internet (Public Access): http://gisweb.informationbirmingham.com
Intranet (City Employees): http://gisweb
Form Based Zoning Overlay
FSD-1- Reserved Urban Residential
FSD-2- Limited Urban Residential
FSD-3- General Urban Residential
FSD-4- Limited Urban
FSD-5- General Urban
Form Based Zoning OverlayBoundary
This map was prepared for graphic representation and is not to be used for conveyance. Any use of this map for such purposes shall be at the sole risk of the person or entity using it. The City of Birmingham makes no warranty, expressed or implied, as to the accuracy of the information represented herein.

Article V. Healthy Food Overlay District Regulations

Section 1. Administration.

A. **Intent and Purpose.**

The intent of this Article is to establish a Healthy Food Overlay District for the City of Birmingham. The United States Department of Agriculture (USDA) has identified low-income census tracts where a significant number (at least 500 people) or share (at least 33 percent) of the population is greater than ½ mile from the nearest supermarket, supercenter, or large grocery store for an urban area or greater than 10 miles for a rural area. These areas are known as food deserts.

The purpose of this Overlay District is to modify existing regulations to allow for more diverse retail options and convenient access to fresh meats, fruits and vegetables. These regulations are intended to:

1. Limit over-concentration of small box discount stores within the Overlay District.
2. Encourage a greater diversity of retail options within the Overlay District.
3. Promote a community-based approach for access to fresh meats, fruits and vegetables.

B. **Applicability.**

Except as otherwise stated, the regulations of this section apply to all new uses and structures within the boundaries of the Healthy Food Overlay District. And a ½ mile buffer on either side of the Healthy Food Overlay District boundaries. The Healthy Food Overlay District boundaries are mapped using the low income/low access census tract data identified as food deserts by the USDA. The map titled "Healthy Food Overlay District Including 0.5 Mile Buffer" shows those properties in the City of Birmingham that are included in the Healthy Food Overlay District.

Section 2. Definitions.

The following terms shall have the meaning provided herein. Terms not defined herein shall have the meaning provided in the City of Birmingham Zoning Ordinance and/or City Subdivision Regulations.

Grocery Store: Retail store that provides assorted goods for sale, including but not limited to, food, beverages and personal health items. A minimum of 25% of sales floor area or more than 3,000 square feet of sales floor area dedicated to the sale of fresh or pre-packaged meats, fruits, vegetables, and dairy, whichever is greater. Accessory uses may include restaurants, dining areas, and pharmacies.

Small Box Discount Store: Retail store that provides assorted, inexpensive items that are continuously offered at a discounted price that is usually under $10 per item. Products sold typically include processed food and drink items, personal hygiene products, office supplies and decorations. Gross floor area is typically less than 12,000 square feet. Does not include convenience retail stores.

Convenience Retail Store: Retail store that provides assorted or specialty goods for sale, including food and beverages for off-premise consumption and personal health items. Typical uses include bakeries, convenience stores, drug stores, specialty food stores, gift shops, newsstands or florists. Small box discount stores are not included.

Section 3. Regulations

A. **Small Box Discount Stores**

1. To avoid over-concentration, a new small box discount store within the Healthy Food Overlay District shall not be closer than 1 mile (5,280 feet) from another existing small box discount store located in the Healthy Food Overlay District. The required separation distance must be measured in a straight line from the nearest point on the lot line of the property to the nearest point on the lot line of the other property.

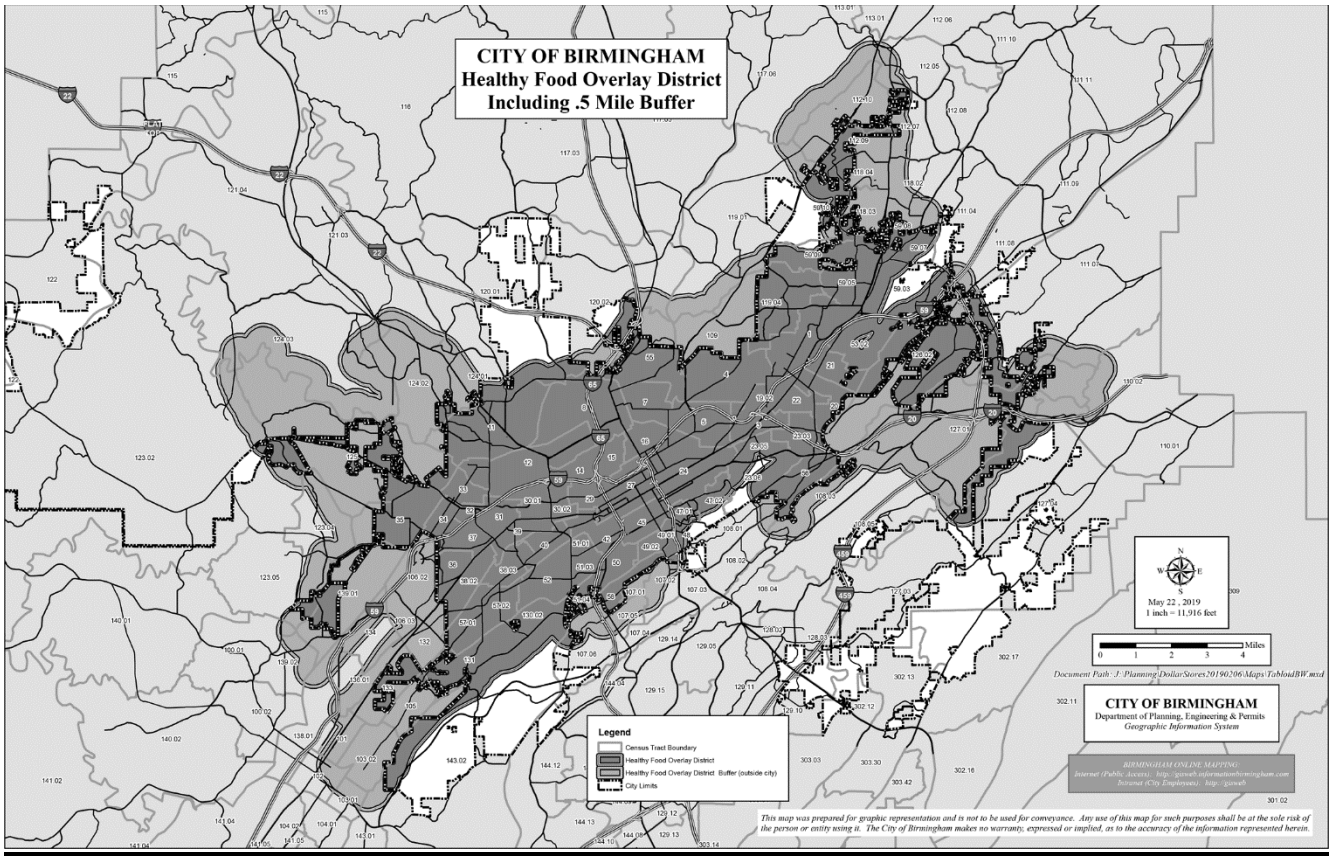
B. **Grocery Stores**. Any new grocery store constructed within the Healthy Food Overlay is subject to the following:

1. In C-1 and MU-L zoning districts, a new grocery store may have up to 20,000 square feet of gross floor area.
2. A parking reduction of up to 50% is available for any new grocery store.

C. **Community Gardens.** On-site sale of produce is allowed in the following districts: D-1, D-2, D-3, D-4, D-5, D-6, MU-L, MU-M, MU-H, MU-D, C-1, C-2, I-1, I-2, I-3, and MXD when a community garden is located in the Healthy Food Overlay District (see Title 1, Chapter 4, Article II, Section 8.A).

Section 4. Legal Non-conforming

Any existing use legally established prior to the effective date of this Ordinance that does not comply with its provisions shall be subject to the regulations of the nonconforming provisions of this Ordinance stipulated in of Chapter 9, Article VII.


CITY OF BIRMINGHAM
Healthy Food Overlay District
Including .5 Mile Buffer
Legend
Census Tract Boundary
Healthy Food Overlay District
Healthy Food Overlay District Buffer (outside city)
City Limits
May 22 , 2019
1 inch = 11,916 feet
Miles
0 1 2 3 4
Document Path: J:\Planning\DollarStores20190206\Maps\TabloidBW.mxd
CITY OF BIRMINGHAM
Department of Planning, Engineering & Permits
Geographic Information System
BIRMINGHAM ONLINE MAPPING:
Internet (Public Access): http://gisweb.informationbirmingham.com
Intranet (City Employees): http://gisweb
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Article I. Official Zoning Map

Section 1. Official zoning map established.
The boundaries of zoning and overlay districts established by this Ordinance shall be depicted on the official zoning map of the City. The official zoning map shall be maintained by the Department and City Clerk. The Department shall assist the City Clerk in maintaining and updating the official zoning map.

Section 2. Zoning district boundaries.

A. Zoning district boundaries depicted on the official zoning map shall be interpreted as follows:
   1. Centerlines. Unless specified otherwise by the amending ordinance, district boundaries aligned along streets, alleys, controlled access highways, railroads or watercourses shall be interpreted to fall along the centerlines of those features.
   2. Lot or Deed Property Lines. District boundaries indicated on the official zoning map as approximately following platted lot lines or deeded property lines shall be interpreted as being coincident with those lines.
   3. Uncertainties. In a case of uncertainty, the location of a district boundary shall be determined by the Director, subject to appeal to the Board.

B. Overlay district boundaries depicted on the official zoning map shall be interpreted as follows:
   1. Overlay District Lines. Unless specified otherwise by the amending ordinance, overlay district boundaries indicated on the official zoning map that approximately follow zoning district lines shall be interpreted as being coincident with those zoning district lines.
   2. Administrative Mapping Errors. Where it is determined that due to an administrative error, the official zoning map either depicts an overlay district boundary which encompasses property that was never intended to be included within the overlay district boundary or fails to depict property which was intended to be included within an overlay district boundary, and such determination is supported by official documentation, the Director shall modify the official zoning map to accurately reflect the proper overlay district boundary.

Section 3. Zoning district verification.

A. A zoning certification letter may be requested to determine what zoning district a specific property is within, what uses are allowed in that district, and if the property is located in any other special districts (historic, commercial, floodplain). An application for a zoning certification letter may be requested from the Director and shall be accompanied by a fee as adopted by the Council from time to time located in Chapter 9, Article VIII of this ordinance.

B. A zoning information letter may be requested that will include the same information as the zoning certificate letter, and the following: previously approved site plans or development plans, any Q conditions that apply to the property, zoning of properties surrounding the subject property, variances that have been approved for the site,

and any zoning violations that have occurred on the site. An application for a zoning information letter may be requested from the Director and shall be accompanied by a fee as adopted by the Council from time to time located in Chapter 9, Article VIII of this ordinance.

Article II. Amendments to Zoning Code or Official Zoning Map

This Ordinance was adopted partly to aid in implementing the goals of the Birmingham Comprehensive Plan; zoning is one of the tools to carry out this plan. The ZAC speaks for the Commission with full authority-there shall be no appeals from its decision to the full Commission.

All map change applications will be compared to all parts of the Birmingham Comprehensive Plan in effect at that time and any other plan, study, or program of improvement in effect or having official status or endorsement.

Section 1. Authority.
The ZAC of the Commission is established under authority granted by the Commission of the City of Birmingham under Ordinance No. 1800-F, as amended by Ordinance No. 1817-F.

The ZAC shall be governed by these rules.

The text of this Ordinance or the official zoning map may be amended whenever public necessity, convenience, general welfare or good zoning practice warrants such action. The Council, by the favorable vote of a majority of the members, may amend, supplement, modify or repeal the regulations of this Ordinance or the official zoning map in accordance with the following provisions.

Section 2. Applications.

A. Procedures for Filing: The applicant must file an application for a hearing to amend the official zoning map or the regulations of this Ordinance shall be filed with the ZAC staff planner (located in room 210 of City Hall).

B. An application to amend the official zoning map may be initiated by the Council, the Commission, the ZAC, or by an agent authorized, by the property owner, or an owner of property proposed to be rezoned. Each application will be investigated by the Department and a report submitted thereon including, but not limited to, conclusions as related to the Comprehensive Plan and a recommendation.

C. An application to amend the official zoning map of property owned by the City may only be initiated by the Mayor, the head of the department or agency to which the property is assigned to, or by the Director of Finance.

Section 3. Hearing required.
When a completed application has been filed (see Appendix for an explanation of a complete application), a hearing will be granted. A completed application consists of the completed form, site plan, any supporting information, and shall be accompanied by a fee as adopted by the Council from time to time located in Chapter 9, Article VIII of this ordinance. The application to amend the official zoning map or the regulations of this Ordinance must be submitted four weeks prior to the regularly scheduled meeting of the ZAC. Hearings will be held at 6:00p.m. on the first and third Tuesday of each month in Council Chambers.

Notices shall be sent to all property owners within a radius of 500 feet from the subject property at least six days prior to the date of the ZAC hearing. Such notices shall_state

the description of the parcel of land in question, what request has been made concerning it, and the time and place of the hearing.

Section 4. Planning Commission recommendation.
The ZAC of the Commission shall review and make recommendations to the Council on proposed amendments to this Ordinance and the official zoning map as provided in the Bylaws of the Commission. A recommendation by the Commission shall become null and void after a period of two years, unless superseded earlier by a subsequent recommendation.

After the Planning and Zoning Committee of the Council receives the recommendation of the ZAC of the Commission, at its next regularly scheduled committee meeting after the ZAC meeting, or if no recommendation is received from the ZAC of the Commission within 90 days of the date of application, the Council may proceed to hold a public hearing to consider the applicant's request, giving not less than 22 days notice of the time, place and object thereof by publication in a newspaper of general circulation in the City.

The proposed change may be deemed by the applicant to have been denied, if the Council takes no final action upon the same within 180 days after the filing of the application, or within 90 days after receipt by the Planning and Zoning Committee of the Council of the recommendation by the ZAC of the Commission, provided that this sentence shall not be construed to divest the Council of jurisdiction to take final action on such proposed change at any time prior to any litigation instituted thereon against this Council or the City by the applicant.

Section 5. Conditions.
When the ZAC recommends amending the official zoning map, they may recommend qualified conditions for the location, screening, buffering, construction, extension, structural alteration, operation restrictions and time limits considered necessary to protect surrounding properties and better carry out the general intent of this Ordinance.

Section 6. Enactment.
Enactment of an amendatory ordinance shall become effective in a manner consistent with *Title 11, Chapter 52, Articles I through IV inclusive, of the 1975 Code of Alabama, as amended* Material testimony and evidence offered at public hearing may be considered by the Council in its deliberations. Upon approval of an amendment to this Ordinance by the Council, a notice of such shall be published in a newspaper of general circulation, in the City as required by State Law, following such approval announcing the new zoning classification and property affected. The change shall become effective on the date of announcement in the newspaper.

Section 7. Mapping of amendment.
Upon enactment of an amendment to the official zoning map, the Department shall modify the map for the City Clerk accordingly, noting the amendatory ordinance number.

Section 8. Reapplications.
A reapplication for the same or substantially same amendment to the official zoning map previously disapproved by the Council, at a public hearing, shall not be accepted by the

ZAC for a period of one year following Council's last action; provided, however, the Council may, by resolution duly adopted, vote to either (a) reinitiate the proposed zoning amendment before the ZAC or (b) schedule a rehearing of the petition for the proposed zoning amendment before the Council.

Any such resolution to rehear a petition as provided for in (b) above must be on a Council agenda for the Council's consideration at a time no later than 60 days following the meeting of Council at which the proposed zoning amendment failed to obtain such Council approval. In the event the resolution is one to rehear the petition for a proposed zoning change or amendment before the Council, the resolution shall state the date of the Council meeting whereat such rehearing will be held, which date shall be sufficiently advanced so as to permit not less than 22 days notice of the meeting shall be advertised in newspaper of general circulation in the City.

Section 9. Minimum requirements.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, morals and the general welfare. Where this Ordinance imposes greater restrictions upon the use of a building or land or upon the height, bulk or size of a building or structure, or requires larger open spaces, yard area or lot area, than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provisions of this Ordinance shall govern. Where any other ordinances, rules, regulations, or permits or restrictive conditions of the City or City agencies charged with zoning responsibilities impose greater restrictions upon the use of a building or upon the height, bulk or size of a building or structure, or require larger open spaces, yard area or lot area than are required under the regulations of this Ordinance, such provisions shall govern.

Section 10. City not subject to Ordinance.

Any provision of this Ordinance to the contrary notwithstanding, the City, in exercising any governmental function, power or authority, shall not be subject to the provisions of this Ordinance or in any way limited thereby in the exercise of such governmental function, power or authority.

Section 11. Violation and Penalty.
In addition to all other means provided by law for the enforcement of the provisions of this Ordinance, any person violating any of the provisions hereof shall, upon conviction, be punished within the limits of and as provided by *Section 1-1-6 of the General Code of the City of Birmingham, 1964, as amended.* (Not more than $500 fine or imprisonment not more than 6 months or by both). Each day that a violation exists shall constitute a separate offense.

Article III. Site Development Plan Review and Approval

Section 1. Applicability.
Prior to the issuance of a building permit for new construction, the property owner shall demonstrate compliance with all applicable provisions of this Ordinance.

Section 2. Building permits.

All applications for building permits for the construction of any building or for the alteration of any building where such alterations will cause an increase in the land coverage of such building, shall be accompanied by an acceptable site development plan in duplicate drawn to scale as described in section 3 of this Article, and such other information as may be necessary to enable the Director to determine that the proposed structure and use of land will conform to the provisions of this Ordinance. All dimensions shown on the site development plan relating to the location and size of the lot to be built upon shall be based on an actual survey and it shall be in a form acceptable to the Director. The original copy of such applications and site development plans shall be kept in the office of the Director and the duplicate copy shall be kept with the building permit at the building at all times during construction. Approval of a building permit does not include approval for any and all signs or fences and walls for the site. All signs, fences and walls are approved by a separate permit.

Section 3. Site development plan.

The construction of any permanent structure shall be in conformance with a site development plan approved in accordance with the following procedures.

Prior to submission of a site plan and building permit application for final review, the developer is encouraged to request a conceptual site plan staff review from the Director. A conceptual site plan review will inform the developer's understanding of all requirements (Zoning, Flooding, Stormwater, Building, Engineering Design, Urban Design, Historical and Fire) of their development and may help to avoid potential defects with a building permit application in the later stages of the building permit process.

A. A site development plan is required in conjunction with all building permits for new construction and when a building or part thereof is enlarged or extended to at least 50 percent of its current floor area, except for Single Family and Two Family Dwellings that are not located in a character district.

B. Prior to approval of a building permit, the Director shall review the site development plan in all zoning districts to verify conformance with the provisions of this Ordinance and any other applicable regulation. Site development plans shall be submitted in form and content established in item C. below, and shall specifically describe the nature and scope of the proposed development.

C. At a minimum, the Site Development Plan must show:

1. The direction of north, appropriate scale and existing and finished topography in not greater than two foot contour intervals.
2. The proposed location including any easements that may exist on site and elevation drawings of all sides of each building prototype.
3. The use of all structures and premises.
4. The location of proposed driveways and marked off-street parking spaces.
5. The edge of pavement for existing and proposed streets, driveways and walkways.

6. All service and loading spaces as well as the location of solid waste containers. Also, provide enclosure details for solid waste containers, including their access in compliance with Chapter 6, Article I, Section 6 of this Ordinance.
7. Location and areas of illumination of all exterior lighting.
8. The location, size, number and character of all exterior signs.
9. The location, character, corresponding plant schedule, planting instructions and extent of landscaping, retaining and screen walls, fences or berms per the regulations in Chapter 6 of this Ordinance.
10. Plans and facilities for stormwater drainage of the premises.
11. Any proposed re-subdivision of the subject property; when applicable.
12. Table of required parking, and map of adjoining land uses.

Section 4. Certificates of occupancy.

Certificates of occupancy shall be required for any of the following and shall be obtained from the Director:

1. Occupancy and use of a building hereafter erected, except for a single-family dwelling.
2. Change in use of land or an existing building, including an increase in the number of dwelling units.
3. Any change in the use of a nonconforming use.
4. No fee shall be charged for an original and two copies of a certificate of occupancy as required herein, but for each additional copy there shall be a charge of one dollar, which shall be remitted to the Director of Finance of the City of Birmingham.

Section 5. Enforcement.

The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Director. It shall also be the duty of all officers and employees of the City to assist the Director by reporting to him new construction, reconstruction or new land uses and apparent violations of this Ordinance. Enforcement cases shall be per the Appendix item titled Zoning Enforcement.

Article IV. Zoning Board of Adjustment

Section 1. Membership and Terms of Office.

A. Authority. The Board is hereby established. The Board created in accordance with and as authorized by *Act No. 326 of the 1969 regular session of the Legislature of Alabama.*

B. Terms of Office. The Board shall consist of seven members, appointed by the Council for overlapping terms of seven years, one of which shall be a person licensed by the State of Alabama to engage in the real estate profession either as a broker or sales person; one of which shall be a person licensed by the State of Alabama as a registered architect; one of which shall be a person licensed by the State of Alabama to engage in building construction; the remaining four members shall represent

other diverse segments of the population not principally affiliated with the above professions.

C. Conflict of Interest. No member of the Board of the City shall cast any vote or debate on any matter pending before the Board which would benefit directly or indirectly any such member or persons in said member's immediate family, or any business with which said member is associated.

D. Residency. All members of the Board of the City shall be citizens and residents of the City. Any member who ceases to be a citizen and resident of the City shall vacate said position on the Board immediately.

Section 2. Powers.
The Board pursuant to *Act No. 326 of the 1969 regular session of the Legislature of Alabama* (Appendix) shall be vested with the following powers.

A. Administrative Appeals. The Board shall hear and decide appeals from any order, requirement, decision or determination made by the Director in carrying out the enforcement of this Ordinance, whereby it is alleged in writing that the Director is in error or acted arbitrarily pursuant to Article VI, Section 5 of this Chapter.

B. Variances. The Board shall hear and act upon applications for variances to alleviate hardships created by not being able to comply with this Ordinance based on the criteria set forth in Article VI of this Chapter.

C. Special Exception. The Board shall hear and act upon applications for special exceptions based on the criteria set forth in Article V of this chapter and Chapter 4, Article III of this Ordinance. The Board may reconsider a previously approved special exception use at any time for just cause.

D. Changes to Nonconforming Uses or Structures. The Board shall determine the appropriateness of proposed changes to nonconforming uses or structures.

E. Modifications. The Board shall hear and act upon applications for modifications based on criteria set forth in Article VI of this chapter.

F. Variances in a Flood Plain District. The Board shall hear and act upon applications for variances to alleviate hardships in a Flood Plain District based on the review standards set forth in Article VI of this Chapter and Chapter 8, Article II of this Ordinance.

Section 3. Hearing required.
All complete applications: filed for a variance, floodplain variance, special exception, modification or change to a nonconforming use or structure; shall be accompanied by a fee as adopted by the Council from time to time as indicated in Article VIII, Section 4 of this Chapter and submitted four weeks prior to a regularly scheduled meeting of the Board; shall be heard by the Board at a public hearing according to the public notice provisions as specified in Appendix- RULES OF PROCEDURE of the ZONING BOARD OF ADJUSTMENT of this Ordinance.

Section 4. Assistance.
The Board may request the assistance of any department or agency of the City regarding any matter under consideration.

Section 5. Action by the board.
Actions of the Board shall follow Rules of Procedure of the Board pursuant to the Appendix- RULES OF PROCEDURE of the ZONING BOARD OF ADJUSTMENT of this Ordinance.

Section 6. Time limits for permits.
All permits associated with approval of variances, modifications or special exceptions authorized by the Board must be obtained within two years from the date of approval. If no permits have been obtained, then the prior approval by the Board shall be considered null and void.

Section 7. Conditions.
In granting a variance, special exception, modification or change to a nonconforming use or structure, the Board may impose conditions for the location, screening, buffering, construction, extension, structural alteration, operation restrictions and time limits considered necessary to protect surrounding properties and better carry out the general intent of this Ordinance. If all conditions of approval of a variance, special exception, modification or change to a nonconforming use or structure are not met within two years of approval of a building permit, zoning enforcement will be pursued, which may result in a summons for a court appearance, unless the Board grants an extension of the time limit.

Section 8. Applicant.
An applicant may be an owner, optionee, agent, trustee, lessee, government official or department.

Article V. Special Exceptions

Section 1. Authority.
The Board shall hear and decide requests for special exceptions in accordance with the provisions of this Ordinance.

Section 2. Applications.
All applications for hearings before the Board must be filed in the office of the Department of the City upon forms furnished by the Department for that purpose. Before any action will be taken on any application by the Board, the applicant shall have paid the City a fee as adopted by the Council from time to time as indicated in Article VIII, Section 4 of this Chapter.

Section 3. Special exception uses.
A. When the Board determines, upon the consideration of competent evidence, including a view of the premises and its surroundings at the discretion of the Board, a special exception will not tend to impair the health, safety, convenience or comfort of the public, the Board may grant a special exception and cause a permit to be issued for any of the following uses, as described in this section or in Chapter 4,

Article III of this Ordinance:

1. Commercial, recreational or amusement development for temporary or seasonal periods.
2. Wireless communications facilities where a special exception is specified in Chapter 4, Article V, Section 1 of this Ordinance.
3. Public building owned or operated by governmental agency.
4. Community, common, joint or private fallout shelters.
5. Personal Services such as a beauty shop or barber shop when located in an approved Communal Living Facility primarily designated for elderly residents having more than 100 residents, or in a multifamily building or condominium building having more than 100 units, provided that:
   a. no exterior signage is permitted, and
   b. the use of the facility shall be limited to only those persons who reside at the facility.
6. Medical Clinic, when located in a public housing community operated by the Housing Authority, as defined in *Title 24-1-22 of the Code of Alabama 1975*, provided:
   a. the use of the clinic is limited to residents of the housing community in which the clinic is located; no other persons may receive services at such clinic.
   b. No exterior signage is permitted.
7. Uses on appeal when specified elsewhere in this Ordinance.

Section 4. Resumption of legal non-conforming use.

A. In the event that a structure or premises occupied by a legal nonconforming use becomes abandoned, discontinued or remains vacant, for a continuous period of two or more years, the Board may grant a special exception to reestablish the legal nonconforming use provided that documentation is submitted to the Staff of the Planning, Engineering, and Permits Department that the previous use was a legal nonconforming use; and there was no intent to abandon the legal non-conforming use since the use was discontinued or stopped, thereby losing its legal non-conforming status. Documentation must also be provided confirming that the use of the subject property has not converted or conformed to its current zoning classification requirements. Said documentation may be in the form of a letter, or similar instrument, from the owner or applicant which is substantiated and/or supplemented by information provided by the City of Birmingham. The applicant must also provide, in writing, documentation stating reasons why the legal non-conforming use will not tend to impair the health, safety, convenience or comfort of the public, including that portion of the public occupying the property immediately contiguous to the parcel of land which the resumption of the legal non-conforming status concerns. (Ord. 08-82)

Section 5. Appeals of Director's decision.

A. Persons appealing decisions of the Director shall have 15 days from the date of such decision to submit a letter or other writing to the Department advising of and indicating the reasons for appealing such decision. During this fifteen day period,

the appellant shall file an application with the Planning Division of the Department in order to officially enter the appeal case on the docket of the next regularly scheduled Board meeting. The Director shall make his decision in writing in which he shall indicate the time in which an appeal to the Board shall be filed. A copy of this written decision shall be sent to the person in charge of the Planning Division of the Department. A copy of such written decision shall also be sent to any party or group representative who has made known to the Director of his opposition to the decision.

B. Appeals to the Zoning may be taken by any person aggrieved, or by an officer, department, Board or bureau of the City affected by a decision of the Director. Appeals from a person who is not an adjoining property owner of the property affected by the decision of the Director, or who is not a representative of an office, department, Board, or bureau of the City shall indicate how he is aggrieved. In such cases, the Board shall first vote to determine if the person is aggrieved. If the Board's vote is in the affirmative, it shall proceed with the hearing of the appeal.

C. In exercising the above mentioned powers the Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all powers of the Director. The concurring vote of two thirds of the members present shall be necessary to reverse or modify any order, requirement, decision or determination of the Director, or to decide in favor of the appellant or applicant on any matter upon which is required to pass, or to effect any variation from the strict application of the provisions of this Ordinance.

Section 6. Appeals from action of the Board.
Any party aggrieved by any final judgment or decision of the Board may, within fifteen days thereafter, appeal therefrom to the circuit court or court of like jurisdiction by filing with the Board a written notice of appeal, specifying the judgment or decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken and the case shall in such court be tried de novo.

Section 7. Findings of fact.
An approval of a special exception land use by the Board shall state the section of this Ordinance under which the special exception was considered, and findings of facts relating to the applicable approval standards. In the case of a denial of a special exception, the findings shall specifically identify the standards not satisfied.

Article VI. Variances and Modifications.

Section 1. Authority.
The Board may grant variances from the strict application of the provisions of this Ordinance based upon findings of fact related to the standards in this article.

Section 2. Limits to jurisdiction.
A. The Board shall not grant variances to the following sections and tables:

1. Chapter 2, Article I, Section3, Table 1.02.101: Permitted land uses.

Section 3. Applications.
A. All applications for hearings before the Board must be filed by the landowner or agent in the office of the Department of the City upon forms furnished by the Department for that purpose. Before any action will be taken on any application by the Board, the applicant shall have paid the City an application fee as adopted by the Council from time to time as indicated in Article VIII, Section 4 of this Chapter.

B. An applicant shall state why the variance is being requested, what function the variance would accomplish and what specific and unique circumstances exist that would authorize consideration by the Board under the review standards of this article. The application shall contain site plan information as required for a site plan.

Section 4. Review standards.
A. To authorize in specific cases a variance from the terms of this Ordinance such 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, but where the spirit of the Ordinance shall be observed and substantial justice done. The Board shall not grant a variance without an affirmative finding of fact on each of the following standards based on evidence presented by the applicant.

1. Physical Characteristics of the Property. The exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon the owner of such property upon the strict application of any regulation enacted by the ordinance codified in this Ordinance.

2. Unique Characteristics. The specific conditions cited are unique to the subject property and generally not prevalent to other properties in the general area, that the granting of the application is necessary for the preservation and enjoyment of a property right, and not merely to serve as a convenience to the applicant.

3. Hardship Not Self-Imposed. The alleged difficulty or hardship has not been created by the previous actions of any person having an interest in the property.

4. Financial Gain Not Only Basis. Financial gain is not the sole basis for granting the variance.

5. No Injury to Neighboring Property. The granting of the variance will not be injurious to other property or improvements in the area, impair an adequate supply of light and air to adjacent property, or substantially diminish or impair property values within the area.
6. No Harm to Public Welfare. The granting of the variance will not be detrimental to the public welfare, increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the City of Birmingham, and will not substantially impair the intent and purpose of this Ordinance.

Section 5. Variances in a Flood Plain District.

A. The Board may authorize a variance from the terms of this Ordinance for the location, construction, extension, structural alteration of a permitted use in a Flood Plain District or reconstruction of a non-conforming building located in a Flood Plain Zone District, where 50% or more of the building has been damaged by any means, provided such variance shall not be issued within any designated floodway if any increase in flood level during the base flood discharge would result and the Board determines that:

1. The variance is the minimum necessary, considering the flood hazard to afford relief.
2. The applicant has shown good and sufficient cause for the granting of such request.
3. The failure to grant the requested variance would result in exceptional hardship.
4. The granting of the variance will not result in increased flood height, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing laws or ordinances of the City.
5. All of the review standards of Section 4 of this Article are satisfied; and shall through its action show that consideration has been given to all technical evaluations, all relevant factors and all standards specified in Chapter 8, Article II of this Ordinance and the following:
   a. The danger that materials may be swept into other lands to the injury of others.
   b. The danger to life and property due to flooding or erosion damage.
   c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
   d. The importance of the services provided by the proposed facility to the community.
   e. The necessity to the facility of a waterfront location, where applicable.

f. The availability of alternative locations, not subject to flooding or erosion damage, or the proposed use.

g. The compatibility of the proposed use with existing and anticipated development.

h. The relationship of the proposed use to the comprehensive plan and flood and flood plain management program for that area.

i. The safety of access to the property in times of flood for ordinary and emergency vehicles.

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

k. The costs of providing governmental services during and after flood conditioning including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Section 6. Modifications.

A. The Board may modify the strict application of the provisions of this Ordinance and cause a permit to be issued upon such reasonable condition as it may prescribe in the following cases:

1. The extension of a district for a distance of not more than 50 feet where the boundary line of a district divides a lot or tract held in single ownership at the time of the passage of this Ordinance.

2. The determination of the proper district applicable to particular land in cases of ambiguity or doubt arising from a difference between the street layout actually on the ground and the street layout as shown on the zone map.

3. Reduction in the parking and loading requirements of this Ordinance whenever the character or use of a building or premises is such as to make unnecessary the full provision of parking or loading facilities, or where a designated public parking lot or deck is available within walking distance, equal to 1,320 feet, or where the applicant can demonstrate that a surplus of on-street parking, in a commercial, mixed-use, manufacturing or industrial district, exists and is within walking distance of the subject use.

Section 7. Findings of fact.

Any Board decision on a variance or modification shall indicate the section of this Ordinance under which the variance or modification is being considered and include substantive findings of fact relating to the specified review standards. In the approval of a variance, findings shall specifically identify the unique characteristics of the property and the precise nature of the hardship. In the approval of a modification, findings shall specifically identify the standards and site conditions that were met to allow the modification. In the denial of a variance or modification request, findings shall specifically identify the standards that were not met.

Section 8. Appeals from action of the Board.
Any party aggrieved by any final judgment or decision of the Board may, within fifteen days thereafter, appeal therefrom to the circuit court or court of like jurisdiction by filing with the Board a written notice of appeal, specifying the judgment or decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken and the case shall in such court be tried de novo.

Article VII. Legal Nonconforming Uses and Structures

Section 1. General.

In order to protect the health, safety and general welfare of the community, land uses and/or structures which existed legally upon the effective date of this Ordinance, but which are not in conformance with all the applicable provision of this Ordinance, shall be subject to the provisions of this article.

Nonconforming uses and structures shall be subject to the following limitations and controls in order to protect and preserve the full use and enjoyment of nearby properties.

Section 2. Continuance of a Legal non-conforming use.

A. Legal Nonconforming Use. If the zoning classification of a property is changed so that the existing permitted use of that property is not in compliance with the new zoning classification, the existing use may continue, as a legal nonconforming use, provided that the restriction and limitations listed within this section are met.

B. Legal Nonconforming Structure. If the zoning classification of a property is changed so that the existing location or height of a structure is not in compliance with the new zoning classification, the existing location or height of the structure is allowed, as a legal nonconforming structure, provided that the restriction and limitations listed within this section are met.

Section 3. Conditions of legal nonconforming uses and structures.

A. A legal non-conforming use status only applies to a specific use that existed legally prior to the effective date of this Ordinance or the effective date of an Ordinance that amended the official Zoning district map of the City. The following will affect the legal nonconforming status of a building, property or use.

1. Loss of legal nonconforming use status because of change of use. If the legal nonconforming use within a building or on a property is changed to a use that conforms to the current zoning classification of the property, the legal nonconforming use status of the property will be lost. If this occurs, a change of zoning of this property must be granted by the Council before the previous use can be re-established on this property.

2. Loss of legal nonconforming use status because of vacancy or inactivity. If the legal nonconforming use within a building or on a property ceases for a period of time of two years or more, the legal nonconforming use status of the property will be lost. If this occurs, two possible options may be taken to resume the legal nonconforming use:
   a. A request to change the zoning classification to one that would allow the previous use, or
   b. a request to resume the legal nonconforming use may be made to the Zoning Board of Adjustment in compliance with the requirements of Article V, Section 4 of this Chapter.

3. Loss of a legal nonconforming use or structure status because of enlargement

or extension. A legal nonconforming use, structure, or premise may not be structurally altered, reconstructed, enlarged, structurally altered or extended to extend the useful life of the use or structure without a variance granted by the Board. If that variance is not granted a zoning change in order to bring the property into compliance.

Section 4. Restoration of damaged buildings.

A. Any residential building or structure damaged by explosion, fire, act of God, or public enemy, to the extent that the repair of that building or structure is valued at 50 percent or more of its current replacement value, shall not be restored except in conformity with the regulations of this Ordinance unless a variance is granted for this repair by the Board.

B. Any commercial, manufacturing and or industrial building or structure damaged by explosion, fire, act of God, or public enemy, to the extent that the repair of that building or structure is valued at 50 percent or more of its current assessed or appraised value, shall not be restored except in conformity with the regulations of this Ordinance unless a variance is granted for this repair by the Board.

Section 5. Extension of Legal Non-Conformity Status for Subdivisions and Developments.

A. Without limitation to Chapter 9, Article VII and in addition thereto, if the conditions of clause Section 5, Item B below are met, an existing Lot on which there is situated or conducted an existing legal non-conforming Building, Structure, Improvement, or Use (in each case, the "Existing Parcel"):

   1. May be subdivided in such a manner that creates
      a. One Lot which consists of the portion of the Existing Parcel on which the legal nonconforming Building, Structure, Improvement or Use and associated Parking Area are situated or conducted (the "Non-Conformity-Bearing Lot"), and
      b. One or more additional Lots consisting together of the remaining portion of the Existing Parcel (the "Remainder Lots"); and
   2. The Remainder Lots may be developed or redeveloped.

B. The following are the conditions which must be satisfied to be eligible under Section 5, Item A above:

   1. The Remainder Lots, and all Development, re-Development, Structures, improvements and Buildings thereon and thereto, and all Uses thereof, must conform to all standards and requirements of this ordinance; and
   2. The Non-Conformity-Bearing Lot and all Buildings, Structures and Improvements thereon shall not be more non-conforming.

C. The effect of subdivision, Development or re-Development pursuant to Section 5 Items A and B are as follows:

1. The Non-Conformity-Bearing Lot shall thereafter constitute a legal non-conforming Lot and the legal non-conforming status of the Building, Structure, Improvement or Use of or on the Non-Conformity-Bearing Lot shall continue notwithstanding such subdivision, Development or re-Development; and
2. The legal non-conforming status of any Building, Structure, Improvement or Use on or of all other portions of the Existing Parcel other than the Non-Conformity-Bearing Lot (i.e., the Remainder Lots), and of the Remainder Lots themselves, shall cease.

Article VIII. Fee Schedule for Zoning Advisory Committee, Floodplain, Miscellaneous Fees and Zoning Board of Adjustment

Section 1. Zoning Advisory Committee

A.	Residential districts	$750
B.	Multi-family districts	$1,000
C.	Commercial, Mixed Use, Manufacturing and Industrial districts	$1,250
D.	Development Plan Review	$150

Section 2. Floodplain Review Fees

A.	Floodplain Determination Letter	$25.00
	Flood Reviews	
B.	New Construction	$50.00
C.	Addition	$50.00
D.	Substantial Improved/Damage	$50.00
E.	Existing Structures/stand-alone utility permits	$25.00
	Special Technical Reviews	
F.	No-Rise with Technical Analysis	$50.00
G.	All map change reviews including CLOMR, LOMR, PMR's (Based on new hydrology, bridge, culvert, channel, levee, berm and a combination thereof, other structural measures and as-built information)	$350.00

Section 3. Miscellaneous Fees

A.	Fence Permit	$40
B.	Zoning Certificate Letter	$50
C.	Zoning Certificate of Operation	$75, renewals $35
D.	Zoning Information Letter	$100
E.	Annual Off-premise sign	$200

Section 4. Zoning Board of Adjustment

A.	Multi-family, Commercial, Mixed Use and Industrial	$500
B.	Single Family and Two-Family Residential	$150
C.	Appeals	$300

Section 5. Periodic review of fees

A. The Director shall review the regulatory fees described in Chapter 9, Article VIII of this Ordinance every 5 years, at a minimum, to determine if adjustments should be made to the regulatory fees contained in this Ordinance.

ARTICLE I - RESIDENTIAL CLASSIFICATIONS

Section 1. E-1 Estate District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the E-1 Estate District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Single-family dwelling.
2. Nurseries or truck gardens; except, that no retail sales shall be made on the premises.
3. Noncommercial greenhouse; provided, that no greenhouse heating plant shall be operated within twenty-five feet of any lot line.
4. Publicly owned or operated park, playground or community building, museum, library or art gallery; provided that any building shall be located not less than twenty-five feet from any side lot line.
5. Church or other place of worship; provided that any building shall be located not less than twenty-five feet from any side lot line.
6. Public school, elementary or high, or a parochial or private school having a curriculum including the same courses ordinarily given in a public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than twenty-five feet from any side lot line.
7. Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.
8. Home occupations.
9. Accessory structures and uses, not including Accessory Use Child Care Centers.
10. A church or public building may have one bulletin board or one sign, located on the same lot as the main structure, said bulletin board or sign not to exceed 27 square feet in area nor to be animated or illuminated with intermittent light.
11. Temporary signs not exceeding a total of eight square feet in area located on the same lot pertaining to the lease, hire or sale of a building or premises.
12. A temporary sign not exceeding a total of eight square feet in area relating to the development, sale or lease of lots or houses in a subdivision containing not less than five lots, which sign shall not remain more than two years or after the sale of the last lot, whichever occurs first.
13. Family Day / Night Care Home.
14. Wireless communications facility, in accordance with Article VI, Section

15. Community Garden*: provided that, no residential structure is on the same property as the community garden, garden use excluding all accessory structures is allowed in any yard, market stands are allowed by special exception, on-site sales of produce grown at community garden are prohibited except when granted by special exception for a market stand, accessory structures limited to storage sheds, water cisterns, cold frames, hoophouses and greenhouses built of standard uniform materials that are either new or in sound condition not showing signs of decay, all compost and organic matter stored on site shall not cover more than 10 percent of the total lot area and shall be screened from view of adjacent property and public right-of-way with fencing built of standard uniform materials that are either new or in sound condition not showing signs of decay or evergreen landscape buffer, shall be managed to prevent rodents and pests, shall be maintained to prevent odors and drainage from compost onto adjacent sites, all gardening equipment shall be limited to household gardening/lawn equipment, and a Community Garden Permit is obtained from PEP that provides the following information:

    a. Name of all persons or entities that govern the garden.
    b. Name, signature and contact information of Garden Manager.
    c. Description of garden use and purpose.
    d. Detailed explanation of location of garden including address.
    e. Site plan that depicts all structures, compost piles, proposed screening and garden installations of the proposed garden.
    f. Results of soil testing for soil condition and contamination.

    If a garden is fallow or no longer useful or productive and is not maintained free from injurious, noxious or unsightly weeds, the lot will be deemed to be a nuisance and will be subject to code enforcement. If any accessory structure is not maintained in sound condition free from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.

    * It is a requirement that soil testing be conducted prior to gardening activities. Test for both soil condition and possible soil contamination, to determine at minimum constraints to food production, shall be conducted. Information on acquiring Soil testing kits and analysis can be found in the Appendix to the City of Birmingham Zoning Ordinance.

16. Farmers Market: provided that; occurs only on lots where the primary use is a school, place of worship, a public park (provided that the City of Birmingham School Board or Park and Recreation Board has given written permission allowing the Market to occur on their Property) or on an abutting lot that is owned by one of the aforementioned primary uses, sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market can not operate for more than two consecutive days, market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, items made from kits, used or mass produced items are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, and all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to Planning, Engineering, and Permits (PEP), acknowledgement of applicable Jefferson County Health Department regulations, a Farmers Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:
    a. Name of all persons or entities that govern the market
    b. Name, signature and contact information of Market Manager.
    c. List of all vendors and a list of items to be sold by vendor.
    d. Copy of State of Alabama, Farmers Market Authority Certificate.
    e. List of market clean-up procedures.
    f. Detailed explanation of location of market and days/hours of operation.
    g. Address of the market location.
    h. Parking plan.

17. Apiary; provided that, it is accessory to a residential structure or community garden, located in a rear yard, hives are setback from property lines by 20 feet, a continuous water source is available, a flyway barrier (fence or dense evergreen shrub) is provided that is six feet high and extends 3 feet either side of the hive opening, hive opening faces the flyway barrier, 2 hives are allowed on lots less than 10,000 square feet and 1 additional hive per 4,000 square feet is allowed on lots larger than 10,000 square feet with a maximum of 10 hives per lot.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards			Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	Each Side (two required)		
35 feet	40 feet	40 feet	15 feet	½ acre (21,780 sq. ft.)	100 feet

Subsection 4. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 2. R-1 Single-Family District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-1 Single-Family District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		Minimum Side Yards		Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	One Side	Total both Sides		
35 feet	40 feet	40 feet	8 feet	18 feet	15,000 square feet	90 feet

Subsection 4. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 3. R-2 Single-Family District

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-2 Single-Family District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		Minimum Side Yards		Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	One Side	Total both Sides		
35 feet	30 feet	35 feet	7 feet	16 feet	10,000 square feet	75 feet

Subsection 4. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 4. R-3 Single-Family District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-3 Single-Family District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		Minimum Side Yards		Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	One Side	Total both Sides		
35 feet	25 feet	25 feet	5 feet	14 feet	6,000 square feet	50 feet

Subsection 4. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 5. R-4 Two-Family and Semi-Attached Dwelling District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-4 Two-Family and Semi-Attached Dwelling District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.
2. Two-family dwellings.
3. Semi-attached dwellings.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		Minimum Side Yards		Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	One side	Total both Sides		
35 feet	25 feet	25 feet	5 feet	14 feet	5,000 square feet for single-family dwellings. 3,000 square feet for two family dwellings. 2,500 square feet per lot area for semi-attached dwellings.	50 feet except that in semi-attached dwellings the minimum is 20 feet.
			In semi-attached projects: none required for interior walls. Exterior side yards same as listed above.			

Subsection 4. Site Plan.

1. The site plan, when required, must show:

   a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
   b. The proposed location and heights of all structures.
   c. The use of all structures and premises.
   d. The areas and proportionate amount of parking to be developed.
   e. The location of streets, driveways and walks.
   f. All service and loading spaces.

g. Location and areas of illumination of all exterior lighting.
h. The location, size, number and character of all exterior signs.
i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of the adjoining property.
j. The facilities for surface drainage of the premises.
k. The proposed resubdivision of the subject property.

2. The deed restrictions and covenants must show the treatment of all land held in undivided common interest.

Subsection 5. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Other regulations.

Semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

Section 6. R-4A Medium Density Residential District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-4A Medium Density Residential District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.
2. Two-family dwellings.
3. Semi-attached dwellings.
4. Attached single family dwellings.

Multiple family dwellings (limited to a maximum of 4 dwelling units per structure).

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		Minimum Side Yards				
	Front	Rear	One side		Total both Sides	Minimum Lot Area Per Family	Minimum Lot Width
35 feet	25 feet	25 feet	5 feet	In attached and semi-attached dwellings, none required for interior walls; exterior side yards same as listed above.	14 feet	5,000 square feet for single-family dwellings. 3,000 square feet for two family dwellings. 2,500 square feet for multi-family, limited to four dwelling units per structure. 2,000 square feet per lot area for attached and semi-attached dwellings.	50 feet except that in attached and semi-attached dwellings the minimum is 18 feet, with an average of 20 feet in an attached row.

Subsection 4. Site Plan.

1. The site plan must show:

    a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
    b. The proposed location and heights of all structures.
    c. The use of all structures and premises.
    d. The areas and proportionate amount of parking to be developed.
    e. The location of streets, driveways and walks.
    f. All service and loading spaces.
    g. Location and areas of illumination of all exterior lighting.
    h. The location, size, number and character of all exterior signs.
    i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property.
    j. The facilities for surface drainage of the premises.
    k. The proposed resubdivision of the subject property.

2. The deed restrictions and covenants must show the treatment of all land held in undivided common interest.

Subsection 5. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Other regulations.

Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

*When any lot having a width of less than one hundred feet is used for a multiple family dwelling, such multiple family dwelling shall be constructed in a manner that the front of the structure and all front doors shall face and open toward a dedicated street and all rear doors shall face and open toward the rear yard, as defined in Article II, Section 56, Chapter 57, General Code, 1944, as amended.

Section 7. R-5 Multiple Dwelling District.

Subsection 1. Generally

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section are the regulations in the R-5 Multiple Dwelling District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.
2. Two-family dwelling.
3. Multiple dwelling.
4. Attached and semi-attached single family dwellings.
5. Condominiums (residential).
6. Religious, educational, charitable or public institution or building, except a penal or mental institution or a communal living facility. Permitted uses are schools, churches, and residential accessory uses limited to rectories, parsonages and dwellings for resident administrators, watchmen, custodians or caretakers. Other similar institutional uses not within 1,000 feet of such uses are permitted on appeal, subject to approval of the Zoning Board of Adjustment.
7. Private club or lodge, excepting one, the chief activity of which is a service customarily carried on as a business.
8. Family Group Day / Night Care Facility.
9. Accessory structures and uses, not including Accessory Use Child Care Centers.
10. One name plate, to be lighted with only indirect non-intermittent light, not exceeding six square feet in area attached to the wall at an entrance.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		Minimum Side Yards		Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	One side	Total on both Sides		
35 feet	25 feet	25 feet	5 feet	14 feet	5,000 square feet for single-family dwellings. 2,500 square feet for two family dwellings. 2,000 square feet per lot area for semi-attached dwellings. 2,000 square feet per lot area for multiple dwellings.	50 feet except that in attached and semi-attached dwellings the minimum lot width shall not be less than 16 feet with an average of 18 feet in an attached row.
			In attached and semi-attached dwellings, none required for interior walls; exterior side yards same as listed above.			

Subsection 4. Site Plan.

1. The site plan, when required, must show:

    a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
    b. The proposed location and heights of all structures.
    c. The use of all structures and premises.
    d. The areas and proportionate amount of parking to be developed.
    e. The location of streets, driveways and walks.
    f. All service and loading spaces.
    g. Location and areas of illumination of all exterior lighting.
    h. The location, size, number and character of all exterior signs.
    i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property.
    j. The facilities for surface drainage of the premises.
    k. The proposed resubdivision of the subject property.

2. The deed restrictions and covenants must show the treatment of all land held in undivided common interest.

Subsection 5. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Other regulations.

Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

*When any lot having a width of less than one hundred feet is used for a multiple family dwelling, such multiple family dwelling shall be constructed in a manner that the front of the structure and all front doors shall face and open toward a dedicated street and all rear doors shall face and open toward the rear yard, as defined in Article II, Section 56, Chapter 57, General City Code 1944, as amended.

Section 8. R-6 Multiple Dwelling District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-6 Multiple Dwelling District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the R-5 Multiple Dwelling District.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards Front	Minimum Yards Rear	Minimum Side Yards One side	Minimum Side Yards Total both Sides	Minimum Lot Area Per Family	Minimum Lot Width
45 feet	25 feet	25 feet	5 feet	14 feet	5,000 square feet for single-family dwellings. 2,500 square feet for two-family dwellings. 1,800 square feet for attached and semi-attached dwellings. 1,500 square feet for multiple family dwellings. 1,000 square feet for multiple dwellings four stories or more.	50 feet except that in attached and semi-attached dwellings the minimum is 18 feet, with an average of 20 feet in an attached row.
A structure may be erected to any height of not more than 80 feet whenever the structure is set back from the side and rear yards required for a 45 foot structure an additional distance of one foot for each four feet of structure height above 45 feet.			In attached and semi-attached dwellings, none required for interior walls; exterior side yards same as listed above.			

Subsection 4. Site Plan.

1. The site plan, when required, must show:

   a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
   b. The proposed location and heights of all structures.
   c. The use of all structures and premises.

d. The areas and proportionate amount of parking to be developed.
e. The location of streets, driveways and walks.
f. All service and loading spaces.
g. Location and areas of illumination of all exterior lighting.
h. The location, size, number and character of all exterior signs.
i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property.
j. The facilities for surface drainage of the premises.
k. The proposed resubdivision of the subject property.

2. The deed restrictions and covenants must show the treatment of all land held in undivided common interest.

Subsection 5. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Other regulations.

Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

*When any lot having a width of less than one hundred feet is used for a multiple family dwelling, such multiple family dwelling shall be constructed in a manner that the front of the structure and all front doors shall face and open toward a dedicated street and all rear doors shall face and open toward the rear yard, as defined in Article II, Section 56, Chapter 57, General Code, 1944, as amended.

Section 9. R-7 Multiple Dwelling District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-7 Multiple Dwelling District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the R-5 Multiple Dwelling District.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards Front	Minimum Yards Rear	Minimum Side Yards One side	Minimum Side Yards Total both Sides	Minimum Lot Area Per Family	Minimum Lot Width
45 feet A structure may be erected to any height whenever the structure is set back from the side and rear yards required for a 45 foot structure an additional distance of one foot for each four feet of structure height above 45 feet.	25 feet	25 feet	5 feet In attached and semi-attached dwellings, none required for interior walls; exterior side yards same as listed above.	14 feet	5,000 square feet for single-family dwellings. 2,500 square feet for two-family dwellings. 1,600 square feet for attached and semi-attached dwellings. 1,000 square feet for multiple family dwellings. 500 square feet for multiple dwellings four stories or more.	50 feet except that in attached and semi-attached dwellings the minimum lot width shall not be less than 16 feet.

Subsection 4. Site Plan.

1. The site plan, when required, must show:

   a. The direction or north, appropriate scale and topography in not greater than two foot contour intervals.

b. The proposed location and heights of all structures.
c. The use of all structures and premises.
d. The areas and proportionate amount of parking to be developed.
e. The location of streets, driveways and walks.
f. All service and loading spaces.
g. Location and areas of illumination of all exterior lighting.
h. The location, size, number and character of all exterior signs.
i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property.
j. The facilities for surface drainage of the premises.
k. The proposed resubdivision of the subject property.

2. The deed restrictions and covenants must show the treatment of all land held in undivided common interest.

Subsection 5. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Other regulations.

Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

*When a lot having a width of less than one hundred feet is used for a multiple family dwelling, such multiple family dwelling shall be constructed in a manner that the front of the structure and all front doors shall face and open toward a dedicated street and all rear doors shall face and open toward the rear yard, as defined in Article II, Section 56, Chapter 57, General Code, 1944, as amended.

Section 10. R-8 Planned Residential District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the R-8 Planned Residential Dwelling District.

The R-8 Planned Residential District allows the flexible and orderly arrangement of large planned residential areas designed as a single unit in a manner consistent with the provisions of this Section. The owner or owners or a tract of land may submit a petition for the establishment of such a district provided the tract of land is five or more acres in area or less than five acres and is located within an urban renewal project area.

The petitioner shall submit a plan for the development of the tract to the Zoning Advisory Committee for review and approval in accordance with the provisions of this Section.

Subsection 2. Use regulations.

The use of each building and/or premises shall be in accordance with the development plan referred to in Subsection 1, and shall be limited to the following:

1. Any use allowed in the E-1 Estate District.
2. Two-family dwelling.
3. Multiple dwelling; provided, however, that no building or accessory structure shall be located closer than twenty-five feet to any R-8 district boundary.
4. Attached and semi-attached single family dwellings.
5. Condominiums (residential).

Subsection 3. Area and dimensional regulations.

The area and dimensional regulations set forth in this Section shall be observed:

1. Maximum height of structures. Except as provided in Article VI, the maximum height of structures shall be forty-five feet.
2. Structure setback. No building shall be closer to any abutting street than twenty-five feet.
3. Open space between buildings. Open space between buildings, measured at the closest point, shall not be less than twenty feet for one-story buildings, thirty feet when one or both are two-story buildings, or forty feet when one or both are three-story buildings.
4. Area per family. The required average land area per family shall not be less than thirty-seven hundred fifty square feet; except, that in attached and semi-attached single family dwellings, the average land area per family shall

not be less than twenty-five hundred square feet.

Subsection 4. Parking regulations.

Off-street parking shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 5. Development plan requirements.

In order to prevent adverse environmental impacts and to achieve a compatible relation among uses covered in Subsection 2 above and with the land use suitability of surrounding properties and nearby zone districts, as well as the surrounding transportation network, and owners of lands included in this district shall concur in an overall site development plan to be reviewed and considered for approval by the Planning Commission or Zoning Advisory Committee prior to any grading, clearing, site improvements or issuance of related permits.

All owners of property petitioning for establishment of a new R-8 District shall submit an acceptable development plan for Zoning Advisory Committee approval prior to adoption by the City Council. Any district may be phased over a reasonable period of time. Final site development plans may be postponed for portions of the parcel scheduled for completion after the first five acres. However when phased, the whole district must be covered by a more generalized conceptual design for ultimate development which may be tentative, but must include a viable timetable for completion of each sector, with sufficient information to judge internal and external impacts.

The site development plan shall include:

1. Maps indicating:

    a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
    b. The proposed location and height of all structures and site improvements.
    c. The use of all structures and premises.
    d. The areas and proportionate amount of parking to be developed.
    e. The location of streets, driveways and walks, including all points of ingress and egress and access streets.
    f. All service areas and loading spaces.
    g. Location and areas of illumination of all exterior lighting.
    h. The location, size, number and character of all exterior signs.
    i. The location, character and extent of all recreation, open spaces, beautification features, and landscaping, fences, retaining and screen walls and other treatment for the protection of adjoining property.
    j. The facilities planned for sanitary sewers or treatment and surface drainage of the premises.
    k. A grading plan showing original and finished slopes, means of

stabilization and relation to flood plains, drainage ways, wetlands, subsurface conditions and soil suitability.

2. A traffic analysis indicating that the proposed development will be so related to streets and arteries that the traffic generated can be accommodated without causing excessive congestion or hazards or objectionable volumes of traffic on residential streets.

3. A Comprehensive independent market analysis, if requested by the Planning Commission or Zoning Advisory Committee, on the needs to be served and the general economic justification.

4. A copy of any proposed subdivision plats, new streets, other easements, and deed restrictions including any third party covenants to be recorded, and the legal treatment and responsibility for maintenance of any public or common grounds or spaces.

Subsection 6. Review and approval of plans.

The Zoning Advisory Committee shall review, approve in part or whole, or disapprove, setting forth its reasons therefore, all conceptual designs and any site development plans for R-8 Districts initiated or recommended for adoption by the Planning Commission without an original plan, in the case of initial zoning of annexed territory. The Zoning Advisory Committee shall also review, and approve or disapprove all other site development plans involved in rezoning requests or subsequent plan amendments. After due notice and hearing of all interested parties, and consideration of analyses or recommendations by its staff, the Zoning Advisory Committee shall judge the acceptability of varied elements of the plan in close conformity with the following criteria to:

1. Minimize traffic congestion, conflicting movements, hazards, clutter or glare interfering with drivers' visibility of streets, drives and protecting pedestrian ways and avoiding the attraction of customer or truck traffic through local residential frontage streets;

2. Assure long term adequacy of grading, storm drainage, sanitary sewers, other utilities and improvements, particularly preventing landslides, erosion, sedimentation, flooding and similar problems on subject property and nearby parcels of land in accordance with the City of Birmingham Soil Erosion and Sediment Control Code;

3. Minimize activity conflicts, and environmental degradation, while maximizing a compatible interrelation of uses and economical development through shared access, parking utility easements, service areas, clustering, etc.;

4. Preserve historic or significant places, scenic features, steep slopes, or drainage ways, and create effective natural, planted and man-made buffers

of sufficient height, density and width to screen objectionable on-site noise, vibration, smoke, dust, fumes, odor, heat, glare or visibility from adjacent less intensive uses and particularly residential development and zones.

Once a site development plan has been approved, no work shall be done and no permits shall be issued except in accordance with said plan. No certificate of occupancy shall be issued until all site improvements as required by an approved site development plan are completed.

Subsection 7. Delay in construction.

In the event that construction in accordance with the originally approved development plan has not begun within two years from the date of its approval, the development plan shall expire and become null and void. If less than 25% of the site improvements have been installed within 18 months after issuance of a permit to begin construction, the site development plan shall expire and become null and void.

ARTICLE II – COMMERCIAL CLASSIFICATIONS

Section 1. B-1 Neighborhood Business District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the B-1 Neighborhood Business District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the R-5 Multiple Dwelling District.
2. Greenhouse having a retail outlet on the premises.
3. Bakery with sales of all bakery products at retail on the premises only; except, that catering services direct to consumer shall be permitted.
4. Barbershop, beauty shop, massage or similar personal service shops.
5. Catering shop, business, music, dancing, or similar school.
6. Dressmaking and tailoring; provided, that all work is done for individuals, at retail only, and on the premises.
7. Drugstore limited to size to that which is of service to the immediately surrounding neighborhood only.
8. Dwelling, jointly with other uses or as a principal use.
9. Laundromat or shop for the delivery or picking up of laundry or dry cleaning.
10. Medical or dental office or clinic and other professional or business office.
11. Parking lot or parking garage.
12. Restaurant or coffee shop; provided that the serving of food or beverages to patrons waiting in parked automobiles shall not be permitted.
13. Retail store, limited in character and size to that which is of service to the immediately surrounding neighborhood only, except for any such use listed for the first time in the B-2 or B-3 districts.
14. Service station, except, no up shall be located within fifty feet of a dwelling district, nor any portion of a structure within fifteen feet of a dwelling district.
15. Shoe repairing, repairing of household appliances and bicycles on an individual service call basis, and other uses of a similar character limited in size and nature to those which serve the immediately surrounding neighborhood.
16. Telephone exchange or outdoor public telephone booth.

17. Tourist home.
18. Utility installations.
19. Adult Care Facility or Child Care Center.
20. Farmers Market: provided that; sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market can not operate for more than two consecutive days, market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, items made from kits, used or mass produced items are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, and all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to PEP, acknowledgement of applicable Jefferson County Health Department regulations, a Farmers Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:
    a. Name of all persons or entities that govern the market
    b. Name, signature and contact information of Market Manager.
    c. List of all vendors and a list of items to be sold by vendor.
    d. Copy of State of Alabama Farmers Market Authority Certificate.
    e. List of market clean-up procedures.
    f. Detailed explanation of location of market and days/hours of operation.
    g. Address of the market location.
    h. Parking plan.
21. Public Market provided that; 25 % of vendors sell produce or value-added agricultural products, sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market can not operate for more than two consecutive days, market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, used clothing, mass produced items and appliances are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to PEP, acknowledgement of applicable Jefferson County Health Department regulations, and a

Public Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:

a. Name of all persons or entities that govern the market
b. Name, signature and contact information of Market Manager.
c. List of all vendors, the products they will sell and their grower's permits or City of Birmingham business licenses number.
d. List of market clean-up procedures.
e. Detailed explanation of location of market and days/hours of operation.
f. Parking plan.

22. Pay Day (Deferred Presentment) and Title Loan operations
23. Accessory structures and uses, including signs subject to the following conditions:
    a. Signs shall pertain to goods, products or services sold or offered on the premises.
    b. Signs shall be attached to a vertical surface of the building or extend not more than eighteen inches therefrom.
    c. Such signs shall not exceed in the aggregate forty square feet of gross surface area for any lot having forty feet or less of street frontage. On lots having a frontage greater than forty feet, such sign or signs shall not exceed in the aggregate one square foot in area for each linear foot of principal street frontage, but in no case shall the aggregate area of such sign or signs exceed sixty square feet, provided, however, in developments consisting of two or more establishments each use shall be allowed signs not to exceed the frontage occupied by such establishment, but in no case to exceed sixty square feet.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set froth in the following table shall be observed.

Maximum Height of Structure Feet	* Minimum Yards			Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	Side		
35 feet Or the height of an abutting residential district which ever is least restrictive.	None, except where the frontage between two intersecting streets is partly in an "E" or "R" district, in which case the front yard requirements of the "E" or "R" district shall apply.	None, except on the rear of a lot abutting a dwelling district, in which case there shall be a rear yard of not less than 20 feet.	None, except on the side of a lot abutting a dwelling district, in which case there shall be a side yard of not less than 5 feet.	5,000 square feet for single family dwellings. 2,500 square feet for two-family dwellings. 1,800 square feet for attached and semi-attached dwellings. 1,000 square feet for multiple dwellings	50 feet when lot is used solely for dwelling purposes, except that in attached and semi-attached dwellings the minimum lot width shall be not less than 16 feet.

Subsection 4. Site Development Plan.

1. Except for Single Family and Two Family Dwellings, a site development plan is required in conjunction with all building permits for new construction and when a building or part thereof is enlarged or extended to at least fifty percent of its current floor area. At a minimum, the Site Development Plan, must show:

   a. The direction of north, appropriate scale and existing and finished topography in not greater than two foot contour intervals.
   b. The proposed location including any easements that may exist on site and elevation drawings of all sides of each building prototype.
   c. The use of all structures and premises.
   d. The location of proposed driveways and marked off-street parking spaces.
   e. The edge of pavement for existing and proposed streets, driveways and walkways.
   f. All service and loading spaces as well as the location of solid waste containers. Also, provide enclosure details for large solid waste containers, including their access in compliance with Article VI, Section 5.
   g. Location and areas of illumination of all exterior lighting.
   h. The location, size, number and character of all exterior signs.
   i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property or fences, and other measures for screening or buffering views from incompatible land uses. This includes detailed landscaping plans for structures and parking areas. The Landscaping plan shall include plant location, corresponding plant schedule and planting instructions. In addition to landscape requirements for off-street parking as specified in

Article V, landscaping of the remainder of the lot, exclusive of areas occupied by structures and parking, shall not be less than five (5) percent. Said landscaping shall include a combination of shrubs, trees, and ground cover.

j. Plans and facilities for stormwater drainage of the premises.
k. Any proposed re-subdivision of the subject property; when applicable.

2. Any proposed condominium must also conform to Article VIII of the Birmingham Subdivision Regulations. The deed restrictions and covenants must show the treatment of all land held in common interest.

Subsection 5. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Other Regulations.

Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

Section 2. B-2 General Business District

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the B-2 General Business District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the B-1 Neighborhood Business District; except that the limitations upon extent of service area shall not apply.
2. Signs or billboards.
3. Automobile or trailer display and sales room.
4. Public garage.
5. Amusement (indoor and outdoor except when the property abuts residential zoned property located within the City of Birmingham, amusement (outdoor) is only allowed by special exception granted by the Zoning Board of Adjustment.
6. Business, dancing or music school.
7. Display room for merchandise to be sold at wholesale.
8. Dwellings, jointly with other uses or as a principal use.
9. Frozen food lockers.
10. Farm implement display and sales room.
11. Hotel, motel or motor court.
12. Hospital or clinic for animals, but not including open kennels.
13. Radio or television broadcasting station, studio or office.
14. Retail store or shop.
15. Self-storage structure.
16. Tavern or drive-in restaurant.
17. Undertaking establishment or mortuary.
18. Used car lot.
19. Bank or lending institution.
20. Utility service buildings.
21. Medical or dental laboratory.
22. The following uses provided all materials stored and all work done on the premises is done within a building:
    a. Dyeing and cleaning establishment or laundry; provided pickup or delivery of clothing is not made to other pickup points.
    b. Painting decorators.
    c. Radio or television repair shop.
    d. Dressmaking, millinery, or tailoring establishment.
    e. Upholstering shop, not involving furniture manufacturing.
    f. Plumbing and electrical shops.
    g. Any other general service or repair establishment of similar character.

23. A shopping center or facility composed of any one or more of the foregoing uses or any combination thereof.
24. Indoor Urban Farm,
25. Accessory structures and uses.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set froth in the following table shall be observed.

Maximum Height of Structure Feet	Minimum Yards Front	Rear	Side	Minimum Lot Area Per Family	Minimum Lot Width
75 feet	None except where the frontage between two intersecting streets is partly in an "E" or "R" district, the front yard requirements of the "E" or "R" district shall apply to the "B" district.	None, except on the rear of a lot abutting a dwelling district, in which case there shall be a rear yard of not less than 20 feet.	None, except on the side of a lot abutting a dwelling district, in which case there shall be a side yard of not less than 5 feet.	5,000 square feet for single family dwellings. 2,500 square feet for two-family dwellings. 1,600 square feet for attached and semi-attached dwellings. 1,000 square feet for multiple dwellings	50 feet, when lot is used solely for dwelling purposes, except that in attached and semi-attached dwellings the minimum lot width shall be not less than 16 feet.

Subsection 4. Site Development Plan.

1. Except for Single Family and Two Family Dwellings, a site development plan is required in conjunction with all building permits for new construction and when a building or part thereof is enlarged or extended to at least fifty percent of its current floor area. At a minimum, the Site Development Plan, must show:

   a. The direction of north, appropriate scale and existing and finished topography in not greater than two foot contour intervals.
   b. The proposed location including any easements that may exist on site and elevation drawings of all sides of each building prototype.
   c. The use of all structures and premises.
   d. The location of proposed driveways and marked off-street parking spaces.

e. The edge of pavement for existing and proposed streets, driveways and walkways.
f. All service and loading spaces as well as the location of solid waste containers. Also, provide enclosure details for large solid waste containers, including their access in compliance with Article VI, Section 5.
g. Location and areas of illumination of all exterior lighting.
h. The location, size, number and character of all exterior signs.
i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property or fences, and other measures for screening or buffering views from incompatible land uses. This includes detailed landscaping plans for structures and parking areas. The Landscaping plan shall include plant location, corresponding plant schedule and planting instructions. In addition to landscape requirements for off-street parking as specified in Article V, landscaping of the remainder of the lot, exclusive of areas occupied by structures and parking, shall not be less than five (5) percent. Said landscaping shall include a combination of shrubs, trees, and ground cover.
j. Plans and facilities for stormwater drainage of the premises.
k. Any proposed re-subdivision of the subject property; when applicable.

2. Any proposed condominium must also conform to Article VIII of the Birmingham Subdivision Regulations. The deed restrictions and covenants must show the treatment of all land held in common interest.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 5. Other Regulations.

Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

Section 3. B-3 Community Business District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in the Ordinance, when referred to in this Section, are the regulations in the B-3 Community Business District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Retail store.
2. Restaurant (including drive-in restaurant) or tavern.
3. Automotive, farm implement or trailer display or sales.
4. Service station; except, no pump shall be located within fifty feet of a dwelling district nor any portion of a structure within fifteen feet of a dwelling district.
5. Hardware or building material sales.
6. Hotel or motel.
7. Amusement (indoor and outdoor except when the property abuts residential zoned property located within the City of Birmingham, amusement (outdoor) is only allowed by special exception granted by the Zoning Board of Adjustment.
8. Laundry, dry cleaning or dyeing plant.
9. Personal service shop, such as barbershop or beauty shop, photographic studio or massage establishment.
10. Business service shop, such as blueprinting, accounting, duplicating or employment agency.
11. Business, music or dancing school.
12. Office.
13. Repair service for such items as radios, televisions, shoes, watches or jewelry.
14. Bank or lending institution.
15. Parking lot or garage.
16. Automotive, farm implement or trailer repair or servicing.
17. Radio or television broadcasting station, studio or office.
18. Undertaking establishment or mortuary.
19. Wholesale establishment, including storage and display.
20. Carpentry, painting, plumbing, tinsmithing, and electrical shops; provided, that all work on the premises is done within a building, and all materials are stored in a building.
21. Testing or research laboratory.
22. Millinery, dressmaking or tailoring.
23. On-premise signs.
24. Printing or engraving.
25. Light manufacturing limited to the following:

a. Furniture.
b. Jewelry.
c. Cosmetics.
d. Candy.
e. Fur goods, except tanning or dyeing.
f. Medical, dental, or drafting instruments.
g. Optical equipment, clocks, watches and similar precision instruments.

26. Other manufacturing, processing, fabricating or assembling operations which do not create any objectionable noise, vibrations, smoke, dust, odor, heat or glare, but only when the manufacturing, processing, fabricating, or assembling is incidental to a retail business conducted on the premises.
27. Mini-Warehouse.
28. Dwelling, jointly with other uses or as a principal use, including Family Day/Night Care or Family Group Day/Night Care facilities.
29. Church, hospitals or other institutions, but not including mental hospitals or penal institutions.
30. Private club or lodge.
31. Public buildings.
32. Parks.
33. Telephone exchange or service buildings.
34. Utility Installation or service building.
35. Adult Care Facility or Child Care Center.
36. Wireless communications facility, in accordance with Article VI, Section 18.
37. Community Garden*: provided that, no residential structure is on the same property as the community garden, garden use excluding all accessory structures is allowed in any yard, market stands are allowed, on-site sales of produce grown at community garden are not prohibited, accessory structures limited to storage sheds, water cisterns, cold frames, hoophouses and greenhouses built of standard uniform materials that are either new or in sound condition not showing signs of decay, all compost and organic matter stored on site shall not cover more than 10 percent of the total lot area and shall be screened from view of adjacent property and public right-of-way with fencing built of standard uniform materials that are either new or in sound condition not showing signs of decay or evergreen landscape buffer, shall be managed to prevent rodents and pests, shall be maintained to prevent odors and drainage from compost onto adjacent sites, all gardening equipment shall be limited to household gardening/lawn equipment, and a Community Garden Permit is obtained from PEP that provides the following information:
    a. Name of all persons or entities that govern the garden.
    b. Name, signature and contact information of Garden Manager.
    c. Description of garden use and purpose.
    d. Detailed explanation of location of garden including address.
    e. Site plan that depicts all structures, compost piles, proposed

screening and garden installations of the proposed garden.

f. Results of soil testing for soil condition and contamination.

If a garden is fallow or no longer useful or productive and is not maintained free from injurious, noxious or unsightly weeds, the lot will be deemed to be a nuisance and will be subject to code enforcement. If any accessory structure is not maintained in sound condition free from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.

* It is a requirement that soil testing be conducted prior to gardening activities. Test for both soil condition and possible soil contamination, to determine at minimum constraints to food production, shall be conducted. Information on acquiring Soil testing kits and analysis can be found in the Appendix to the City of Birmingham Zoning Ordinance.

38. Farmers Market: provided that; sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market can not operate for more than two consecutive days, market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, items made from kits, used or mass produced items are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, and all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to Planning, Engineering, and Permits (PEP), acknowledgement of applicable Jefferson County Health Department regulations, a Farmers Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:

a. Name of all persons or entities that govern the market
b. Name, signature and contact information of Market Manager.
c. List of all vendors and a list of items to be sold by vendor.
d. Copy of State of Alabama Farmers Market Authority Certificate.
e. List of market clean-up procedures.
f. Detailed explanation of location of market and days/hours of operation.
g. Address of the market location.
h. Parking plan.

39. Public Market provided that; 25 % of vendors sell produce or value-added agricultural products, sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market

can not operate for more than two consecutive days, market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, used clothing, mass produced items and appliances are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to PEP, acknowledgement of applicable Jefferson County Health Department regulations, and a Public Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:

a. Name of all persons or entities that govern the market
b. Name, signature and contact information of Market Manager.
c. List of all vendors, the products they will sell and their grower's permits or City of Birmingham business licenses number.
d. List of market clean-up procedures.
e. Detailed explanation of location of market and days/hours of operation.
f. Parking plan.

39. Indoor Urban Farm.
40. Apiary; provided that, it is accessory to a residential structure or community garden, located in a rear yard, hives are setback from property lines by 20 feet, a continuous water source is available, a flyway barrier (fence or dense evergreen shrub) is provided that is six feet high and extends 3 feet either side of the hive opening, hive opening faces the flyway barrier, 2 hives are allowed on lots less than 10,000 square feet and 1 additional hive per 4,000 square feet is allowed on lots larger than 10,000 square feet with a maximum of 10 hives per lot.
41. Pay Day (Deferred Presentment) and Title Loan operations
42. Accessory structures and uses, including Accessory Use Child Care Centers.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional

regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards Front	Rear	Side	Minimum Lot Area Per Family	Minimum Lot Width
None, except where Federal Aviation Administration (FAA) Restrictions apply, in which case a waiver must be granted by the FAA to exceed FAA limitations.	None	None	None	None	None

Subsection 4. Site Development Plan.

1. Except for Single Family and Two Family Dwellings, a site development plan is required in conjunction with all building permits for new construction and when a building or part thereof is enlarged or extended to at least fifty percent of its current floor area. At a minimum, the Site Development Plan, must show:

   a. The direction of north, appropriate scale and existing and finished topography in not greater than two foot contour intervals.
   b. The proposed location including any easements that may exist on site and elevation drawings of all sides of each building prototype.
   c. The use of all structures and premises.
   d. The location of proposed driveways and marked off-street parking spaces.
   e. The edge of pavement for existing and proposed streets, driveways and walkways.
   f. All service and loading spaces as well as the location of solid waste containers. Also, provide enclosure details for large solid waste containers, including their access in compliance with Article VI, Section 5.
   g. Location and areas of illumination of all exterior lighting.
   h. The location, size, number and character of all exterior signs.
   i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property or fences, and other measures for screening or buffering views from incompatible land uses. This includes detailed landscaping plans for structures and parking areas. The Landscaping plan shall include plant location, corresponding plant schedule and planting instructions. In addition to landscape requirements for off-street parking as specified in Article V, landscaping of the remainder of the lot, exclusive of areas

occupied by structures and parking, shall not be less than five (5) percent. Said landscaping shall include a combination of shrubs, trees, and ground cover.

j. Plans and facilities for stormwater drainage of the premises.
k. Any proposed re-subdivision of the subject property; when applicable.

2. Any proposed condominium must also conform to Article VIII of the Birmingham Subdivision Regulations. The deed restrictions and covenants must show the treatment of all land held in common interest.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in an amount equal to one half the requirements of Article V. Off-street loading shall be in accordance with the requirements of Article V.

Section 4. B-4 Central Business District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the B-4 Central Business District.

Subsection 2. Use regulations.

The use regulations are the same as those in the B-3 Community Business District.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set froth in the following table shall be observed.

Maximum Height of Structure Feet	Minimum Yards			Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	Side		
None, except where Federal Aviation Administration (FAA) Restrictions apply, in which case a waiver must be granted by the FAA to exceed FAA limitations.	None	None	None	None	None

Subsection 4. Parking and loading regulations.

Off-street parking is not required in the B-4 Central Business District. Off-street loading shall be provided in accordance with the requirements of Article V.

Section 5. B-5 Mixed Business District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the B-5 Mixed Business District.

The B-5 Mixed Business District is provided in order to encourage orderly and convenient concentrations of office, retail, business and higher density residential complexes in highly accessible locations appropriate to the character of surrounding property and its future development. This district shall not be created on less than two acres or at least a half block containing all lot frontage on the same side of a street situated between two intersecting streets.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Business office, professional office or medical clinic or laboratory.
2. Religious, educational, charitable, or public institution or civic club, including kindergartens but excluding a penal or mental institution, or communal living facility.
3. Family Day / Night Care or Family Group Day / Night Care Facility, Adult Care Facility, or Child Care Center
4. Wireless communication facility, in accordance with Article VI, Section 18.
5. Accessory structures and uses, including Accessory Use Child Care Centers.
6. In addition, the following uses may also be permitted only in accord with a site development plan approved as specified in Subsections 5 and 6:
    a. Retail sales.
    b. Business or personal services.
    c. Restaurants, cafeterias.
    d. Service station, and automotive repair, but excluding truck stops, vehicle sales, outside repairs or storage of inoperable vehicles or other equipment.
    e. Hospital or nursing home.
    f. General shops and businesses similar to those above or ordinarily conducted in a shopping center or mall.
    g. Hotels, motels.
    h. Recreation, amusement (indoor and outdoor except when the property abuts residential zoned property located within the City of Birmingham, amusement (outdoor) is only allowed by special exception granted by the Zoning Board of Adjustment or entertainment, except adult establishments.
    I. Multiple dwellings, attached and semi-attached dwellings and condominiums.
    j. Other uses which are similar to those above or whose effects on

surrounding areas are consistent with them.

Subsection 3. Area and dimensional regulations.

1. Except as provided in Articles VI and VIII, the following area and dimensional regulations shall govern the location of all structures in this district.

Maximum Height of Structure Feet	Minimum Yards Front	Rear	Side	Minimum Lot Width
35 feet Any structure may be erected up to 100 feet, if it is setback from all required yards or other setbacks an additional distance of 1 foot for each 2 feet of structural height above 35 feet.	30 feet	25 feet	10 feet each, except no building shall be located closer than 25 feet to the perimeter boundary of this district.	100 feet

2. No building shall be constructed closer than 50 feet to the boundary of an "A", "E", or "R" District or any residential district zoning.
3. No building shall be located closer than 20 feet to another building; and no nonresidential building shall be located closer than 75 feet to a residential building, whether on the same or an adjoining lot.
4. Average density of all residential development shall not be less than 2,500 square feet per dwelling unit.
5. All structures and any impervious man-made surfaces shall cover no more than 75% of non-residential development, nor more than 60% of a residential site; and the remaining areas shall be maintained in natural vegetation or landscaping.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in Article V.

Subsection 5. Development plan requirements.

In order to prevent adverse environmental impacts and to achieve a compatible relation among uses covered in Subsection 2.6 above and with the land use suitability of surrounding properties and nearby zone districts, as well as the surrounding transportation network, any owners of lands included in this district shall concur in an overall site development plan to be reviewed and considered for approval by the Planning Commission or Zoning Advisory Committee prior to any grading, clearing, site improvements or issuance of related permits.

All owners of property petitioning for establishment of a new B-5 District shall submit an acceptable development plan for Zoning Advisory Committee approval prior to adoption by the City Council. Any district may be phased over a reasonable period of time. Final site development plans may be postponed for portions of the parcel scheduled for completion after the first two acres. However, when phased, the whole district must be covered by a more generalized conceptual design timetable for development which may be tentative, but must include a viable timetable for completion of each sector, with sufficient information to judge internal and external impacts.

The site development plan shall include:

1. Maps indicating:
   a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
   b. The proposed location and height of all structures and site improvements.
   c. The use of all structures and premises.
   d. The areas and proportionate amount of parking to be developed.
   e. The location of streets, driveways and walks including all points of ingress and egress and access streets.
   f. All service areas and loading spaces.
   g. Location and areas of illumination of all exterior lighting.
   h. The location, size, number and character of all exterior signs.
   I. The location, character and extent of all recreation, open space, beautification features, and landscaping, fences, retaining and screen walls and other treatment for the protection of adjoining property.
   j. The facilities planned for sanitary sewers or treatment, and surface drainage of the premises.
   k. A grading plan showing original and finished slopes, means of stabilization and relation to flood plains, drainage ways, wetlands, subsurface condition and soil suitability.
2. A traffic analysis indicating that the proposed development will be so related to streets and arteries that the traffic generated can be accommodated without causing excessive congestion or hazards or objectionable volumes of traffic on residential streets.
3. A Comprehensive independent market analysis, if requested by the Planning Commission or Zoning Advisory Committee, on the needs to be served and the general economic justification.
4. A copy of any proposed subdivision plats, new streets, other easements, and deed restrictions including any third party covenants to be recorded, and the legal treatment and responsibility for maintenance or any public or common grounds or spaces.

Subsection 6. Review and approval of plans.

The Zoning Advisory Committee shall review, approve in part or whole, or disapprove, setting forth its reasons therefore, all conceptual designs any site development plans for B-5 Districts initiated or recommended for adoption by the Planning Commission without an original plan, in the case of initial zoning of annexed territory. The Zoning Advisory Committee shall also review, and approve or disapprove all other site development plans involved in rezoning requests or subsequent plan amendments. After due notice and hearing of all interested parties, and consideration of analyses or recommendations by its staff, the Zoning Advisory Committee shall judge the acceptability of varied elements of the plan in close conformity with the following criteria to:

1. Minimize traffic congestion, conflicting movements, hazards, clutter or glare interfering with drivers' visibility of streets, drives and sight lines around corners, also accommodating emergency vehicles, and protecting pedestrian ways and avoiding the attraction of customer or truck traffic through local residential frontage streets;

2. Assure long term adequacy of grading, storm drainage, sanitary sewers, other utilities and improvements, particularly preventing landslides, erosion, sedimentation, flooding and similar problems on subject property and nearby parcels of land in accordance with the City of Birmingham Soil Erosion and Sediment Control Code;

3. Minimize activity conflicts, and environmental degradation, while maximizing a compatible interrelation of uses and economical development through shared access, parking, utility easements, service areas, clustering, etc.;

4. Preserve historic or significant places, scenic features, steep slopes, or drainage ways, and create effective natural, planted and man-made buffers of sufficient height, density and width to screen objectionable on-site noise, vibration, smoke, dust, fumes, odor, heat, glare of visibility from adjacent less intensive uses and particularly residential development and zones.

Once a site development plan has been approved, no work shall be done and no permits shall be issued except in accord with said plan. No certificate of occupancy shall be issued until all site improvements as required by an approved site development plan are completed.

Subsection 7. Delay in construction.

In the event that construction in accordance with the originally approved development plan has not begun within two years from the date of its approval,

the development plan shall expire and become null and void. If less than 25% of the site improvements have been installed within 18 months after issuance of a permit to begin construction, the site development plan shall expire and become null and void.

Section 6. B-6, Health and Institutional District.

Subsection 1. Purpose.

The regulations set forth in this Section, or elsewhere in this Ordinance, when referred to in this Section, are the regulations in the B-6, Health and Institutional District.

The B-6, Health and Institutional District is provided for the orderly arrangement of buildings and uses on the campus of professional health care providers, hospitals, institutions of higher learning, including residential dwellings that are associated with such uses and are located on the same campus of the associated institution, as well as other uses that may from time to time be associated with, or accessory to, the aforementioned uses.

Subsection 2. Use Regulations.

A building or premises shall be used only for the following purposes:

1. All uses permitted under the O & I Office and Institutional District, except as provided herein.

2. Dwellings (as defined), dormitories, student residence halls, Family Day/Night Care, or Family Group Day/Night Care Facilities, provided that such dwellings and residential facilities are associated with or accessory to the primary institution, and wholly contained within the boundaries of the Master Plan of the designated campus.

3. All uses permitted under the B-1, Neighborhood Business District, provided such uses are associated with and/or located on the campus of the primary institution and these uses are designated on the approved Master Plan. When no approved Master Plan exists or if the B-1 uses are not so designated on an approved Master Plan, then the B-1 uses shall be located no closer than 500 feet to any residential zone district.

4. Fraternities, sororities, and other group dwellings that are recognized by, and/or associated with a college or university campus and so designated on an approved Master Plan. Provided, however, that no such fraternities, sororities, or other group dwellings may be located within 1,000 feet of a single family residential zone district.

5. Other service uses, such as shipping and receiving, maintenance operations, and similar support functions, which are accessory to and in exclusive support of the operations of the primary institution and wholly contained within the boundaries of the

institution's campus. These uses must be designated and identified on the approved Master Plan of the campus. These uses however, shall not be located in areas of the designated campus where they may create land use conflicts with off campus uses.

Subsection 3. Area and Dimensional Regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in this Subsection will be observed; or the area and dimensional requirements set forth pursuant to an approved Master Plan will be observed.

Without an approved Master Plan, no building or structure shall have a height that exceeds 120 feet. Additionally no building or structure shall have a height that exceeds 45 feet when it is within 500 feet of a residential district (as measured from the building line). Without an approved Master Plan, the area and dimensional requirements are listed in the following table.

Maximum Height of Structure in Feet	Minimum Yards			Minimum Lot Width
	Front	Rear	Side	
120 feet, when 500 or more feet from a residential district, and 45 feet when within 500 feet of a residential district	25 feet	20 feet	10 feet, except, no building shall be located closer than, 25 feet to a residential zone district.	50 feet

Subsection 4. Parking and Loading regulations

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V of the Zoning Ordinance of the City of Birmingham, or pursuant to an approved Master Plan.

A parking plan must be an element of the approved Master Plan. When a Master Plan is submitted for review and approval, all parking spaces required herein may be provided on an aggregate basis.

All required parking spaces must be located within the approved boundaries of the campus of the permitted institution and such parking must be approved as a part of the adopted Master Plan for the permitted institution. Required parking spaces shall be located on the same lot of the building/use or adjacent to the building/use that it serves except as provided below:

4. 100% of the parking spaces must be located within 800 feet of the building line of the proposed building/use that the parking serves if it is not served by an approved bus/shuttle or other transport system.

5. If serviced by an approved bus/shuttle or other transport system, at least 70% of the required parking shall be located within 1200 feet of the building line of the proposed building/use that the parking serves. The remaining 30% or less of the required parking may be located in remote parking lots, according to the approved parking plan, at a distance greater that 1200 feet from the building line of the proposed building/use that the parking serves. When parking spaces are so provided, the approved Master Plan for the permitted institution must document that an adequate bus/shuttle or other transport system exists or will be established to support the parking during all work shifts and scheduled class times.

6. Up to fifty percent (50%) of the parking spaces required for (a) arenas, sports venues, or auditoriums, that are primarily used during off peak hours, may be provided and jointly used by (b) uses. The (b) uses include: outpatient hospitals or clinics, banks, offices, retail stores, repair shops, service establishments, and other institutional or higher education facilities and similar uses that, in the opinion of the Director are not normally open, used, or operated during the same hours as those uses listed in (a). In no event shall the parking spaces that are being jointly used be located further than 800 feet from the building line of the uses that they serve. To be eligible for jointly used parking however, a written agreement assuring the parking spaces retention shall be properly drawn and executed by the parties concerned. This agreement must be approved as to form by the City Attorney, recorded at the applicant's expense in the Office of the Judge of Probate, and shall be in full force and effect until released by resolution of the Zoning Board of Adjustment. Upon completion of the aforementioned, the agreement shall be filed with the application for a building permit.

Subsection 5. Master Plan information required

A Master Plan will be required by the Planning Commission or Zoning Advisory Committee as an aid in determining the merits of a re-zoning petition to establish a B-6 zone district. If a B-6 zone district is established as a result of initial zoning or a City initiated Comprehensive Plan, the Master Plan will be required if the affected institution wishes to: avoid the required area, dimensional, height and setback regulations; take advantage of relaxed retail use restrictions; and provide required parking on an aggregate basis. A Master Plan shall include the following, subject to refinement on site development plans:

a. The direction of north and scale.
b. The proposed general location, approximate setbacks, and approximate height of all structures. These location and massing issues may be specified in the Master Plan by designated "geographic density zones" where similar development restrictions will uniformly

apply.

c. The proposed uses of all buildings or premises shall be designated or, similar proposed uses of structures and premises may be grouped together in "geographic use zones."
d. The locations and proportionate amount of parking and loading spaces to be developed on site, and if applicable an aggregate campus parking plan, by "geographic use zones" or campus wide.
e. The location of lot lines, public street ROW, pavement edge.
f. An overall campus parking and traffic circulation plan. This must include a bus/shuttle or other transport system plan and pedestrian plan when parking spaces are proposed in locations more than 800 feet distant from the building, structures, or uses that they support.
g. Preliminary points of ingress and egress for vehicles to access parking for buildings or site.
h. Reasonable additional requirements may be recommended by the Planning Commission or Zoning Advisory Committee as they relate to the protection of adjoining property.

Subsection 6. Master Plan approval and amendments.

A Master Plan together with any supplementary information, will be referred to the Planning Commission or Zoning Advisory Committee for:

Study and recommendation to the City Council on a petition for the establishment of a B-6 zone district, according to the procedure specified in Article VII; or,

Study and approval or disapproval when a B-6 zone district is established as a result of initial zoning or a City initiated Comprehensive Plan.

Amendments to the approved Master Plan will be reviewed by the Planning Commission or the Zoning Advisory Committee in accordance with the procedures outlined in this Subsection and Subsection 5.

Subsection 7. Site Development Plan Requirements

Unless otherwise required by State law or other city ordinance, a site development plan will be required for review and approval by the staff of the Department of Planning, Engineering, and Permits, prior to the issuance of any permits for grading, clearing, site improvements or any other construction or building permits. Site plans not approved by staff may be appealed to the Zoning Board of Adjustment in accordance with the regulations set forth in this zoning ordinance.

In the review and approval of the development plans, consideration will be given to plans that have a goal of preventing adverse environmental impacts, to ameliorating land use conflicts, and to achieving a compatible relationship between surrounding land uses and zoning districts, and to improving parking,

pedestrian, and transportation access.

A. With an approved Master Plan. A site development plan will be required for review as an aid in determining the consistency of the site development with the campus Master Plan, completeness of the application, and adherence to the site development plan goals. Site development plans not in conformance with the Master Plan will not be considered by the Planning Commission or Zoning Advisory Committee without an amendment to the approved Master Plan.

B. Without an approved Master Plan. A site development plan will be required for review as an aid in determining the consistency of the site development with the area and dimensional regulations, height and setback regulations, land use allowances, completeness of the application, and adherence to the site development plan goals.

C. Site development plans shall consist of the following:
   a. All service, loading, and parking spaces.
   b. Location and areas of illumination of all exterior lighting.
   c. The location, size, number and character of all exterior signs.
   d. The location, character and extent of, fences, retaining and screen walls, lighting and other treatment.
   e. The facilities for surface drainage of the premises.
   f. Location and screening of garbage disposal areas; and exterior mechanical and utility equipment.
   g. The direction north, scale, and topography in no greater than two foot contour intervals.
   h. The proposed location, setback, and height of all structures and site improvements.
   i. The uses of all structures and premises.
   j. The locations and proportionate amount of parking to be developed on site or adjacent to the site, or an explanation of how aggregate parking will serve the project.
   k. The location of lot lines, street rights-of-way, street and sidewalk edge of pavement, proposed driveways and walks including all points of ingress and egress for vehicles and pedestrians.
   l. Site landscaping plan including plant material schedule listing plant names, size, spacing and quantity, also including specific plant installation illustrations and instructions.

Section 7. O & I Office and Institutional District.

Subsection 1. Purpose.

The regulations set forth in this Section or elsewhere in this Ordinance, when referred to in this Section, are the regulations in the O & I Office and Institutional District. The O & I Office and Institutional District is provided for the orderly arrangement of institutional, clerical and administrative space.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. A public, semi-public, or private office:
   a. Sales office; provided, that merchandise shall not be stored on the premises.
   b. Research or testing laboratories.
   c. Radio or television broadcasting studio or station.
   d. Cemetery, mortuary or funeral home.

2. A public or semi-public, religious, educational or charitable institution. Such use may include:
   a. A club, lodge, fraternity or sorority; provided that such establishments are not conducted primarily for financial gain.
   b. A clinic, sanitarium, convalescent home or hospital, except one principally used for the treatment of animals.
   c. Public and semi-public recreation, including but not limited to parks, golf, swimming, tennis, country and community clubs or associations; provided, that such establishments are not conducted primarily for financial gain.
   d. Church, school or orphanage.
   e. Adult Care facility or Child Care Center.

3. Other uses not specifically listed above, but which are similar to those listed above or uses whose effects on surrounding areas are consistent with those listed above, are permitted on appeal, subject to the approval of the Zoning Board of Adjustment. Such areas shall not include repair garages or storage yards for materials, vehicles or equipment, warehouses, buildings and other facilities having commercial or industrial characteristics and buildings used or intended to be used as communal living facilities, detention, correctional, or penal institutions.

4. Wireless communications facilities, in accordance with Article VI, Section 18.

5. Accessory structures and uses including Accessory Use Child Care Center and commercial uses which are clearly incidental to the permitted use of the

premises and which are carried on wholly within a main building or accessory building. Such uses may include:

a. Drugstore limited in size to that which is of service to the principal use of the premises.
b. Restaurant or coffee shop; provided, that the serving of food or beverages to patrons waiting in parked automobiles shall not be permitted.
c. Retail sales and service shops limited in character and size to that which is of service to the principal use of the premises.
d. On-premise signs shall be in accordance with the regulations set forth in the B-1 Neighborhood Business District.

Subsection 3. Area and Dimensional Regulations.

1. Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in this Subsection shall be observed:

Maximum Height of Structure Feet	Minimum Yards Front	Rear	Side	Minimum Lot Width
The height regulations for this district are the same as for the R-7 Multiple Dwelling District	25 feet	20 feet	10 feet, except no building shall be located closer than 25 feet to a residential district.	50 feet

2. Open space between buildings. Open spaces between buildings, measured at the closest point between buildings, shall not be less than twenty feet for buildings 35 feet or less in height and forty-five feet when one or both buildings are 35 feet or higher in height.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 5. Plan and other information may be required.

A development plan may be required by the Planning Commission at its discretion as an aid in determining the merits of a petition to establish an O & I zone district. If such a zone district is established partially on the basis of an approved development plan, building permits will be issued only for structures which are in general conformity with said plan. Said plan shall include the following:

a. The direction of north, scale and topography in not greater than two foot contour intervals.

b. The proposed location and height of all structures and site improvements.
c. The use of structures and premises.
d. The areas and proportionate amount of parking to be developed.
e. The location of streets, driveways and walks, including all points of ingress and egress.
f. All service and loading spaces.
g. Location and areas of illumination of all exterior lighting.
h. The location, size, number and character of all exterior signs.
i. The location, character and extent of landscaping, fences, retaining and screen walls, and other treatment for the protection of adjoining property.
j. The facilities for surface drainage of the premises.
k. Location of garbage disposal areas.

Subsection 6. Review and approval of plan.

A development plan, together with any supplementary information, shall be referred to the Planning Commission for study and recommendation before any action is taken on petition for establishment of an O & I zone district. Reasonable additional requirements may be recommended by the Planning Commission for the protection of adjoining property. The Planning Commission shall report its recommendations and reasons therefore to the City Council for action according to the procedure specified in Article VII.

Any subsequent amendments in the required plan shall be reviewed by the Planning Commission in accordance with the procedure outlined in Subsections 5 and 6 of this Section.

Subsection 7. Delay in construction.

If construction, in accordance with a required development plan, has not begun within two years from the date of approval of zone district amendment by the City Council, the development plan shall expire and become null and void.

Section 8. PRD Planned Recreational District

Subsection 1. Generally.

The regulations set forth in this Section or elsewhere in this Ordinance, when referred to in this Section, are the regulations in the PRD Planned Recreational District. The PRD Planned Recreational District is provided for the orderly arrangement of recreational facilities and associated commercial uses.

Subsection 2. Application--review and approval.

A petition for the establishment of a PRD Planned Recreational District on a tract of land containing a minimum of twenty (20) acres may be submitted by:

1. The owner(s) of the subject land, or

2. The Zoning Advisory Committee of the Birmingham Planning Commission, the Birmingham Planning Commission or the Council of the City of Birmingham to assure the compatibility of uses within a PRD Planned Recreational District.

The petitioner shall submit a plan for the development of the property for review and approval in accordance with the provisions of Subsection 7 of this Section before any action is taken upon the petition. The Zoning Advisory Committee or the Birmingham Planning Commission shall determine that each approved use is compatible with other uses within, adjacent to, and in the vicinity of the PRD Planned Recreational District.

The development plan and application shall be submitted to the Zoning Advisory Committee of the Birmingham Planning Commission for rezoning considerations or to the Birmingham Planning Commission for initial zoning considerations.

Subsection 3. Compliance with Article.

The PRD Planned Recreational district shall be laid out, developed and used only in accord with a plan prepared and approved in compliance with the provisions of this Section.

Subsection 4. Use Regulations.

The use of each building and/or premises shall be in accordance with the plan referred to in Subsection 7 of this Section. The Zoning Advisory Committee and the Birmingham Planning Commission shall determine that each approved use is compatible with other uses within, adjacent to and in the vicinity of the PRD Planned Recreational District. The uses listed below are permitted in this district

only when approved, which uses shall be limited to:

1. Archeries.
2. Amusement Parks.
3. Athletic fields and stadiums (baseball, football, tennis, etc.).
4. Carnivals.
5. Circuses.
6. Drive-in or enclosed theaters (excluding adult entertainment).
7. Fairgrounds.
8. Golf courses (full size, miniature and putting greens).
9. Merry-go-rounds.
10. Miniature railroads.
11. Picnic or camp grounds including mobile home parks. All sanitary facilities must be in conformity with the provision of Chapter 12.5, General Code of the City of Birmingham of 1980, as amended, with the density and location subject to the approval of the Zoning Board of Adjustment.
12. Pony riding tracks.
13. Practice golf driving range.
14. Race tracks (automobile, stock cars, motorcycles, horses and dogs).
15. Riding stables and trails.
16. Roller and ice-skating rinks.
17. Skeet, rifle or trap shooting ranges, provided that such use is not located nearer than 1,000 feet to any residence other than owner or lessor of the site or such facility is totally enclosed with materials to contain any munitions discharged therein.
18. Sport arenas.
19. Swimming pools, boating or water parks.
20. Theme parks.
21. Zoos.
22. Other similar recreational or tourist facilities.
23. Wireless communications facilities, in accordance with Article VI, Section 18.
24. Accessory structures and uses, including but not limited to apartments and/or dormitories, but not including Family Day / Night Care or Family Group Day / Night Care facility.
25. Associated commercial activities excluding adult establishments, and including but not limited to, the following:
    a. Ambulance or helistops for emergency service only.
    b. Banks.
    c. Hotels-motels.
    d. Office buildings.
    e. Restaurants with or without tavern combinations.
    f. Service stations.
    g. Veterinary establishments.

h. Adult Care Facilities, Child Care Center and Accessory Use Child Care Centers.

Subsection 5. Area and Dimensional Regulations.

The area and dimensional regulations set forth in this Subsection shall be observed:

1. Maximum height of structures. Except as provided in Articles VI and VIII, the maximum height of buildings shall be one hundred (100) feet, and no structure shall exceed two hundred (200) feet in height.

2. Minimum structure setbacks.

   a. Front yards. No building or structure shall be closer than fifty (50) feet to any abutting street.
   b. Side yards. No building or structure shall be closer than twenty-five (25) feet to any adjoining side property line, except as provided in item "d" below.
   c. Rear yard. No building or structure shall be closer than fifty (50) feet to any rear property line, except as provided in item "d" below.
   d. District setback. No building or structure shall be closer than one hundred (100) feet to a PRD Planned Recreational District boundary line.

3. Open Space between buildings.

   Open space between buildings, measured at the closest point, shall not be less than twenty-five (25) feet for one-story buildings, thirty-five (35) feet when one or both are two-story buildings, and fifty (50) feet when one or both are three-story or taller buildings.

4. Residential structures.

   The area and dimensional requirements for residential uses shall comply with Article I, Section 7, R-5 Multiple Dwelling District, but shall be permitted as accessory to the principal use of the site. This shall not prohibit a dwelling for a resident watchman, custodian or caretaker employed full-time on the premises.

5. Buffers.

   Additional setbacks, buffers or restraints may be required where determined necessary.

Subsection 6. Off-street parking and loading regulations.

Off-street parking and loading shall be provided as required in Article V.

Subsection 7. Development plan and other information--Contents.

The development plan and application shall be submitted to the Zoning Advisory Committee of the Birmingham Planning Commission for rezoning considerations or to the Birmingham Planning Commission for initial zoning considerations, for review and approval in accordance with the provisions of this Section before any action is taken upon the petition. Building permits will be issued only for structures which are in strict conformity with the development plan. Said plan shall comply with all requirements of this Section and shall be accompanied by evidence concerning the feasibility of the project, the relationship of the proposed development on surrounding property and other physical conditions. When required by the Planning Commission, said plan and supporting evidence may include each of the following:

1. A site plan defining the areas wherein buildings may be constructed; the locations and extent of parking and the proportionate amount thereof; the location of all roads, driveways and walks and the points of ingress and egress, including access streets where required; the location, height and character of walls, fencing or other forms of screening; the location, size, character and number of signs excluding trailer or portable signs of any type; the location and character of exterior lighting; and the character and extent of landscaping, planting and other treatment for protection of adjoining properties.

2. A drainage and grading plan including an environmental analysis of the site and its environs.

3. A copy of any acceptable deed restrictions intended to be recorded.

4. A professional economic analysis on the needs and extent of the market to be served, and general economic justification and impact.

5. A professional traffic analysis indicating the effect of the proposed development on existing adjacent streets specifying the direction and amount of traffic flow to and from the development. Said analysis of any project shall include:

    a. traffic congestion or causes.
    b. projected volumes of traffic in adjacent residential areas, and
    c. adequate improvements to accommodate the projected volumes, determined necessary by the Birmingham Planning Commission or the Zoning Advisory Committee as a part of the development plan required herein.

6. A professional land use study of the existing and proposed land uses in the area surrounding the subject property and projection of the relationship of proposed development to existing and future uses.

7. Schematic drawings of buildings and other improvements that illustrate the character of development shall be submitted for review and approval. The Commission or Committee may request that said plans be reviewed by and receive recommendation from the Design Review Committee or any such body empowered by statute to consider or advise the City on architectural design.

In addition to the above, the design and land development controls should be addressed by the plan in areas surrounding the proposed facility and particularly its major access ways to assure a high level of quality not just for the proposed facility but for the journey to and from the facility and for spin-off or associated development that the major facility spawns.

Subsection 8. Recommendation to City Council.

The Birmingham Planning Commission or Zoning Advisory Committee may approve the development plan and recommend to the City Council the rezoning based on conditions requiring the applicant to submit sufficient information addressing problems relative to requirement of Subsection 7, subject to final approval by the Birmingham Planning Commission or Zoning Advisory Committee following the establishment of the district.

Subsection 9. Delay in Construction.

In the event that construction has not begun within two (2) years from the date of approval by the City Council, said development plan shall become null and void; in accordance with the required development plan; provided, however, that such expiration shall not be applicable to land acquired by the City of Birmingham for the purpose of public development.

Subsection 10. Amendments to plan.

After the adoption of a PRD Planned Recreational District, amendments or changes to the development plan shall be submitted to the Zoning Advisory Committee of the Birmingham Planning Commission for approval or disapproval. Such submission shall include the same plans or studies required for the initial application. Any change in the development plan that includes changes in the approved uses of the district shall also be approved to assure the compatibility of the changed use with other uses within, adjacent to and in the vicinity of the PRD Planned Recreational District.

ARTICLE III – INDUSTRIAL CLASSIFICATIONS

Section 1. M-1 Light Industrial District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the M-1 Light Industrial District.

Subsection 2. Use Regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the R-7 Multiple Dwelling District or the B-3 Community Business District.
2. Contractor's or construction equipment dealer's yard.
3. Grain and feed storage.
4. Heating fuel or building material storage or wholesaling; provided, that the materials shall not be extracted or processed on the premises.
5. Lumber yard.
6. Truck terminal.
7. Railroad installation.
8. Warehouse.
9. Dairy, veterinary clinics, kennels, dog training and boarding facilities.
10. Assembly of parts for production of finished equipment.
11. Manufacturing, fabricating, processing, or assembling uses which do not create any objectionable noise, vibration, smoke, dust, odor, heat or glare, such as the following:
    a. Boats (less than five tons.)
    b. Bolts, nuts, screws, washers, rivets, nails, brads, tacks, spikes, staples and similar items.
    c. Clothing.
    d. Food.
    e. Pharmaceuticals.
    f. Furniture and wood products.
    g. Glass products, but not including glass manufacture.
    h. Hand tool and hardware products.
    i. Ice.
    j. Musical instruments, games or toys.
    k. Office machines.
    L. Plastic products, not including processing of raw materials.
    m. Plating of silverware or utensils.
    n. Signs.

o. Sporting goods.
p. Other similar uses.

12. Outdoor Urban Farm*: provided; all compost and organic matter stored on site is screened from adjacent lots and is more than 1,000 feet from any adjacent residential dwelling, which shall not cover more than 10 percent of the total area, shall be managed to prevent rodents and pests, prevent odors and drainage from compost onto adjacent sites, all farming equipment shall be screened from view with fencing or landscaping of adjacent lots, accessory structures are limited to storage sheds, greenhouses, hoophouses, cold frames and cisterns built of standard uniform materials that are either new or in sound condition not showing signs of decay, apiaries are setback from property lines by 25 feet and 50 feet from any adjacent residential lots, a continuous water source is available, 1 hive allowed per 2,500 square feet with maximum of 40 hives. If any accessory structure is not maintained in sound condition free from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.

* It is a requirement that soil testing be conducted prior to gardening activities. Test for both soil condition and possible soil contamination, to determine at minimum constraints to food production, shall be conducted. Information on acquiring Soil testing kits and analysis can be found in the Appendix to the City of Birmingham Zoning Ordinance.

13. Flea Market.

14. Accessory structures and uses:

a. except that no outside storage of materials shall be permitted, when adjacent to a residential or agricultural zone district, except through grant of a special exception by the Zoning Board of Adjustment. Said Board may limit the type, area and height, and require enclosure by walls, fences, berms, shrubs, or trees, pre-existing or newly planted, sufficient to substantially screen its effects or visibility from nearby streets and any residential or agricultural zone districts;

b. including outside kennels or dog runs subject to submission of an overall site development plan to be reviewed and approved by the Zoning Advisory Committee prior to any grading, clearing, site improvements or issuance of related permits; provided, however, that no outside kennels or dog runs shall be permitted when within 1,000 feet of a residential zone district. The Zoning Advisory Committee will require enclosure by walls, fences, berms, shrubs or trees, pre-existing or newly planted, and may limit the type, area and height to sufficiently screen its effects or visibility

from nearby streets and any adjacent uses.

Section 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed.

Maximum Height of Structure Feet	Minimum Yards Front	Rear	Side	Minimum Lot Area Per Family	Minimum Lot Width
100 feet Where a structure is located upon a lot abutting any dwelling district, then any structure exceeding 35 feet shall be set back from the required yards abutting the dwelling district an additional distance of one foot for each foot of structure height above 35 feet.	None, except where the frontage between two intersecting streets is located partly in an "E" or "R" district and partly in an "M" district, the front yard requirements of the "E" or "R" district shall apply to the "M" District.	None, except on the rear of a lot abutting a dwelling district, in which case there shall be a rear yard not less than 25 feet.	None, except on the side of a lot abutting a dwelling district, in which case there shall be a side yard not less than 10 feet.	None	None

Subsection 4. Site Development Plan.

1. Except for Single Family and Two Family Dwellings, a site development plan is required in conjunction with all building permits for new construction and when a building or part thereof is enlarged or extended to at least fifty percent of its current floor area. At a minimum, the Site Development Plan, must show:

   a. The direction of north, appropriate scale and existing and finished topography in not greater than two foot contour intervals.
   b. The proposed location including any easements that may exist on site and elevation drawings of all sides of each building prototype.
   c. The use of all structures and premises.
   d. The location of proposed driveways and marked off-street parking spaces.
   e. The edge of pavement for existing and proposed streets, driveways and walkways.
   f. All service and loading spaces as well as the location of solid waste containers. Also, provide enclosure details for large solid waste containers, including their access in compliance with Article VI, Section 5.
   g. Location and areas of illumination of all exterior lighting.
   h. The location, size, number and character of all exterior signs.
   i. The location, character and extent of landscaping, retaining and screen walls and other treatment for the protection of adjoining property or

fences, and other measures for screening or buffering views from incompatible land uses. This includes detailed landscaping plans for structures and parking areas. The Landscaping plan shall include plant location, corresponding plant schedule and planting instructions. In addition to landscape requirements for off-street parking as specified in Article V, landscaping of the remainder of the lot, exclusive of areas occupied by structures and parking, shall not be less than five (5) percent. Said landscaping shall include a combination of shrubs, trees, and ground cover.

j. Plans and facilities for stormwater drainage of the premises.
k. Any proposed re-subdivision of the subject property; when applicable.

2. Any proposed condominium must also conform to Article VIII of the Birmingham Subdivision Regulations. The deed restrictions and covenants must show the treatment of all land held in common interest.

Subsection 5. Parking and loading regulations.
Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 6. Attached and semi-attached dwellings.
Attached and semi-attached dwellings must comply with the requirements set forth in Article VI, Section 15.

Section 2. M-1A General Industrial District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth in this Ordinance, when refereed to in this Section, are the regulations of the M-1A General Industrial District.

This district aims to accommodate wholesaling and manufacturing uses.

Subsection 2. Use Regulations.

A building or premises shall be used only for the following purposes:

1. Business and professional offices.
2. Religious, educational or charitable institutions.
3. Retail sales or business services.
4. Amusement (indoor and outdoor except when the property abuts residential zoned property located within the City of Birmingham, amusement (outdoor) is only allowed by special exception granted by the Zoning Board of Adjustment**.**
5. Automotive, farm implements, trailer, or heavy equipment sales, services and repair, including truck stops and terminals.
6. Repair or modification services for major appliances and electrical machinery.
7. Wholesale, distribution or warehousing operation.
8. Testing or research laboratory.
9. Contractor's or construction equipment dealer's yard or utilities' yards.
10. Lumber yard, temporary storage of non-toxic natural resources or non-hazardous materials.
11. Bottling plant, canning and preserving of fruits or vegetables.
12. Furniture, wood and paper products.
13. Printing, book binding.
14. Veterinary clinics, kennels, dog training and boarding facilities.
15. Assembly of parts for production of finished goods.
16. Other manufacturing, fabricating, processing or assembling uses and activities which do not create any danger to health or safety, air or water pollution either on or off-site, nor any objectionable noise, vibration, smoke, dust, fumes, odor, heat or glare in any abutting zone (excepting an M-2 or similar heavy industrial district), such as the following:
    a. Textile mills, fabrics, clothing, leather or fur goods.
    b. Grain mill products, bakery, pharmaceuticals.
    c. Electrical appliances, equipment, instruments.
    d. Motor vehicles, aircraft and boats less than five tons.
    e. Professional, scientific instruments, office machines.

f. Jewelry, glass, optical goods, plastic ware.
g. Musical instruments, toys, sporting goods, hardware, utensils.
h. General industrial equipment.
i. Stone, clay and cement products.

17. Adult Care Facility, or Child Care Center.
18. Wireless communications facilities, in accordance with Article VI, Section 18.
19. Accessory structures and uses:
    a. except that no outside storage of materials shall be permitted, when adjacent to a residential or agricultural zone district, except through grant of a special exception by the Zoning Board of Adjustment. Said Board may require enclosure by walls, fences, berms, shrubs, or trees, pre-existing or newly planted, and limit the type, area and height, to substantially screen its effects or visibility from nearby streets and any residential or agricultural zone districts;
    b. including outside kennels or dog runs subject to submission of an overall site development plan to be reviewed and approved by the Zoning Advisory Committee prior to any grading, clearing, site improvements or issuance of related permits; provided, however, that no outside kennels or dog runs shall be permitted when within 1,000 feet of a residential zone district. The Zoning Advisory Committee will require enclosure by walls, fences, berms, shrubs or trees, pre-existing or newly planted, and may limit the type, area and height to sufficiently screen its effects or visibility from nearby streets and any adjacent uses.
20. None of the above activities shall involve resource production, foundries, processing or refining of raw materials such as ore, metals, rubber, plastic, fuel, petroleum, nor storage or disposal of hazardous chemicals or wastes.
21. Outdoor Urban Farm*: provided; all compost and organic matter stored on site is screened from adjacent lots and is more than 1,000 feet from any adjacent residential dwelling, which shall not cover more than 10 percent of the total area, shall be managed to prevent rodents and pests, prevent odors and drainage from compost onto adjacent sites, all farming equipment shall be screened from view with fencing or landscaping of adjacent lots, accessory structures are limited to storage sheds, greenhouses, hoophouses, cold frames and cisterns built of standard uniform materials that are either new or in sound condition not showing signs of decay, apiaries are setback from property lines by 25 feet and 50 feet from any adjacent residential lots, a continuous water source is available, 1 hive allowed per 2,500 square feet with maximum of 40 hives.

    If any accessory structure is not maintained in sound condition free

from evidence of decay and can be seen from public right-of-way or an adjacent property, they will be considered a nuisance and will be subject to code enforcement.

* It is a requirement that soil testing be conducted prior to gardening activities. Test for both soil condition and possible soil contamination, to determine at minimum constraints to food production, shall be conducted. Information on acquiring Soil testing kits and analysis can be found in the Appendix to the City of Birmingham Zoning Ordinance.

22. Flea Market.

23. Farmers Market: provided that; sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market can not operate for more than two consecutive days, market manager demonstrates that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, items made from kits, used or mass produced items are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, and all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to PEP, acknowledgement of applicable Jefferson County Health Department regulations, a Farmers Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:

    a. Name of all persons or entities that govern the market
    b. Name, signature and contact information of Market Manager.
    c. List of all vendors and a list of items to be sold by vendor.
    d. Copy of State of Alabama Farmers Market Authority Certificate.
    e. List of market clean-up procedures.
    f. Detailed explanation of location of market and days/hours of operation.
    g. Address of the market location.
    h. Parking plan.

24. Public Market provided that; 25 % of vendors sell produce or value-added agricultural products, sales only occur on a temporary basis no more than 78 days per year and between the hours of 7:00am and 7:00pm, market can not operate for more than two consecutive days, market manager demonstrates

that adequate parking is available on the lot being used by the market or a parking arrangement has been made for a non-residential lot that is within 500 feet and is not in use during market hours, used clothing, mass produced items and appliances are prohibited, every vendor in any market shall, within one (1) hour after the closing of the market, cause his or her provisions and vehicle to be removed from the vendor stall, and his or her stall thoroughly cleansed, all rubbish to be removed from the vendor stall, an affidavit verifying landowners permission and identifying Market Manager is submitted to PEP, acknowledgement of applicable Jefferson County Health Department regulations, and a Public Market Permit, valid for one-year, is obtained from PEP and a permit fee is paid to PEP that provides the following information:

a. Name of all persons or entities that govern the market
b. Name, signature and contact information of Market Manager.
c. List of all vendors, the products they will sell and their grower's permits or City of Birmingham business licenses number.
d. List of market clean-up procedures.
e. Detailed explanation of location of market and days/hours of operation.
h. Parking plan.

Subsection 3. Area and dimensional regulations.

1. Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure in Feet	Minimum Yards			Minimum Lot Width
	Front	Rear	Side	
None, except on a lot abutting an "A", "E" or "R" District or any residential zone, then any structure exceeding 35 feet shall be setback from said district an additional one foot for each additional one foot of height above 35 feet.	40 feet	25 feet	15 feet each	80 feet

2. In addition no building shall be located closer than 75 feet to any agricultural or residential zoning district.

3. All structures and any impervious man-made surfaces shall cover no more than 80% of the land on any lot, and the remaining area shall be maintained in natural vegetation or landscaping.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 3. M-2, Heavy Industrial District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth in this Ordinance, when referred to in this Section, are the regulations of the M-2 Heavy Industrial District.

Subsection 2. Use Regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the M-1 Light Industrial District; except, that no dwelling other than that for a resident watchman, custodian or caretaker employed on the premises shall be permitted, nor may any dwelling be used for any Family Day / Night Care or Family Group Day / Night Care Facility.

2. A junkyard, or junkyard use, is permitted provided that this use is granted the appropriate license for operation by the City Council and a nontransparent fence, as described herein, is erected along the entire perimeter of the site.

   The wall or fence (including gates) shall be of sound construction and approved by the Director (or designee) of the Department of Planning, Engineering, and Permits. Walls shall be solidly constructed of block, brick, stone, concrete, or similar materials as approved by the Director. Fences shall be constructed of manufactured metal sheeting material, reasonably smooth and uniform wood materials, or similar materials upon approval of the Director. All materials used for wall or fence construction (including gates) shall be of sound and good condition, shall be protected against decay by the use of paint or other preservatives, and shall be uniform in height throughout. The wall or fence (including gates) may be required to be erected higher than 8 (eight) feet if the adjacent property is zoned residential or if the topography of the surrounding and nearby properties enable the junk and/or scrap materials to be readily viewed.

   The fence requirement may be further modified by the Director if the property's location, or location of the use on the property, is such that the site will not be viewable by the public or structures and/or dense

vegetation is adequate to prevent viewing of the site by the public.

All properly permitted and licensed junkyards existing at the enactment of this section shall conform to the requirements of this section within two years of the adoption of this section by the City Council.

3. Any other use not in conflict with any other ordinance~~s~~ of the City of Birmingham regulating nuisances and approved by the Director of Planning, Engineering, and Permits, provided further, that the uses listed below may not be operated, placed, or established on a property until and unless the use shall be approved by the City Council after report from the Planning Division of the Department of Planning, Engineering, and Permits:

a. Abattoir.
b. Acid manufacture
c. Atomic power plant or reactor.
d. Explosives manufacture or inside storage.
e. Fat, grease, lard or tallow rendering or refining.
f. Glue or size manufacture.
g. Garbage, offal or dead animal reduction or dumping.
h. Petroleum refining.
i. Stockyard or slaughter of animals.
j. Hazardous waste or toxic disposal.
K. Medical and infectious materials disposal.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards Front	Rear	Side
None, except where a structure is located on a lot abutting any dwelling district, then any structure exceeding 35 feet shall be set back from the required yards abutting the dwelling district an additional distance of one foot for each foot of structure height above 35 feet.	None, except where the frontage between two intersecting streets is located partly in an "E" or "R" district and partly in an "M" district, the front yard requirements of the "E" or "R" districts shall apply to the "M" district.	None, except where the rear of a lot is abutting a dwelling district, in which case there shall be a rear yard of not less than 25 feet.	None, except on the side of a lot abutting a dwelling district in which case there shall be a side yard of not less than 10 feet.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 4. M-3 Planned Industrial District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the M-3 Planned Industrial District.

The M-3 Planned Industrial District is provided to encourage the orderly arrangement of high quality industrial development designed for maximum compatibility internally and with surrounding environs. This district shall not be established on less than six acres; however, this may be reduced to one acre, or a half block consisting of all lot frontage between two intervening streets, if such property is situated within or adjacent to a "B" or "M" zoning district or else abuts on a street having at least four moving lanes.

Subsection 2. Use regulations.

1. Any use permitted in the O & I Office and Institutional District.

2. No other grading, construction, site improvement or use, temporary or otherwise, shall be permitted except in accord with an approved site development plan as specified in Subsections 5 and 6. Where such plan has been approved it may also designate the following additional uses as being permitted:

    a. Business offices or services.
    b. Wholesale or distribution operations.
    c. Printing or engraving plant.
    d. Radio or television broadcasting station or studio, including towers.
    e. Office-warehouse combinations and related facilities, but no separate truck stops or terminals.
    f. Manufacturing, fabricating, assembling, or processing of the following:
        (1) Electrical or electronic equipment.
        (2) Jewelry, cosmetics.
        (3) Bakery.
        (4) Pharmaceuticals.
        (5) Medical, dental or drafting instruments.
        (6) Musical instruments, games or toys.
        (7) Optical equipment, clocks, watches or similar precision instruments, office machines, photographic equipment.
        (8) Clay, leather, fabric, metal, wood, or glass product of a handcraft nature.
        (9) Clothing and other fabrics.
        (10) Fur goods, except tanning or dyeing.
        (11) Sporting goods, hand tools, hardware, home appliances and utensils.

(12) Furniture, wood and paper products.
(13) Plastic products, not including processing of raw materials.

g. Other uses which are similar in type to those listed above or the environmental impacts of which in surrounding areas are consistent with those listed above and which would not create any danger to health and safety, and which do not create any objectionable noise, vibration, smoke, dust, odor, heat, or glare in a surrounding area and that are specified on an approved development plan and are consistent with the "Conceptual Design" for the particular district.

h. Accessory structures and uses, except that all outside storage shall consist of finished or packaged goods and must be enclosed by walls, fences, berms, shrubs or trees, pre-existing or newly planted, sufficient to substantially screen it from nearby streets and residential zone districts.

i. None of the above uses or activities shall involve resource production, foundries, processing or refining of raw materials, such as ore, metals, rubber, plastic, fuel, petroleum, nor storage or disposal of hazardous chemicals or wastes.

Subsection 3. Area and dimensional regulations.

1. Except as provided in Articles VI and VIII, the following area and dimensional regulations shall govern the location of all structures in this district.

Maximum Height of Structure	Minimum Yards			Minimum Lot Width
	Front	Side	Rear	
45 feet Any structure may be erected up to 100 feet high if it is setback from required yards or other setbacks an additional one foot for each additional one foot of structural height above 45 feet.	30 feet	25 feet	15 feet each, except no building shall be located closer than 35 feet to the perimeter boundary of this district.	150 feet

2. No building shall be constructed closer than 75 feet to the boundary of an "A", "E" or "R" district or any residential zoning district. No building shall be located closer than 20 feet to another building.

3. All structures and any impervious man-made surfaces shall cover no more than 70 percent of the land on any lot, and the remaining area shall be maintained in natural vegetation or landscaping.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses as set forth in Article V.

Subsection 5. Development plan requirements.

In order to prevent adverse environmental impacts and to achieve a compatible relation among uses covered in Subsection 2.2 above and with the land use suitability of surrounding properties and nearby zone districts, as well as the surrounding transportation network, any owners of lands included in this district shall concur in an overall site development plan to be reviewed and considered for approval by the Planning Commission or Zoning Advisory Committee prior to any grading, clearing, site improvements or issuance of related permits.

All owners of property petitioning for establishment of a new M-3 District shall submit an acceptable development plan for Zoning Advisory Committee approval prior to adoption by the City Council. Any district may be phased over a reasonable period of time. Final site development plans may be postponed for portions of the parcel scheduled for completion after the first six acres. However when phased, the whole district must be covered by a more generalized conceptual design for ultimate development which may be tentative, but must include a viable timetable for completion of each sector, with sufficient information to judge internal and external impacts.

The site development plan shall include:

1. Maps indicating:
    a. The direction of north, appropriate scale and topography in not greater than two foot contour intervals.
    b. The proposed location and height of all structures and site improvements.
    c. The use of all structures and premises.
    d. The areas and proportionate amount of parking to be developed.
    e. The location of streets, driveways and walks including all points of ingress and egress and access streets.
    f. All service areas and loading spaces.
    g. Location and areas of illumination of all exterior lighting.
    h. The location, size, number and character of all exterior signs.
    i. The location, character and extent of all recreation, open space, beautification features, and landscaping, fences, retaining and screen walls, and other treatment for the protection of adjoining property.
    j. The facilities planned for sanitary sewers or treatment, and surface drainage of the premises.
    k. A grading plan showing original and finished slopes, means of stabilization and relation to flood plains, drainage ways, wetlands,

subsurface conditions and soil suitability.

2. A traffic analysis indicating that the proposed development will be so related to streets and arteries that the traffic generated can be accommodated without causing excessive congestion or hazards, or objectionable volumes of traffic on residential streets.
3. A comprehensive independent market analysis, if requested by the Planning Commission or Zoning Advisory Committee, on the needs to be served and the general economic justification.
4. A copy of any proposed subdivision plats, new streets, other easements, and deed restrictions including any third party covenants to be recorded, and the legal treatment and responsibility for maintenance of any public or common grounds or spaces.

Subsection 6. Review and approval of plans.

The Zoning Advisory Committee shall review, approve in part or whole, or disapprove, setting forth its reasons therefore, all conceptual designs and any site development plans for M-3 Districts initiated or recommended for adoption by the Planning Commission without an original plan in the case of initial zoning of annexed territory or zoning in accordance with a Comprehensive Plan. The Zoning Advisory Committee shall also review, and approve or deny all other site development plans involved in rezoning requests or subsequent plan amendments. After due notice and hearing of all interested parties, and consideration of analyses or recommendations by its staff, the Zoning Advisory Committee shall judge the acceptability of varied elements of the plan in close conformity with the following criteria to:

1. Minimize traffic congestion, conflicting movements, hazards, clutter or glare interfering with drivers' visibility of streets, drives and sight lines around corners, also accommodating emergency vehicles, and protecting pedestrian ways and avoiding the attraction of customer or truck traffic through local residential frontage streets,
2. Assure long term adequacy of grading, storm drainage, sanitary sewers, other utilities and improvements, particularly preventing landslides, erosion, sedimentation, flooding and similar problems on subject property and nearby parcels of land in accordance with the City of Birmingham Soil Erosion and Sediment Control Code,
3. Minimize activity conflicts, and environmental degradation, while maximizing a compatible interrelation of uses and economical development through shared access, parking, utility easements, service areas, clustering, etc.,
4. Preserve historical or significant places, scenic features, steep slopes or drainage ways, and create effective natural, planted and man-made buffers of sufficient height, density and width to screen objectionable on-site noise, vibration, smoke, dust, fumes, odor, glare or visibility from adjacent less

intensive uses and particularly residential development and zones.

Once a site development plan has been approved, no work shall be done and no permits shall be issued except in accord with said plan. No certificate of occupancy shall be issued until all site improvement as required by an approved site development plan are completed.

Subsection 7. Delay in construction.

In the event that construction in accordance with the originally approved development plan has not begun within the two years from the date of its approval, the development plan shall expire and become null and void. If less than 25% of the site improvements have been installed within 18 months after issuance of a permit to begin construction, the site development plan shall expire and become null and void.

Section 5. M-4 Special Mining and Lumbering District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the M-4 Special Mining and Lumbering District.

Subsection 2. Use regulations.

A building or premises shall be used only for the following purposes:

1. Any use permitted in the A-1 Agricultural District.
2. Mining, quarrying, extracting, or other removal by open pit, strip, shaft, slope, drift, or any other method of removal of all mineral or other earth products of every kind, as hereinbelow restricted.
3. Timbering, logging, saw milling, extraction of timber products; and processing, distilling, manufacturing and treating of all such products. Reforestation shall require no permit.
4. The right to erect, maintain, alter, enlarge, use and operate structures, building, machinery, housing, roads, railroads, transmission lines, right-of-way, and all other facilities of every kind accessory or appropriate to the conduct of such above permitted uses.
5. The right to dump soil, tailings and other waste and to use so much of said district as may be required for such purposes, and such other rights as may be incidental or accessory to such permitted uses, provided such spoil, tailings and other waste is disposed of in a manner that pollution of streams or lakes are controlled in conformance of the Environmental Protection Agency and the Alabama Department of Environmental Management.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards		
	Front	Rear	Side
None, except where a structure is located upon a lot abutting any dwelling district, then any structure exceeding two stories or 35 feet shall be set back from the required yards abutting the dwelling district an additional distance of one foot for each foot of structure height above 35 feet.	None, except where the frontage between two intersecting streets is located partly in an "E" or "R" district, the front yard requirements of the "E" or "R" districts shall apply to the "M" district.	None, except on the rear of a lot abutting a dwelling district, in which case there shall be a rear yard of not less than 25 feet.	None, except on the side of a lot abutting a dwelling district, in which case there shall be a side yard of not less than 10 feet.

Areas and dimensional regulations for residential uses shall conform to the area and dimensional regulations of the A-1 Agricultural District.

Subsection 4. Parking and loading regulations.

Off-street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Subsection 5. Permit, operation and reclamation regulations.

1. Before any permits may be used or work begins for strip or surface mining, the owner or operator must have applied for and received a Clearing and Earthwork permit and/or a permit from the City Engineer of the City of Birmingham as herein provided. Any person lawfully engaged in strip or surface mining shall immediately secure such permit or cease operation of such strip mine. Applicants for a permit shall file an application with the City Engineer which shall contain the following information and comply with the Soil Erosion and Sediment Control Code of the City of Birmingham:
   a. The name of applicant and whether individual, partnership, corporation or other legal entity.
   b. Legal address of the applicant for process of legal service or notice and the address of each mining operation.
   c. The name and address of the agent, subsidiaries or independent contractors who may be engaged in strip surface mining on behalf of the applicant on the land or premises to be affected. Any agent, subsidiary or independent contractor engaged by the applicant subsequent to issuance of a permit shall be identified by written notice to the City Engineer within thirty days of such engagement; however such engagement shall not relieve the permittee of responsibility hereunder.
   d. A statement of whether the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant,

has ever had a strip or surface mining permit suspended or revoked by the City of Birmingham, Jefferson County, the State of Alabama, or any other state, or has ever had a surface mining bond, or security deposited in lieu of bond, forfeited.

e. All names under which the applicant previously operated or is now engaging in surface mining within the City of Birmingham.

f. A legal description of the land or premises upon which the applicant proposes to engage in strip or surface mining including a map at a suitable scale noting the date prepared and showing:

(1) The areas of proposed operation under the said permit, if issued.

(2) The names of owners of surface and mineral rights.

(3) The location of all existing and proposed structures.

(4) A two hundred foot setback line or buffer from all adjacent property, public road rights-of-way, rivers, streams, or public lakes. The two hundred foot setback from an adjacent property may be excepted provided the adjacent property has a legally existing strip or surface mine in operation thereon or provided the owner(s) of the surface rights to such adjacent property has provided the applicant with written consent for such mining.

(5) The total acreage of land or premises proposed for strip or surface mining.

(6) The existing and proposed surface drainage plans for the area of land or premises proposed for strip or surface mining noting approvals or requirements by the Alabama Department of Environmental Management, the Environmental Protection Agency or other governmental agencies. If said plans have been approved by said agencies, they shall be sufficient.

(7) A land surveyor registered in the State of Alabama certification which shall read as follows: ("I (land surveyor's name and State of Alabama registration number), hereby certify that this is a true and accurate map and shows to the best of my knowledge and according to my survey all information required by Appendix A, General Code of the City of Birmingham, Alabama (Zoning Ordinance)." The certification shall be signed and notarized. The failure to include the required certificate shall void said application for permit.

(8) A statement by the applicant that he has obtained, or before commencing mining will obtain, from the surface and mineral owners, the legal right to mine by strip or surface mining methods, the land to be affected by each permittee and if not already obtained, a statement of intent, from the legal surface and mineral owner, to deliver said rights upon issuance of said permit.

(9) Evidence of permits under the current Alabama Surface Mining

Act.

(10) Evidence of liability insurance in the amount required herein.

(11) Evidence of reclamation bond in the amount required herein.

(12) Evidence that the affected lands or premises are zoned M-4 Special Mining and Lumbering District in the form of a zoning certificate issued by the appropriate agency of the City of Birmingham.

g. The fee for a permit shall be in accordance with the Erosion Control Code and shall be submitted with the application. All sums received through payment of application fees shall be paid through the City Engineer.

h. If a permittee succeeds another at any uncompleted operation by sale, assignment, lease, or otherwise, the City Engineer may release the first permittee from all liability requirements of this regulation after the successor has filed a completed application, and the successor permittee assumes full liability for mining, conservation, and reclamation procedures established therein. Any agent, subsidiary or independent contractor engaged by the applicant or permittee subsequent to issuance of a permit shall be identified to the City Engineer within thirty days of its engagement. The utilization of an agent, subsidiary or subcontractor shall not relieve the permittee of its responsibility hereunder except as hereinabove provided.

i. Each permit shall remain in effect for twelve months unless previously revoked or otherwise terminated as provided herein. Request for additional permits or extensions of permits shall be submitted in the same manner as the first application.

2. Operational regulations.

The regulations set forth in this Subsection or set forth elsewhere in this Section, when referred to in this Section, are the operational regulations of Subsection 2, Sections 2 and 5 of this Article.

a. No pit, spoil, tailings, waste or material incidental or accessory to surface mining shall be located closer to adjacent property lines, public road rights-of-way, lakes or rivers than 200 feet, and not closer than 500 feet to a private residence or public building. This setback may be excepted provided the adjacent property has a legally existing strip or surface mine in operation thereon and further provided the owner(s) or the surface mineral rights has provided the operator or permittee with a consent for same in writing.

b. The operator or permittee shall divert water from the active pit areas in a manner designed to reduce siltation, erosion or other damage to streams and natural watercourses. As mining begins, all drainage ways which flow from the active pit areas must be protected.

c. All roads must be maintained in a manner approved by the City Engineer to reduce dust.

d. The general operation of the dumping of pit, soil, tailings, waste or other materials, shall be in a manner that pollution of streams or lakes are controlled in conformance with regulations of the Environmental Protection Agency and the Alabama Department of Environmental Management.

e. The use of explosives for the purpose of blasting in connection with surface mining shall be done in accordance with the rules, regulations, and standards as set forth by the U.S. Bureau of Mines, the coal mining laws of the State of Alabama and the open pit and quarry safety rules of the State of Alabama. No blasting shall be performed after sunset or before sunrise, except as required, to comply with the above regulations.

f. The City Engineer or any member of his staff, or a person designated by the City of Birmingham, may enter upon the affected lands at any reasonable time for the purpose of inspection to determine whether the provisions of this Section are being complied with.

3. Insurance and bonds.

a. The application for permit shall be accompanied by a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized or licensed to do business in the State of Alabama covering all strip or surface mining operation of the applicant on lands or premises affected by such application and affording personal injury and property damage protection. The insurance shall cover the operator, all of its agents and employees, and shall not be less than one million dollars ($1,000,000) for personal injury and one million ($1,000,000) for property damage. The City Engineer may waive the provisions of this subsection upon the operator posting securities, in the amount of one million dollars ($1,000,000), of the same type and in the same manner as specified in this section.

b. Each application for a permit shall be accompanied by a bond in accordance with the Soil Erosion and Sediment Control Code per acre of affected land. State bonding requirements shall be credited toward the bond per acre required herein. No bond however, shall be for less than five thousand dollars ($5,000). Any bond herein required to be filed with the City Engineer by the applicant shall be payable to the City of Birmingham for the surface mining and reclamation fund and conditioned that the operator shall faithfully perform all applicable requirements of the permit. Such bonds shall be signed by the operator, as principal, and by a good and sufficient corporate surety authorized or licensed to do business in the State of Alabama, as surety.

c. In lieu of the hereinabove required bond, the operator may elect to submit to the City Engineer cash or negotiable bonds of the United

States government, or the State of Alabama, or any municipality within the state. The amount of cash or market value of such securities shall be equal at least to the amount of the bond. The City Engineer shall, upon receipt of any such cash or securities, immediately deposit the same with the Finance Director of the City of Birmingham, whose duty it shall be to receive and hold the same in the name of the City of Birmingham, in trust, for the purposes for which such a deposit is made. The Finance Director shall at all times be responsible for the custody and safekeeping of such deposits. The operator making the deposit of securities shall be entitled from time to time to demand and receive from the Finance Director, on the written order of release of the City Engineer, the whole or any portion of any securities so deposited, upon depositing with the City Engineer in lieu thereof cash or other negotiable securities of the classes herein specified having a market value at least equal to the sum of said securities; provided, however, that where securities, deposited as aforesaid, mature or are called, the Finance Director, at the request of the operator, shall convert such securities into such other negotiable securities of the classes herein specified as may be designated by the operator. The total coverage of the bond or amount of cash and securities shall be increased or reduced from time to time as land is added or withdrawn form the area covered by the permit as provided in this section.

d. Whenever an operator shall have completed all applicable requirements under the permit for part or all of the affected land, he shall notify the City Engineer thereof. The bond may be released as specified in the Soil Erosion and Sediment Control Code.

e. A bond filed as above prescribed shall be conditioned so that it cannot be canceled by the surety with less than ninety days written notice to the City Engineer. If a bond is canceled after such notice, the operator shall on or before the effective date of such cancellation, substitute another bond or cash or securities as provided herein.

f. If the authorization or license to do business with the State of Alabama of any surety upon a bond filed with the City Engineer pursuant to this Ordinance shall be suspended or revoked, the operator, shall substitute for such surety a good and sufficient corporate surety licensed to do business in the State of Alabama, or another bond, or cash or securities in lieu thereof as provided hereinabove.

g. The failure of the operator to make substitution of surety bond, cash or securities, as provided above, shall result in the suspension of the permit of the operator to conduct any operation on the affected land in such permit in accordance with this section. If such permit is revoked, the operator shall not conduct further mining of the affected land or premises until substitution as provided hereinabove has been

made.

h. All sums received through the forfeiture of bonds, the recovery of civil penalties, or otherwise for the reclamation of disturbed lands shall be placed in the general fund of the City of Birmingham and credited to an account designated as the surface mining and reclamation fund. This fund, which is hereby established, shall be available to the Council of the City of Birmingham for expenditures only for the purpose of reclamation and revegetation of the land affected, subsequent to the enactment of this Section. Defaulted bond funds shall be first applied to reclaiming the lands covered by the surface mining and reclamation fund of the City of Birmingham.

4. Reclamation.

The permittee shall notify the City Engineer within thirty days after termination of the operation, or prior to the termination at any time, and shall reclaim the affected lands in accordance with the following provisions:

a. The operator or permittee shall backfill the final pit by sloping the last spoil pile toward the high wall to a minimum depth of seven feet above the bottom mineral seam.

b. If any of the affected lands are toxic, deficient in plant nutrients, composed of sand, gravel, shale or stone to such extent as to prohibit plant growth, the applicant shall be required to cover such area with overburden material or fertilizers to promote revegetation. To establish the condition of soil or affected lands, the City Engineer may require the permittee or operator to submit test results or documentation.

c. A permittee with legal title or right may construct dams of earth or other materials in cuts of all operations when lakes may be formed, and cause lakes to be formed, provided that the formation of said lakes will not interfere with underground or other mining operations or cause damage to adjoining property, or establish a stagnant lake or pond. If permittee elects to form lakes or ponds as part of his reclamation efforts, he shall cover any toxic seam on the bottom of the open pit to a depth of two feet. The permittee is encouraged to make such lake or pond accessible to wildlife.

d. The permittee may elect to reclaim the affected land for range, agricultural or horticultural, homesite, recreational, industrial or commercial uses but no such election shall result in grading to a lesser extent than set forth in this Subsection or establish a vested interest to a rezoning for such uses.

e. The permittee shall complete the contouring of all spoil piles within twelve months from the date of expiration of the surface mining operations.

f. The permittee shall perform planting and revegetation during the first planting season after regrading is complete; however, the outer slope

shall be revegetated as soon as possible to provide quick growth cover and reduce erosion.

g. The operator or permittee shall cover the face of any toxic material left exposed in the bottom of the pit by surface mining with overburden material to a depth of two feet.

h. The operator or permittee shall eliminate all high walls except the final high wall of each pit and construct two access ways to the area above the high wall for each horizontal mile of said final high wall.

i. When final reclamation is assumed, if affected lands are being developed for forestry, the operator will, in addition to trees, establish a protective covering of some other type plant, such as grass, to assist in preventing excessive erosion pending the development of forest tree seedlings into trees.

5. Revocation of permits.

a. The City Engineer may revoke any permit upon:

(1) Revocation of state permit.

(2) Expiration or cancellation of liability insurance.

(3) Expiration or cancellation of reclamation bond.

(4) Violation of any regulation herein provided, however, no permit shall be revoked until the City Engineer shall, in writing, advise the permittee of the reason for such revocation, and allow such permittee or operator a reasonable period of time not exceeding sixty days to correct such violation or other defect. If after this period, the permittee or operator so notified remains in violation, the City Engineer may cause to have issued and served upon the permittee or operator alleged to be committing such violation, a written notice which shall require the permittee or operator so complained against to answer the charges of such formal complaint at a hearing before the City Engineer at a time not less than ten days nor more than thirty days after the service of such notice. The charged permittee or operator may appear in person or by representative or counsel at such hearing. After such hearing the City Engineer shall enter such order as deemed appropriate on the basis of the facts presented and forthwith mail a copy thereof to the charged permittee or operator or its attorney of record and to the Council of the City of Birmingham. If such order of the City Engineer is not complied with and is then not the subject of an appeal to the Council of the City of Birmingham or appropriate Court as herein provided, the City Engineer may cause to have instituted a civil action in any Court of a competent jurisdiction to forfeit the bond of the permittee or operator as to land affected by the permittee or operator's violation of this regulation, or for injunctive or other appropriate relief to

prevent any further or continued violation of such final order.

b. Any permittee or operator may appeal any order of the City Engineer to the Council of the City of Birmingham and hence, to the Circuit Court of Jefferson County as prescribed by law. During the period of appeal by such permittee or operator, the City Engineer shall not commence separate legal proceedings as herein authorized nor shall any permit be revoked until final adjudication of the appeal.

c. Nothing in this regulation shall prevent the City Engineer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. This regulation specifically directs and encourages the City Engineer to exhaust conciliatory efforts before taking formal action against permittee or operator as provided herein.

Subsection 6. Exceptions.

The provisions of this Section shall not apply to any surface mining activities of the State of Alabama incidental to their activities in construction, repairing, and maintaining the public road system in the City of Birmingham. The provisions of this Section shall also extend to any person, firm, or corporation contracting with the State of Alabama, to construct, repair and maintain public roads, provided such contracts contain standards for the reclamation of all affected surface mining areas in accordance with the surface mining laws of the State of Alabama.

ARTICLE IV – OTHER CLASSIFICATIONS

Section 1. A-1 Agricultural District.

Subsection 1. Generally.

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the A-1 Agricultural District.

Subsection. 2. Use regulations.

A building or premise shall be used only for the following purposes:

1. Any use permitted in the E-1 Estate District.
2. Poultry farm.
3. Rabbit and other animal farms except as prohibited by Chapter 7, General Code of the City of Birmingham, Alabama, 1964, as amended.
4. Apiary (bee hives)
5. Greenhouse and nursery.
6. Dog kennel.
7. General farming.
8. Truck farming.
9. Dairy.
10. Ranching.
11. Removal of chert (temporary use only) maximum six months.
12. Recreational camp, river camps, etc.
13. Family Group Day / Night Care Facility, Adult Care Facility, or Child Care Center.
14. All surface support facilities shall be permitted for subsurface or underground mining; provided that these support facilities are located no closer than 200 feet to property lines, which constitute the boundaries of this use, right-of-way, roads or public easements. The underground mining operation must conform in every respect with the State and Federal law governing such operation.
15. Accessory structures and uses including but not limited to the following:
    a. Chicken (fowl) houses or pens; provided, that the minimum setback from adjoining property lines shall be 100 feet and from street right-of-way lines shall be 300 feet. No chicken (fowl) house shall be built closer than 300 feet to the nearest adjacent residence.
    b. Livestock barns; provided, that the minimum setback from adjoining property lines shall be 100 feet and from street right-of-way lines shall be 300 feet. No livestock barns shall be built closer than 300 feet to the nearest adjacent residence.
    c. Accessory Use Child Care Center.
16. Any of the above uses may be combined with a single-family dwelling if separate structures and/or facilities are provided for each use.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards			Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	Each Side (two required)		
35 feet	40 feet	40 feet	15 feet	1 acre (43,560 sq. ft.)	100 feet

Subsection 4. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 2. A-2 Agricultural District

Subsection 1. Generally

The regulations set forth in this Section or set forth elsewhere in this Ordinance, when referred to in this Section, are the regulations in the A-2 Agricultural district.

Subsection 2. Use regulations.

A. A building or premises shall be used only for the following purposes:
   1. Any use permitted in the E-1 Estate District.
   2. Accessory structures and uses including but not limited to the following:
      a. One horse shall be permitted on any parcel, tract or lot containing a minimum area of 43,560 sq. ft. (1 acre). For each additional one acre of land contained in such parcel, tract or lot, one additional horse shall be allowed. No horse shall be allowed on any parcel, tract or lot except in accordance with the following provisions:
         (1) All barns, stables, etc. shall be located at least 70 feet from side lot lines and 35 feet from rear property line.
         (2) All animals are to be housed, fed, watered and pastured at least 150 feet from any adjacent residential structure.
         (3) All animals shall be housed and fed in the rear of the owner's residence.
      b. Rabbits and other small animals (maximum of 20) shall be housed not less than 150 feet from any adjacent residential structure with a minimum of 35 feet from any property line.
      c. Poultry or fowl raising where poultry is used only for personal family consumption; the total flock shall not exceed 25 grown chickens, with not more than two roosters permitted. Poultry, or fowl houses shall not be closer than 15 feet to a property line or 100 feet to the nearest adjacent residential structure.
      d. Accessory Use Child Care Center.

B. No building or premise shall be used for the storage or housing of the following:
   1. Commercial poultry or fowl raising.
   2. Cows.
   3. Goats.
   4. Swine.

C. Family Group Day / Night Care Facility, Adult Care Facility, or Child Care Center.

Subsection 3. Area and dimensional regulations.

Except as provided in Articles VI and VIII, the area and dimensional regulations set forth in the following table shall be observed:

Maximum Height of Structure Feet	Minimum Yards			Minimum Lot Area Per Family	Minimum Lot Width
	Front	Rear	Each Side (two required)		
35 feet	35 feet	35 feet	15 feet	15,000 sq. ft.	75 feet

Subsection 4. Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article V.

Section 3. MXD-Mixed Use District

REFER TO TITLE 1, CHAPTER 4, ARTICLE V, SECTION 7 “MXD-Planned Mixed Use District of this Ordinance.

Article V – Off-street Parking and Loading Regulations

Refer to Title 1, Chapter 5 "Off-Street Parking and Loading Regulations"

Article VI – Supplementary Regulations and Modifications

Section 1. Purpose.

The regulations set forth in the Article supplement or modify the district regulations appearing elsewhere in this Ordinance. These regulations shall not be construed to modify the regulations set forth in Article VI, Section 13.

Section 2. Use modifications.

1. Temporary structures for use incidental to construction work may be permitted in any district during the period that construction work is in progress, but such temporary buildings shall be removed upon completion or abandonment of the construction work.
2. Utility structures, including, but not limited to poles, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power or to provide telephone or telegraph service and pipe lines, vents, valves, hydrants, regulator, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other fluids, may be constructed, erected, repaired, maintained or replaced within any district within the City of Birmingham. This is not to be construed to include the erection or construction of buildings or electric substations.
3. Railroad facilities, including main line tracts, switching spurs, control signals, poles, and wires or similar facilities (but not yards or service facilities) needed for operating railroad trains, may be constructed, repaired, maintained or replaced in any "E", "R", or "B-1" district, and these as well as terminal facilities, including passenger or freight stations, team tracts, and storage yards are permitted in the "B-2", "B-3" and "B-4" districts.
4. Use of lots and structures in all residential districts for garage sales or rummage sales as herein defined, subject to the limitations and conditions set out herein;
   a. a garage sale is the sale of surplus or unwanted personal property accumulated in the maintenance or operation of a home or dwelling;
   b. a rummage sale is the sale of personal property belonging to a religious, charitable, civic or service organization;
   c. no such sale shall be conducted without a permit first being issued by the Director of the Department of Planning, Engineering and Permits, an application for which shall be made in writing to said Director accompanied by a fee of five dollars and by a list of all owners of property participating in the sale; (Ord. 09-157)
   d. no person or organization shall conduct such a sale more than once during any six consecutive months;
   e. no garage or rummage sale shall continue for more than three

consecutive days;

f. all such sales shall be conducted by the permittee who shall be one of the owners of property offered for sale;

g. all garage sales shall be conducted at the residence of the permittee; all rummage sales shall be conducted at the site of a religious, charitable, civic or service organization, or such other place as shall be designated in the permit;

h. no advertisement of any garage or rummage sale shall be permitted on public property;

i. no yard sign having an area of more than six square feet shall be permitted, nor shall any illuminated or animated sign be displayed. No sign shall be displayed prior to the date of sale, and all such signs shall be removed no later than the day following the last day of such sale.

Section 3. Height modifications.

1. Chimneys, cooling towers, elevator bulkheads, head houses, fire towers, gas tanks, lighthouses, steeples, penthouses, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, where permitted, may be erected to any height not in conflict with existing or hereafter adopted ordinances of the City of Birmingham; except that were permitted in connection with residential uses, such structures shall be limited to a height of twenty-five feet above the maximum height of structures permitted in that district. Said exception relative to residential uses shall become effective immediately for new structures, and within one year after its adoption in relation to structures existing at the time of the adoption of this Ordinance. The provisions of Section 18 of this Article shall govern the heights of wireless communications facilities.
2. The limitation on number of stories shall not apply to buildings used exclusively for storage purposes, provided such buildings do not exceed the height in feet permitted in the district in which located.
3. Public, semipublic or public service buildings, including but not limited to hospitals, schools and churches, when permitted in a district with height limitations of less than sixty feet, may be erected to a maximum height of sixty feet, provided side yards are increased by one foot for each foot of additional building height above the height limitation for the district in which the building is located.

Section 4. Area modification for lots of record.

Where a lot of record at the time of the effective date of this Ordinance had less area or less width than herein required for the district in which it is located, said lot may nonetheless be used for a single family dwelling.

Section 5. General Yard Modifications.

1. Every part of a required yard shall be open to the sky unobstructed by any structure or part hereof, and unoccupied for storage, servicing or similar use except as provided herein.
2. Sills, belt courses or ornamental features may project into any yard not to exceed six inches.
3. Cornices or eaves may project into any required yard not to exceed eighteen inches.
4. Terraces, uncovered porches, underground fallout shelters or ornamental features which do not extend more than five feet above grade may project into a required yard, provided such projections shall not be closer than two feet to any lot line.
5. More than one multiple dwelling, institutional, commercial or industrial building may be located upon a lot or tract, but such buildings shall not encroach upon the front, side and rear yards required by the district regulations, and for multiple dwellings the open space between buildings measured at the closest point shall not be less than twenty feet for one-story buildings, thirty feet when one or both are two-story buildings, and forty feet when one or both are three or more story buildings.
6. Where an open space is more than fifty percent surrounded by residential or institutional buildings, the minimum width of the open space shall be at least twenty feet for one-story buildings, thirty feet when one or both are two-story buildings, and forty feet when one or both are three or more story buildings.
7. In residential districts, no required yard except the rear yard shall be used for the location of a private swimming pool, and if constructed, said pool shall be enclosed by a fence of not less than four feet in height. No mechanical appurtenance or pool shall be within ten feet of any lot line.
8. The minimum dimension of a yard upon which any entrance or exit of a multiple dwelling faces shall be twenty feet.
9. Wherever yards are provided between commercial or industrial structures, they shall have a minimum width of not less than six feet.
10. As an additional limitation of an accessory use, the following shall apply:
    a. For the purposes of the Subsection (10), the term "disabled motor vehicle" shall refer to any motor vehicle regardless of size which is incapable or being self-propelled upon the public streets of the City of Birmingham, or when such motor vehicle cannot safely be moved on any public street under its own power, or which does not meet the requirement for operation upon the public streets.
    b. Disabled motor vehicles shall not be permitted in a front or side yard in a residential district; provided, however, that on a driveway crossing the front or side yard of a lot in a residential zone district, one disabled motor vehicle may be parked for a reasonable time to allow for the

servicing or removal of said disabled vehicle, but in no case shall a disabled vehicle be allowed to remain on a driveway crossing a front or side yard for a period exceeding five days from the time the vehicle became disabled.

c. One disabled motor vehicle may be permitted in a rear yard in a residential district as an accessory use to the main use of the lot; provided that such vehicle is not located in any open space required by this Article. Service and repair work may be performed on such vehicle, and parts, tools, and equipment incidental to such service and repair thereto may be stored and used; provided, however, that a disabled vehicle shall not be permitted to remain outside of a building for a period in excess of thirty days on any lot regardless of how zoned, except a lot upon which is operating a junk dealer or scrap metal processor in compliance with the requirements of the General City Code, or on that portion of any lot within twenty feet of an abutting lot used or zoned for residential purposes.

d. Storage, service and repair in a residential district of a disabled motor vehicle which is conducted entirely within the confines of a completely enclosed garage (not to include open carports) shall be permitted, provided that such vehicle is the property of the owner or occupier of the lot and that such use is not a commercial use of the property.

e. It shall be the responsibility of the owner of a disabled vehicle, the person in possession of property or the property owner on whose property a disabled vehicle is located to meet the requirements of this Subsection (10).

11. New and expanded structures shall provide an area for solid waste containers adequate to house garbage and any other type of waste on site; not in the public right-of-way. The container must be located on the same lot as the principle building and no closer than 25 feet to dwellings off-site. Except for uses within M-2 and M-4 zoned districts and uses having small containers serviced by the City of Birmingham's Public Works Department, solid waste containers also must be: (1) in rear or side yards or within the principal building; AND (2) exterior sites must be below grade OR have a solid opaque screening walls or gate on all sides made of concrete, masonry material and/or wood at a height taller than the container. (When residential the enclosure must have a veneer similar to the dwelling's veneer.); AND, 3) when a proposed use includes a food service establishment enclosure must be compliant with county health department regulations

Section 6. Front yard modifications.

The required front yards heretofore established shall be modified in the following cases:

1. Where forty percent or more of the frontage on the same side of a street between two intersecting streets is presently developed or may hereafter be developed with buildings that have (with a variation of five feet or less) a front yard greater or lesser in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.
2. Where forty percent or more of the frontage on one side of a street between two intersecting streets is presently developed or may hereafter be developed with buildings that do not have a front yard as described above, then;
   a. Where a building is to be erected on a parcel of land that is within one hundred feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent building, or;
   b. Where a building is to be erected on a parcel of land that is within one hundred feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
3. Through lots shall provide the required front yard on both streets.
4. Corner lots shall provide a front yard on each street side. However, the buildable width of a lot of record need not be reduced to less than twenty-eight feet; provided, that the side yards shall in no case be reduced to less than that otherwise required for the zone district. No accessory building shall project into the front yard on either side.
5. Permitted signs attached to buildings may extend into a front yard of the required yard abutting a side street not to exceed eighteen inches.
6. Service station pumps and pump islands may be located with a required front yard, but in no case shall they be closer than fifteen feet to any street line.

Section 7. Rear and side yard modifications.

The rear or side yards heretofore established shall be modified in the following cases:

1. Where a lot abuts upon an alley, one half of the alley width may be considered as part of the required rear or side yard for building purposes; however, the minimum yard abutting an alley shall be three feet.
2. An unenclosed balcony, porch steps or fire escape may project into a rear yard for a distance not exceeding ten feet.
3. Accessory buildings and structures may be built in a rear yard, but such accessory buildings and structures shall not occupy more than thirty percent

of the required rear yard and shall not be nearer than three feet to any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than five feet to the alley line.

4. Satellite antennas shall be permitted in the rear yard only. The Zoning Board of Adjustment may grant variances to this provision only for rear yards whose topography or dimensions will not permit the physical placement of these structures. Such limitations shall not include placement of satellite dishes because of problems associated with reception of satellite signals.

Section 8, "Walls and Fences"

Refer to Title 1, Chapter 4, Article V, Section 5 "Walls and Fences".

Section 9. Sign Regulations.

Refer to Title 1, Chapter 4, Article V, Section 11 "Sign Regulations".

Section 10. Flood Plain Zone Districts.

Refer to Title 1, Chapter 8, Article II, "Floodplain Zone Overlay"

Section 11. Adult Establishments.

Refer to Title 1, Chapter 4, Article II, Section 12, Item A,
"Adult Establishments".

Section 12. "Q" Qualified Zone District.

Refer to Title 1, Chapter 4, Article V, Section 8, "Qualified Zone District".

Section 13. Additional Height Regulations in Vicinity of Municipal Airport

Refer to Title 1, Chapter 3, Article I, Section 7, Item D, "Special height Restrictions in Vicinity of Municipal Airport:".

Section 14. Holding Zone District (HZD).

Refer to Title 1, Chapter 4, Article V, Section 10, "Holding Zone District".

Section 15. Additional Regulations for Attached and Semi-Attached Dwellings.

Refer to Title 1, Chapter 4, Article II, Section 2, Item B, "Townhouse".

Section 16. "C" Contingency Zone District.

Refer to Title 1, Chapter 4, Article V, Section 10 “Holding Zone District”.

Section 17. Child and Adult Care Facilities

Refer to Title 1, Chapter 4, “Land Use Development Standards”.

Section 18. Wireless Communications Facilities

Refer to Title 1, Chapter 4, Article V, Section 1 “Wireless Communications Facilities”.

Section 19. U.S. Highway 280 Overlay District Regulations

Refer to Title 1, Chapter 8, Article III. "U.S. Highway 280 Overlay District Regulations".

Section 20. Highland Park Neighborhood Form-Based Overlay District Regulations

Refer to Title 1, Chapter 8, Article IV. "Highland Park Neighborhood Form-Based Overlay District Regulations and Highland Park Form Based Overlay District Map".

Section 21. Payday (Deferred Presentment) and Title Loans

Refer to Title 1, Chapter 4, Article II, Section 5, Items T and X "Payday Loan (Deferred Presentment) and Title Loan/Pawnshop".

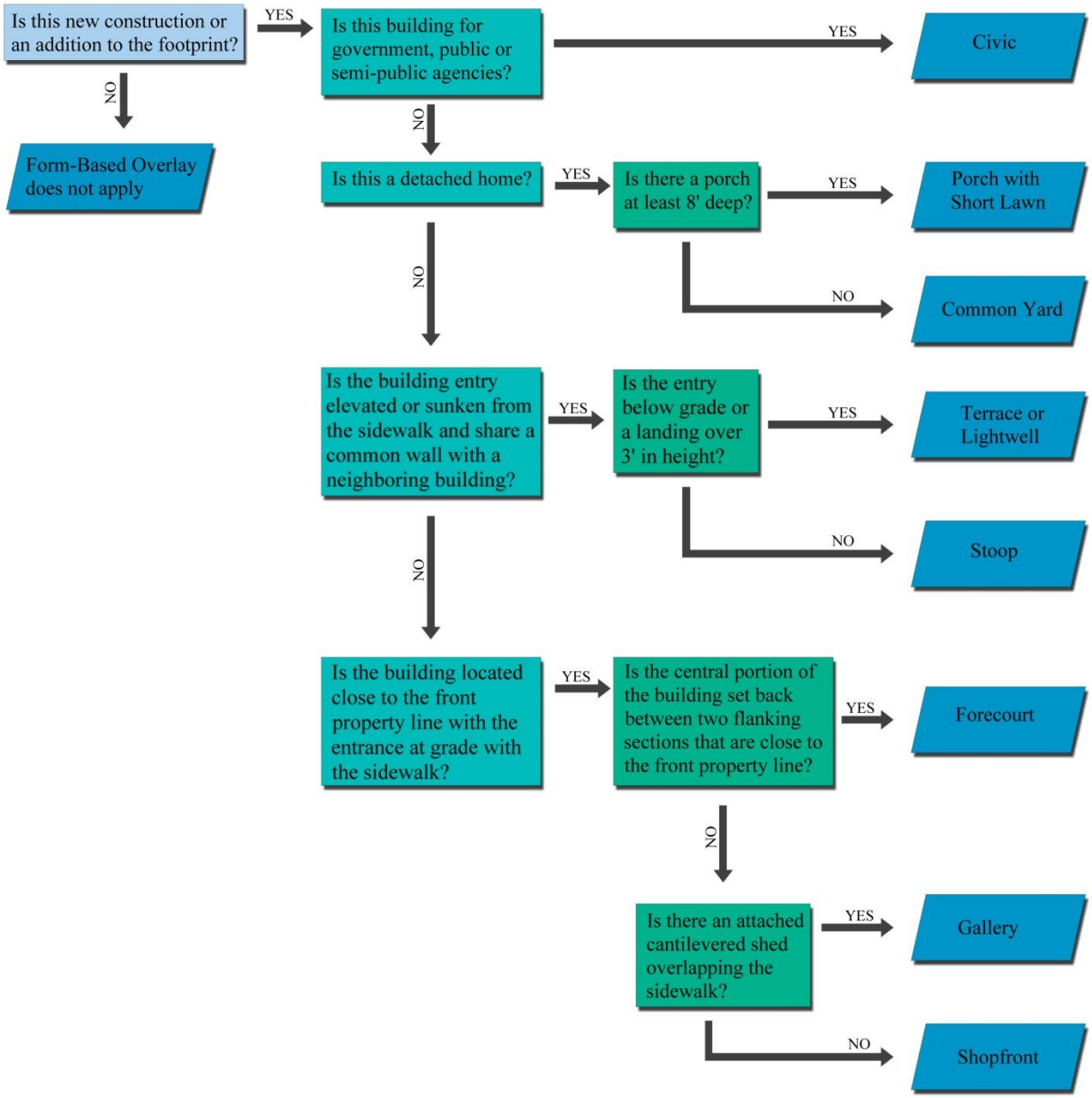
Article VII – "Administration, Interpretation, Amendments and Annual Review"

Refer to Title 1, Chapter 9. "Administration and Procedures"

Article VIII – "Zoning Board of Adjustment"

Refer to Title 1, Chapter 9, Article IV "Zoning Board of Adjustment", Article V "Special Exceptions", Article VI "Variances and Modifications".

Form-Based Flow Chart



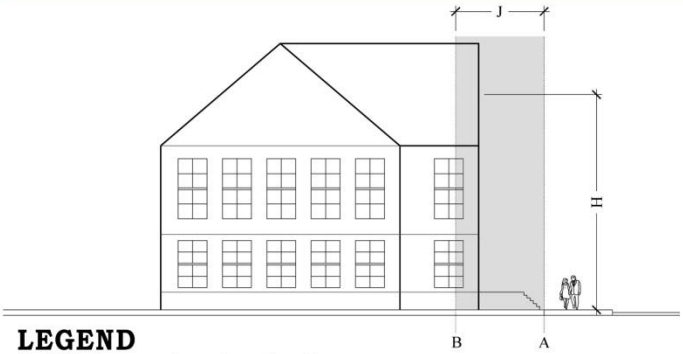
FRONTAGE CATEGORY: Civic

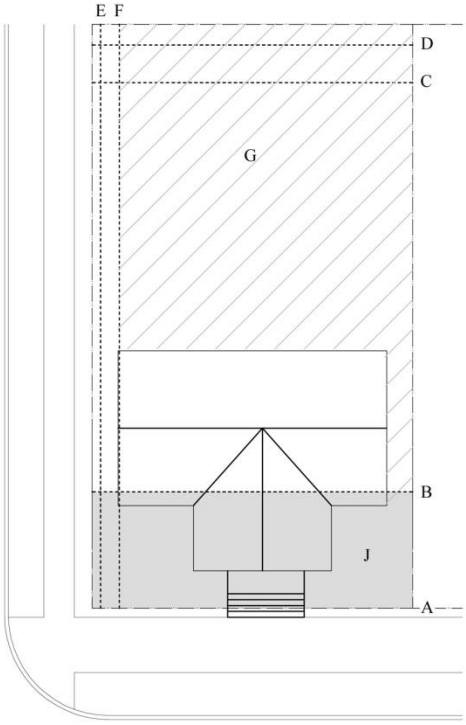
CLASSIFICATION

Definition:
This frontage type is developed typically for government, public or semi-public agencies. The frontage's design follows the building's function. Public parks are exempt from this overlay.

Allowed Sub-Districts:
FSD-1, FSD-2, FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS



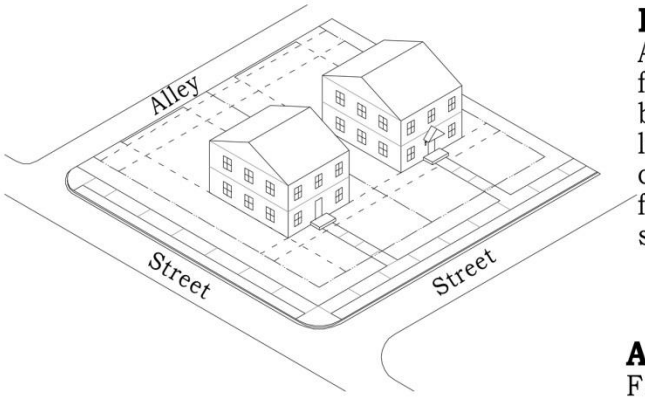


LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT	MIN. FRONTAGE ENCLOSURE
FSD-1: 35’	FSD-1: 60%
FSD-2: 45’	FSD-2: 60%
FSD-3: 60’	FSD-3: 70%
FSD-4: 60’	FSD-4: 70%
FSD-5: 60’	FSD-5: 70%

FRONTAGE CATEGORY: Common Yard

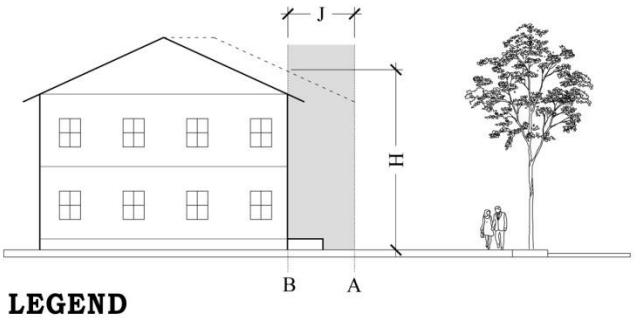
CLASSIFICATION

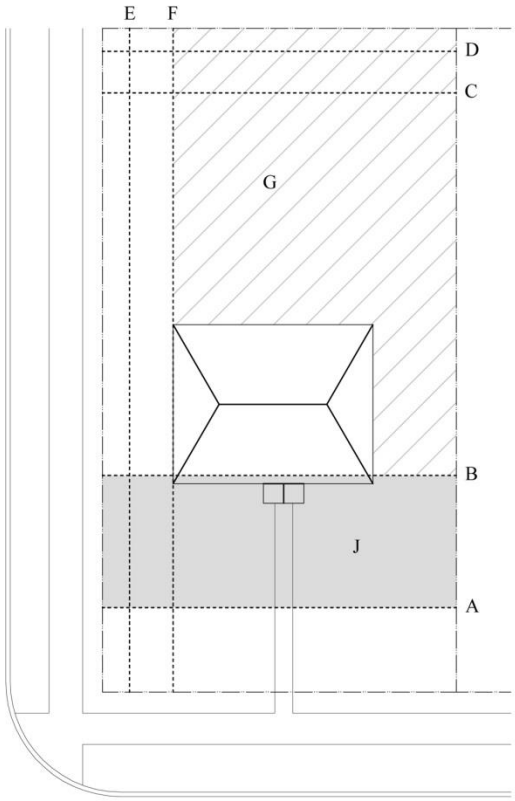


Definition:
A frontage category with a planted deep front yard with the building facade set back substantially from the front lot line. The front yard created is visually continuous with adjacent yards. This frontage type will normally be for a single or two family dwelling.

Allowed Sub-Districts:
FSD-1, FSD-2, FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS





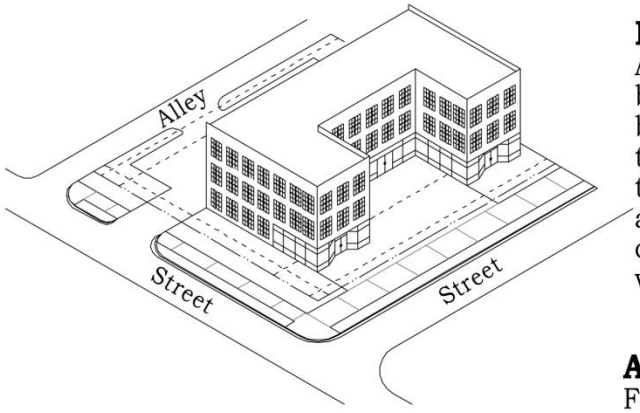
LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT
FSD-1: 35'
FSD-2: 35'
FSD-3: 35'
FSD-4: 35'
FSD-5: 35'

MIN. FRONTAGE ENCLOSURE
FSD-1: 50%
FSD-2: 50%
FSD-3: 60%
FSD-4: 60%
FSD-5: 70%

FRONTAGE CATEGORY: Forecourt

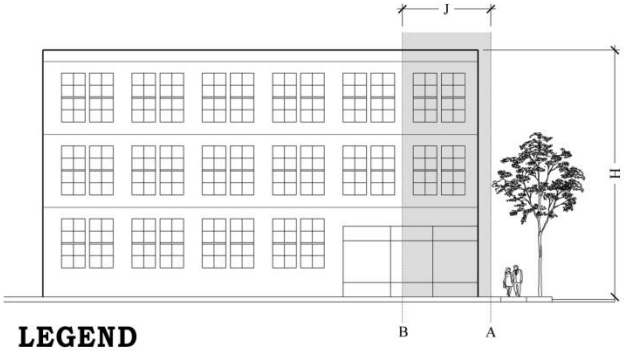
CLASSIFICATION



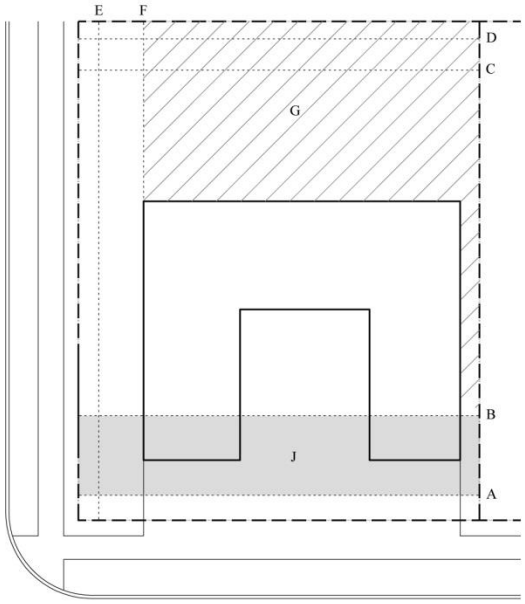
Definition:
A frontage category, usually a larger building, with the central portion or block of the building set back between two flanking sections that are closer to the front property line, creating an open recessed court. This space can be either landscaped or used for vehicle drop-offs.

Allowed Sub-Districts:
FSD-2, FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS



LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

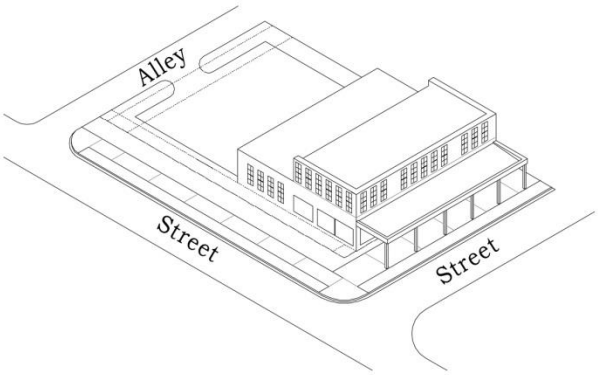


BUILDING HEIGHT
FSD-2: 45'
FSD-3: 60'
FSD-4: 60'
FSD-5: 60'

MIN. FRONTAGE ENCLOSURE
FSD-2: 60%
FSD-3: 70%
FSD-4: 80%
FSD-5: 80%

FRONTAGE CATEGORY: Gallery

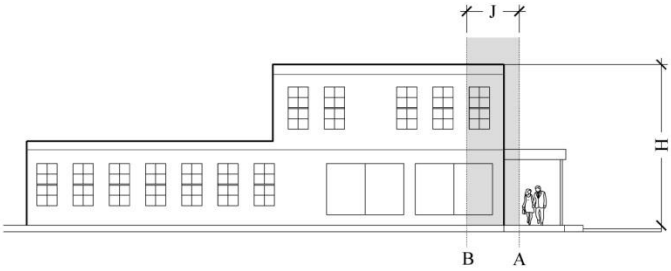
CLASSIFICATION

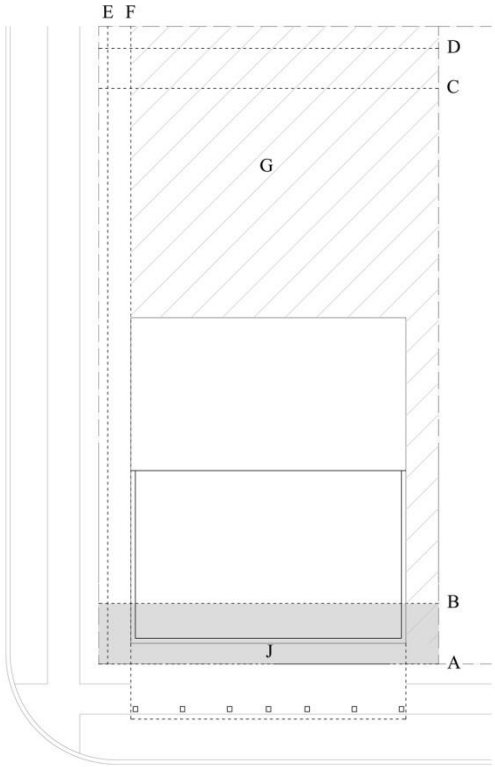


Definition:
A frontage category wherein the facade is aligned close to the front property line with an attached cantilevered shed or colonnade overlapping the sidewalk. This type conventionally has ground retail and mixed uses above.

Allowed Sub-Districts:
FSD-4, FSD-5

FRONTAGE STANDARDS





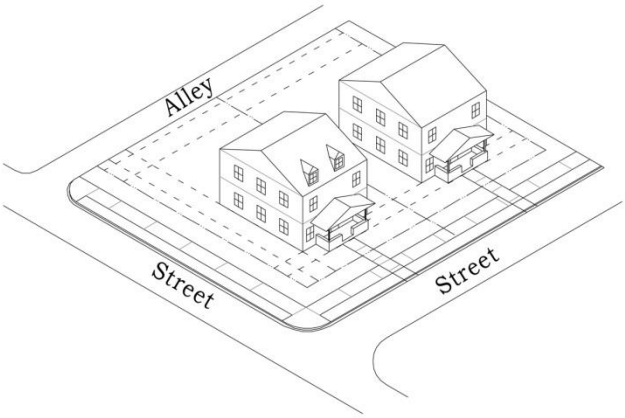
LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT
FSD-4: 70'
FSD-5: 70'

MIN. FRONTAGE ENCLOSURE
FSD-4: 90%
FSD-5: 100%

FRONTAGE CATEGORY: Porch with Short Lawn

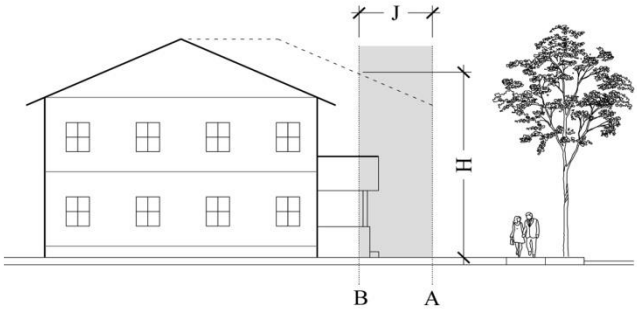
CLASSIFICATION

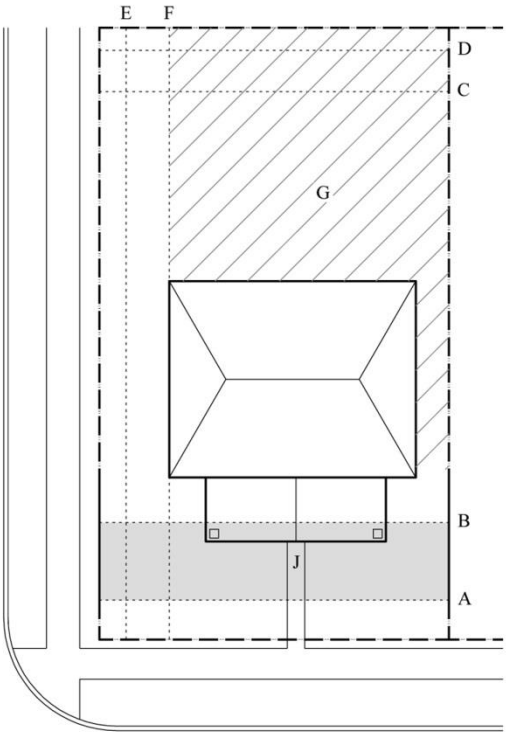


Definition:
This frontage type has a façade that is set back a short distance from the front property line and has a large attached porch across a majority of the front elevation and small planted front yard. This frontage type will normally be used for single and two-family dwellings.

Allowed Sub-Districts:
FSD-1, FSD-2, FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS





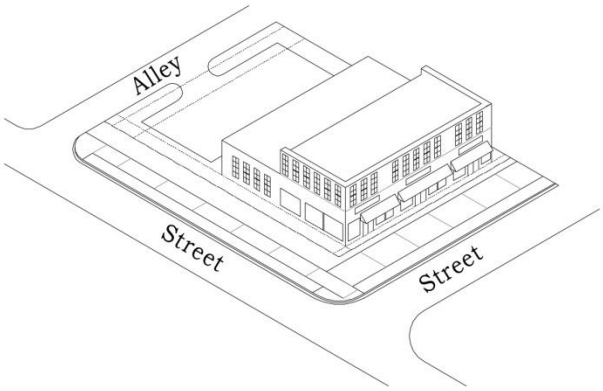
LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT
FSD-1: 35'
FSD-2: 35'
FSD-3: 45'
FSD-4: 45'
FSD-5: 45'

MIN. FRONTAGE ENCLOSURE
FSD-1: 60%
FSD-2: 60%
FSD-3: 70%
FSD-4: 70%
FSD-5: 80%

FRONTAGE CATEGORY: Shopfront

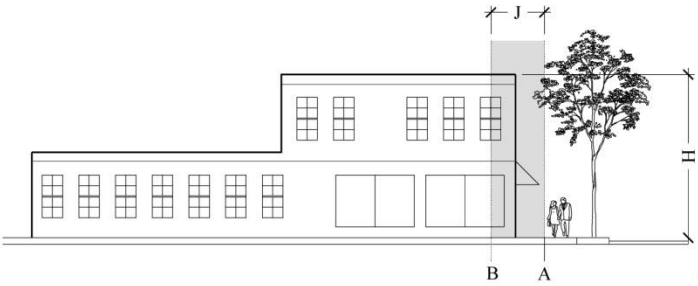
CLASSIFICATION

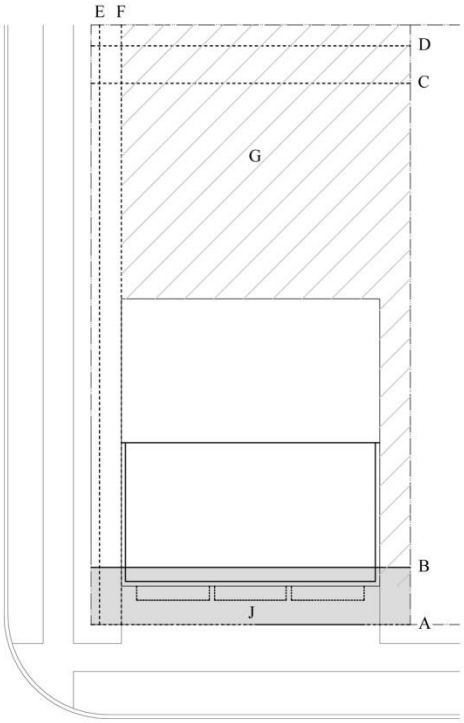


Definition:
A frontage category wherein the facade is aligned close to the front property line with the building entrance at sidewalk grade. The frontage has substantial glazing on the sidewalk level; typically with an awning extend over the sidewalk. This frontage will normally be associated with a commercial use, such as a restaurant or retail store. Upper floors are frequently in office or residential uses.

Allowed Sub-Districts:
FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS





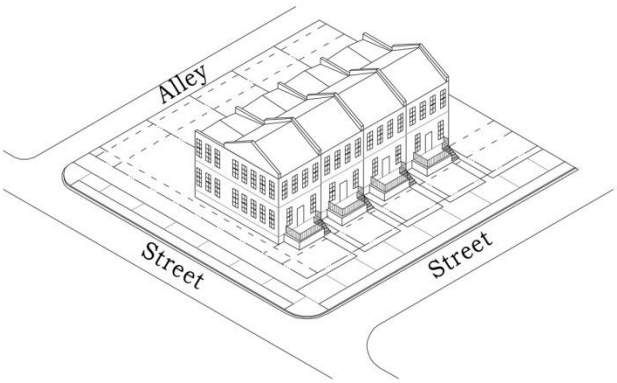
LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT
FSD-3: 70'
FSD-4: 80'
FSD-5: 80'

MIN. FRONTAGE ENCLOSURE
FSD-3: 80%
FSD-4: 90%
FSD-5: 90%

FRONTAGE CATEGORY: Stoop

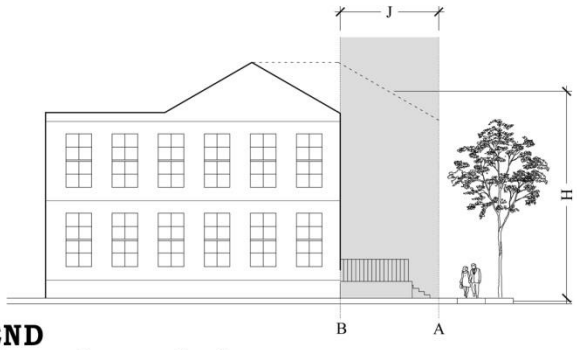
CLASSIFICATION

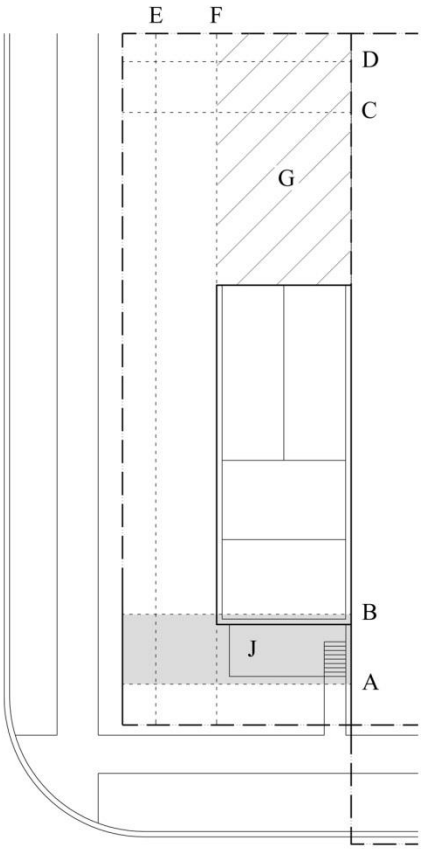


Definition:
This frontage category will normally be used for dwellings with a short setback from the front property line. A stoop is a small uncovered landing located at or near surrounding grade.

Allowed Sub-Districts:
FSD-2, FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS





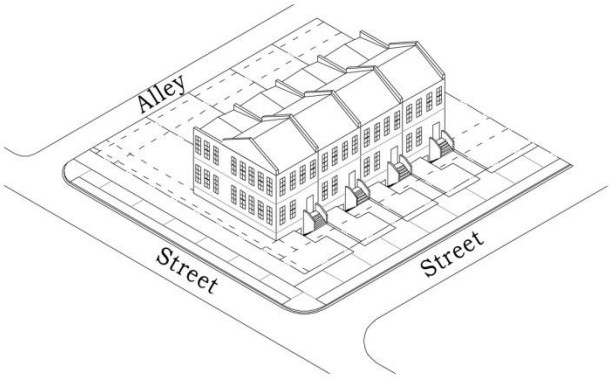
LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT
FSD-2: 45'
FSD-3: 45'
FSD-4: 45'
FSD-5: 60'

MIN. FRONTAGE ENCLOSURE
FSD-2: 60%
FSD-3: 70%
FSD-4: 70%
FSD-5: 80%

FRONTAGE CATEGORY: Terrace or Lightwell

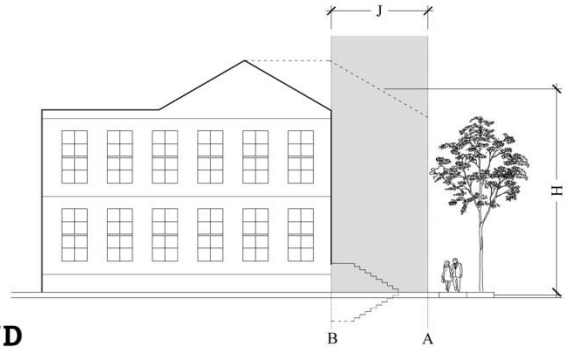
CLASSIFICATION

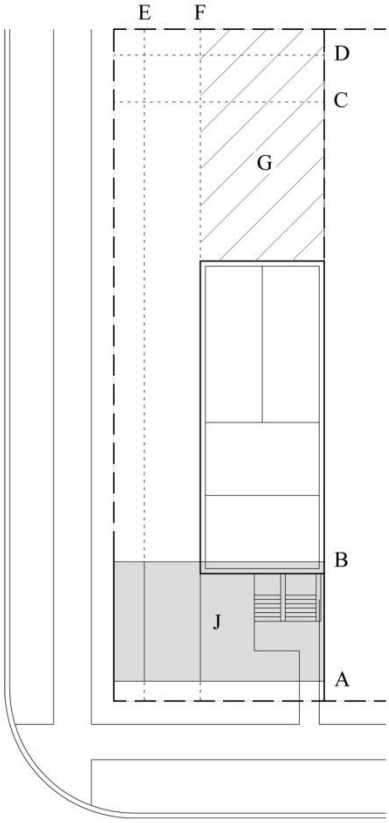


Definition:
This frontage category will normally be used for apartments or condominiums, with frontage close to the street and with a small landing; either terrace elevated above the street level or a lightwell sunk below the street level, or a combination of both.

Allowed Sub-Districts:
FSD-2, FSD-3, FSD-4, FSD-5

FRONTAGE STANDARDS





LEGEND
A. Minimum front setback
B. Maximum front setback
C. Minimum rear setback - principal building
D. Minimum rear setback - accessory building
E. Minimum secondary frontage setback - corner lot
F. Maximum secondary frontage setback - corner lot
G. Allowed parking location
H. Maximum building height
J. Enclosure area

BUILDING HEIGHT
FSD-2: 45'
FSD-3: 45'
FSD-4: 45'
FSD-5: 60'

MIN. FRONTAGE ENCLOSURE
FSD-2: 60%
FSD-3: 70%
FSD-4: 70%
FSD-5: 80%

Gafford, Yeilding, Sessions, Ellis, Watkins, Money,
Bowers, Cook (Jefferson), Weeks, Meeks

AN ACT

TO AMEND SECTION 1 OF ACT NO. 528 OF THE 1959 REGULAR SESSION OF THE LEGISLATURE OF ALABAMA (GENERAL ACTS OF ALABAMA OF 1959, P. 1302-1304), PROVIDING FOR THE APPOINTMENT OF A ZONING BOARD OF ADJUSTMENT IN ANY CITY HAVING A POPULATION OF THREE HUNDRED THOUSAND INHABITANTS OR MORE ACCORDING TO THE LAST OR ANY SUBSEQUENT FEDERAL CENSUS.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 1 of Act No. 528 of the 1959 Regular Session of the Legislature of Alabama (General Acts of Alabama of 1959, p. 1302-1304) be and the same is hereby amended as follows:

"Section 1. The governing body of any city which may now or hereafter have a population of thee hundred thousand inhabitants or more, according to the last or any subsequent federal census and which may now or hereafter have in force and effect a comprehensive zoning ordinance shall provide for the appointment of a Zoning Board of Adjustment and in the zoning regulations and restrictions adopted by such city pursuant of the authority of the laws of this state, provided that such Board of Adjustment shall, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning ordinance of such city in harmony with its general purpose and intent, and in accordance with general or specific rules therein contained. Such Board of Adjustment shall consist of seven members, and each shall hold office for a term of seven years or until such time as his successor shall be appointed and qualify, except that the respective t7erms of the seven members first appointed shall be one, two, three, four, five, six and seven years; provided, members may after a public hearing be removed for cause by the governing body of the city. Such Board of Adjustment shall adopt rules in accordance with the provisions of the zoning ordinance adopted by such city. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting-chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. Such board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer or such other officer as is charged with the enforcement of the zoning ordinance of the city. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the Zoning Board of Adjustment of notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Zoning 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 or property. In such cases proceedings shall not be stayed otherwise than by restraining order which may be granted by the Zoning Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The Zoning 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. Upon the hearing any party may appear in person or by agent or by attorney. The Zoning Board of Adjustment shall have the following powers:

to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance of the city upon which such board is required to pass under such ordinance. To authorize upon appeal in specific cases such variance from the terms of the zoning ordinance of the city as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice is done, provided, however, that no variance shall be granted under the provisions of this act to allow a structure of use in a district restricted against such structure or use, except as specifically provided for by the zoning ordinance. In exercising the above mentioned powers, such board may, in conformity with the provisions of this act, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken. The concurring vote of two-thirds (2/3) of the Board members present shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or such other officer as is charged with the enforcement of the zoning ordinance of the city, or to decide in favor of the applicant or any matter upon which it is required to pass under any ordinance of the city or to effect any variation in any such ordinance. A quorum at any meeting shall consist of four (4) members. The Zoning Board of Adjustment shall not be required to return the original papers acted upon it, but it shall be sufficient to return certified or sworn copies thereof or of such portion thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified."
Section 2. This act shall become effective immediately upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved August 12, 1969
Time: 5:09p.m.

ACT# 2009- 775

1 HB635

2 95870-3

3 By Representatives Rogers, Robinson (O), Moore (M), Dunn,

4 Coleman, Scott and Treadaway (N & P)

5 RFD: Jefferson County Legislation

6 First Read: 26-FEB-09

RECEIVED
MAY 14 2009
GOVERNOR'S OFFICE

ENROLLED, An Act,

Relating to Jefferson County; to amend Section 1 of Act 528 of the 1959 Regular Session (Acts 1959, p. 527), as amended by Act 326 of the 1969 Regular Session (Acts 1969, p. 695), relating to a zoning board of adjustment in a city having a population of 300,000 inhabitants or more according to the last or any subsequent federal census; to provide for the appointment of two supernumerary members to serve on the zoning board of adjustment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 1 of Act 528 of the 1959 Regular Session, as amended by Act 326 of the 1969 Regular Session, is amended to read as follows:

"Section 1. (a) The governing body of any city which may now or hereafter have a population of three hundred thousands inhabitants or more, according to the last or any subsequent federal census and which may now or hereafter have in force and effect a comprehensive zoning ordinance shall provide for the appointment of a Zoning Board of Adjustment and in the zoning regulations and restrictions adopted by ~~such~~ the city pursuant to the authority of the laws of this state, provide that ~~such~~ the Zoning Board of Adjustment shall, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of ~~such~~ the

zoning ordinance of the city in harmony with its general purpose and intent, and in accordance with general or specific rules therein contained. ~~Such~~ The Zoning Board of Adjustment shall consist of seven members, each to be appointed by ~~such~~ the governing body of ~~such~~ the city, and each shall hold office for a term of seven years or until ~~such~~ the time as his or her successor shall be appointed and qualify~~, except that the~~. The respective terms of the seven members first appointed shall be for one, two, three, four, five, six, and seven years~~, provided,~~. The members may after a public hearing, be removed for cause by the governing body of the city. ~~Such~~ The Zoning Board of Adjustment shall adopt rules in accordance with the provisions of the zoning ordinance adopted by ~~such~~ the city. Meetings of the board shall be held at the call of the ~~chairman~~ chair and at ~~such~~ other times as the board may determine. ~~Such chairman,~~ The chair or, in his or her absence, the acting ~~chairman~~ chair, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. ~~Such~~ The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating ~~such~~ the fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. Appeals to the Zoning Board of Adjustment may be taken by any person

aggrieved, or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer or ~~such~~ other officer as is charged with the enforcement of the zoning ordinance of the city. ~~Such~~ The appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the Zoning Board of Adjustment a notice of appeal specifying the ground thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Zoning Board of Adjustment after the notice of appeal shall have been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In ~~such~~ these cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Zoning Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown. The Zoning 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. Upon the hearing, any party may

appear in person or by agent or by attorney. The Zoning Board of Adjustment shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance of the ~~City~~ city. To hear and decide special exceptions to the terms of the zoning ordinance of the city upon which ~~such~~ the the board is required to pass under ~~such~~ the ordinance. To authorize upon appeal in specific cases ~~such~~ the variance from the terms of the zoning ordinance of the city as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done, provided, however, that no variance shall be granted under ~~the provisions of~~ this act to allow a structure or use in a district restricted against ~~such~~ the structure or use, except as specifically provided for by the zoning ordinance. In exercising ~~the above mentioned~~ its powers, ~~such~~ the board may, in conformity with ~~the provisions of~~ this act, reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from and may make the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of two-thirds ~~(2/3)~~ of the ~~Board~~ board members present shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or other officer as is charged with the enforcement of the zoning ordinance of the city, or to decide in favor of the applicant or any matter upon which it is required to pass under any ordinance of the city or to effect any variation in any ~~such~~ ordinance. A quorum at any meeting shall consist of four members. The Zoning Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of ~~such~~ the portion thereof as may be called for by ~~such~~ the writ. The return shall concisely set forth ~~such~~ the other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

"(b) The governing body of the city may appoint two supernumerary members of the board to serve on the board in the absence of a regular member with the former members serving at the call of the chair. Each supernumerary member while serving on the board shall have and exercise the power and authority of a regular member. The term of the supernumerary members shall be for seven years and they shall be eligible for reappointment."

1 Section 2. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

1

2

3

4 Speaker of the House of Representatives

5

6 President and Presiding Officer of the Senate

7 House of Representatives

8 I hereby certify that the within Act originated in
9 and was passed by the House 28-APR-09.
10
11 Greg Pappas
12 Clerk
13

14

15

16 Senate 14-MAY-09 Passed

17

APPROVED May 22, 2009
TIME 10:21 am
Bob Riley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2009-775
Bill Num...: H-635

RULES OF PROCEDURE
of the
ZONING BOARD OF ADJUSTMENT

I. AUTHORITY

The Zoning Board of Adjustment is established in accordance with and as authorized by Act No. 326 of the 1969 regular session of the Legislature of Alabama.

The Board shall be governed by the Rules of Procedure and the Zoning Ordinance of the City of Birmingham.

II. MEMBERSHIP

Composition: The membership of the Board shall consist of seven (7) members appointed by the City Council. Membership of the Board shall consist of one (1) State of Alabama licensed real estate salesperson or broker, one (1) State of Alabama licensed and registered architect; one (1) State of Alabama licensed building contractor and four (4) non-affiliated citizens who represent diverse segments of the population, and all seven (7) of which must be residents and citizens of the City of Birmingham.

Terms of Membership: Members appointed by the Council shall serve overlapping terms of seven (7) years.

How Replaced: Members may, after a public hearing, be removed for cause by the City Council. Replacement for any member of the board whose term of office is terminated, either by resignation or removal, shall be by appointment of the City Council.

III. OFFICERS

Chairman: A Chairman shall be elected by the members of the Board. The Chairman shall call all meetings to order and shall declare all adjournments. He shall rule on all points of order and procedure unless he shall be overruled by a majority of the Board present. His term as Chairman shall be for one (1) year, or until such time thereafter, as a successor shall be duly elected. Any chairman may be reelected to succeed himself in the office of the Chairman.

Vice-Chairman: A Vice-Chairman shall be elected in the same manner as the Chairman for a term of one (1) year, or until such time thereafter as his successor shall be elected, and he shall serve in the absence of the Chairman with the same powers and duties herein delegated the Chairman.

IV. FUNCTION

The Zoning Board of Adjustment shall hear and consider only those applications filed in the Department of Planning, Engineering and Permits which have been approved by the Director or his designated subordinate, which applications shall request the Board to render a decision in one or more of the following instances:

1. To hear an appeal from the decision of the Director of the Department of Planning, Engineering and Permits (Article VIII, Section 5.1).

2. To grant variances in specific cases from the strict application of the terms of the Ordinance under certain conditions (Article VIII, Section 5.2).

3. To modify the application of the terms of the Ordinance in certain cases (Article VIII, Section 5.3).

4. To grant exceptions under reasonable conditions to the terms of the ordinance for the establishment of certain specific uses where they are ordinarily prohibited (Section VIII, Section 5.4)

V. PROCEDURE FOR FILING

All applications for hearings before the Board must be filled in the office of the Department of Planning, Engineering and Permits of the City of Birmingham upon forms furnished by the Department for that purpose. Before any action will be taken on any application by the Board, the applicant shall have deposited with the City of Birmingham an amount determined by the following fee schedule:

a. Variances, modifications, and special exceptions involving all residential zoning districts

$150.00

b. Variances, modifications and special exceptions involving all commercial, industrial, agricultural or other zoning districts

$500.00

c. Appeals from the decision of the Director of Urban Planning

$300.00

Such fee is required to cover the approximate cost of processing the application. The Board will not hear any application unless all information called for by the application form shall have been furnished.

The Board will not hear any application unless same had been properly filed at least four weeks prior to the meeting date of the Board on which the application is proposed to be heard.

Notices: Notices shall be sent to all immediate adjacent property owners including properties directly across streets or alleys from the subject property at least six (6) days

prior to the date of the hearing. Such notices shall state the description of the parcel of land in question, what request has been made concerning it, and the time and place of the hearing.

VI. APPEALS FROM DECISIONS OF ENFORCING OFFICER

Persons appealing decisions of the officer charged with enforcement of the Zoning Ordinance shall have 15 days from the date of such decision to submit a letter or other writing to the Department of Planning, Engineering and Permits advising of and indicating the reasons for appealing such decision. During this fifteen day period, the appellant shall file an application with the Planning and Development Regulation Division of the Department of Planning, Engineering and Permits in order to officially enter the appeal case on the docket of the next regularly scheduled Board meeting. The enforcing officer shall make his decision in writing in which he shall indicate the time in which an appeal to the Board shall be filed. A copy of this written decision shall be sent to the person in charge of the Planning and Development Regulation Division of the Department of Planning, Engineering and Permits. A copy of such written decision shall also be sent to any party or group representative who has made known to the enforcing officer of this or her opposition to the decision.

Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved, or by an officer, department, board or bureau of the City of Birmingham affected by a decision of the officer charged with enforcement of the Zoning Ordinance. Appeals from a person who is not an adjoining property owner of the property affected by the decision of the enforcing officer, or who is not a representative of an office, department, board, or bureau of the City of Birmingham shall indicate how he is “aggrieved.” In such cases, the Board shall first vote to determine if the person is aggrieved. If the board’s vote is in the affirmative, it shall proceed with the hearing of the appeal.

VII. HEARINGS

Any interested party may appear before any hearing of the Board, either in person or by his agent or attorney. Each application will be heard in substantially the following manner:

a. The Chairman, or such member of the Board as he may direct, shall present a preliminary statement of the matters to be considered in the application.

b. The applicant and the parties opposed to the application shall be permitted to present arguments to the Board, and may offer supporting testimony to their position, subject to whatever reasonable limitations the Chairman may wish to impose thereon.

c. The Board will endeavor to consider only such argument and testimony as is pertinent to the application but is not limited to consideration of only such evidence as would be admissible in a court of law.

d. If the Board has not already viewed the premises described in the application, it may continue its hearing on the application until it has viewed the premises.

e. The Board shall render its decision on any application heard by the Board not later than thirty (30) days from the date of the hearing.

f. The Board may grant a continuance of any hearing for a period not in excess of sixty (60) days.

g. The Board may grant more than one (1) continuance of any hearing but shall not continue any hearing for an aggregate of more than one hundred twenty (120) days.

f. The concurring vote of two-thirds (2/3) of the Board members present shall be necessary to reverse any order, requirement, decision or determination of the Director of the Department of Planning, Engineering and Permits; or to decide in favor of the applicant on any matter concerning a variance, special exception or modification.

VIII. APPLICATION FOR REHEARING

All applications for a rehearing shall be made in the same manner as are applications for original hearings. Any application for rehearing will be denied by the Board if it appears that there has been no substantial change in facts or physical conditions since the original hearing.

IX. MEETINGS

Regular meetings of the Board will be held at 2 p.m. on the second and fourth Thursdays of each calendar month, which meetings will be held in the City Council Chambers of City Hall; provided, however, the Chairman may adjourn the meeting to another room in the City Hall when the he deems it expedient and in the best interests of the parties concerned.

Conduct of Meetings: All meetings of the Board will be open to the public. The order of business at each meeting will be substantially as follows:

a. Roll call.

b. Approval of minutes of the previous meeting.

c. New business, including the hearing of pending applications.

d. Unfinished business.

e. Adjournment of meeting.

Any Board member who is financially interested in a decision of the Board on any application before the Board including but not limited to ownership of property in project, partnership in project or representation as client of project will rescue himself during the hearing on said application and will neither question witnesses nor case a vote.

Quorum: A quorum at any meeting of the Board shall consist of four (4) Board members. When less than a quorum of the Board is present for any meeting, those members present shall, by majority vote, set a new date for the meeting not later than the next regular meeting date of the board, or, by majority vote, may continue all applications before the Board to the next regular meeting of the Board.

X. MINUTES

The Board shall cause minutes of each of its meetings to be kept in the Planning And Development Regulation Division of the Department of Planning, Engineering and Permits, which minutes shall be available and open to inspection by the public. The minutes shall show the action taken by the Board on each application heard by it, together with the votes of each member of the Board upon each application. The minutes shall further show the names of any absent members of the Board, and the name of any member rescuing himself in any matter before the Board.

XI. AMENDMENTS

These rules may be amended from time to time by the Zoning Board Adjustment, by resolution duly adopted at any of its regular meetings, when so authorized by the vote of at least four of its members.

RULES OF PROCEDURE
of the
ZONING ADVISORY COMMITTEE
of the
BIRMINGHAM PLANNING COMMISSION

The Zoning Ordinance was adopted as part of a program for developing the Birmingham Comprehensive Plan; zoning is one of the tools to carry out this plan. The Zoning Advisory Committee is organized to advise the City Council directly on all applications for changes in the Zoning Ordinance, and its activity shall be confined to considering such changes. The Committee speaks for the Birmingham Planning Commission with full authority – there shall be no appeals from its decision to the full Planning Commission.

All map change applications will be compared to all parts of the Birmingham Comprehensive Plan in effect at that time and any other plan, study, or program of improvement in effect or having official status or endorsement.

Each application will be investigated by the staff of the Department of Planning, Engineering and Permits and a report submitted thereon including, but not limited to, conclusions as to relation to the Comprehensive Plan and a recommendation.

I. AUTHORITY

The Zoning Advisory Committee of the Birmingham Planning Commission is established under authority granted by the commission of the City of Birmingham under Ordinance No. 1800-F, as amended by Ordinance No. 1817-F.

The Committee shall be governed by these Rules of Procedure and the Zoning Ordinance of the City of Birmingham.

II. MEMBERSHIP

Composition: The membership of the Committee shall be composed of seven (7) members elected by the Birmingham Planning Commission from its appointed membership.

Terms of Membership: Members duly elected to membership on the Zoning Advisory Committee shall continue to serve on the Committee as long as they are legally serving as members of the Birmingham Planning Commission or until replaced by election of the Planning Commission.

How Replaced: Replacement for any member of the Committee whose term of office on the Birmingham Planning Commission is terminated shall be by election from the appointed membership of the Planning Commission.

III. OFFICERS

Chairman: A Chairman shall be elected by the members of the Committee. His term shall be for one (1) year beginning with the date of election, and he shall be eligible for reelection. The Chairman shall decide upon all points of order and procedure, subject to these Rules of Procedure unless directed otherwise by a majority of the Committee in session at the time. The Chairman may appoint any subcommittee deemed necessary to investigate any matter before the Committee.

Vice-Chairman: A Vice-Chairman shall be elected by the Committee from among its regular members in the same manner and for the same term as the Chairman. He shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman.

Secretary: The Director of Planning, Engineering and Permits or his designated subordinate shall perform the administrative and clerical functions of the Committee. He shall keep all records, and handle all correspondence and notices for the Committee.

IV. APPLICATIONS

Procedures for Filing: The Committee shall hear all requests for change in the Zoning Ordinance of the City of Birmingham and shall transmit their recommendations to the City Council. The applicant must file his application for a hearing in the offices of the Urban Planning Department of the City of Birmingham. All applications shall be made upon the form furnished for that purpose and all information shall be complete and fees paid before the application shall be considered as having been filed. Before any action shall be taken as provided in these Rules of Procedure, the applicant petitioning for amendment shall deposit with the City of Birmingham a fee, as described in Chapter 9, Article VIII of this ordinance, to cover the approximate cost of handling his application. Applications must be filed by 4:30 p.m., four weeks prior to the date of hearing. Hearings will be held at 6:00 p.m. on the first and third Tuesday of each month.

An application for a rehearing may be made in the same manner as provided for in an original hearing. The application for rehearing shall be denied by the Committee if from the record it shall appear that there has been no substantial change in facts, evidence, or conditions.

Notices: Notices shall be sent to all property owners within a radius of five hundred (500) feet from the subject property at least six (6) days prior to the date of the hearing. Such notices shall state the description of the parcel of land in question, what request has been made concerning it, and the time and place of the hearing.

Decisions: Upon agreement of a majority of the membership, decisions of the Committee may be made in executive session not more than fifteen (15) days from the time of the hearing or thirty (60) days from the date of receipt of the application.

The final decision of the Committee shall be shown in the record of the case as entered in the minutes of the Committee and signed by the Director of Planning, Engineering and Permits or his designated subordinate. Such record shall show the reasons for the determination.

The affirmative or concurring vote of the majority of members present shall be necessary to recommended in favor of the applicant or to decide in favor of any matter before the Committee.

V. MEETINGS

Meeting Place: Regular meetings of the Committee shall be held in the Council Chambers of the City Hall, provided, that if the Committee Chairman so directs, meetings may be held at any other place in the City.

Special Meetings: Special meetings of the Committee may be called at any time by the Chairman. At least forty-eight (48) hours written or oral notice of the time and place of a special meeting shall be given to each member of the Committee.

Cancellation Meetings: Whenever there are no applications, public hearings, or other business of the Committee, the Chairman may dispense with a regular meeting by giving written or oral notice to all members no less than forty-eight (48) hours prior to the time set for the meeting.

Conduct of Meetings: All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

a. Roll call.

b. Approval of minutes of previous meeting.

c. Hearing of cases.

d. Unfinished business.

e. New business.

Presentation or Hearings of Proposals: The following shall be the order of procedure for public hearings concerning zoning matters:

a. The Chairman, or such person as he shall direct, shall give a preliminary

statement of the case.

b. The applicant shall present the argument in support of his application.

c. Persons opposed to the application shall present the argument against the application.

d. Both sides will be permitted to present rebuttals to opposing testimony.

e. The Chairman shall summarize the evidence which has been presented, giving the parties opportunity to make objections and corrections.

Witnesses may be called and factual evidence may be submitted, but the Committee shall not be limited to consideration of such evidence as would be admissible in a court of law. The Committee may view the premises before arriving at a decision.

Disqualification from Voting: No Committee member shall take part in the hearing or decision of any case in which he shall be personally or financially interested. No Committee member shall vote on any matter concerning a public hearing unless he shall have attended the public hearing.

VI. QUORUM

Quorum: A quorum shall consist of four (4) members of the Committee. When less than four (4) members are present for any hearing, then those that are present shall agree to and announce the time and place for a continued hearing.

VII. MINUTES

The minutes of every meeting of the Committee shall be kept in a permanent file in the offices of the Department of Planning, Engineering and Permits and shall be a public record. These shall show the record of every action taken by the Committee and the reason therefore, every resolution or upon any resolution or upon the final determination of any question, indicating the names of members absent or abstaining from voting and for what reasons.

Filing Procedure and Fees for ZAC, ZBA and Subdivision Committee

I. Zoning Advisory Committee

1. Documents

   A. Rezoning application

   B. Site Development plan (4 copies)

      1. Location and height of structures
      2. Use of structures
      3. Yard dimensions
      4. Parking layout
      5. Streets and drives
      6. Site beautification
      7. Signage

2. Time
   Time required for a rezoning case is approximately eight (8) weeks, including hearings and actions both by the Zoning Advisory Committee and the City Council.

3. Third parties
   The applicant should meet with the appropriate Neighborhood Association prior to the hearing of the case by the Zoning Advisory Committee.

4. Notification
   The City is required to notify owners of property within 500 feet of any rezoning application. Such notice is mailed out for each meeting. The City is also required to advertise rezoning cases in a newspaper of general circulation. In addition, all applicable neighborhood association officers are notified.

5. Public Hearings
   The Zoning Advisory Committee meets every first (1st) and third (3rd) Tuesday. All rezoning application documents must be filed four weeks before each meeting. After the Zoning Advisory Committee hears a rezoning case and makes a recommendation, the City Council will schedule a public hearing to consider final action on the rezoning. The City Council hearing is normally four (4) to five (5) weeks following Zoning Advisory Committee Action.

6. Fees –
   As described in Chapter 9, Article VIII of this ordinance.

II. Zoning Board of Adjustment

I. Documents

A. Application
B. Survey map of the property
C. Site development plan (if construction is involved)

1. Buildings and structures
2. Yard dimensions
3. Parking areas
4. Driveways and walks
5. Landscaping
6. Freestanding signs
7. Other signage

2. Time
Time required for a Zoning Board of Adjustment case is approximately two 4 weeks.

3. Third Parties
All applicants who have projects that may have neighborhood wide impact are urged to meet with the appropriate Neighborhood Association prior to the initial Board hearing.

4. Notification
The City is required to notify all adjacent property owners of all ZBA cases. In addition, all applicable neighborhood association officers are notified.

5. Public Hearings
The Zoning Board of Adjustment meets every second (2nd) and fourth (4th) Thursday. All documents must be filed three weeks before the meeting.

6. Fees
- Variances, modifications, and special exceptions involving all residential zoning districts $150.00

- Variances, modifications, and special exceptions involving all commercial, industrial, agricultural or other zoning districts $500.00

-Appeals from the decision of the Director of Urban Planning $300.00

III. Subdivision Committee

1. Documents

   A. Subdivision application
   B. Maps

      1. Original plat and five (5) copies
      2. Vicinity map (5 copies)

2. Time
   Time required for a Subdivision case is about two (2) weeks.

3. Third Parties
   The applicant is required to supply, upon filing, a listing of all adjacent property owners; together with the names and addresses of each. Where the case may have significant neighborhood-wide impact, the applicant is encouraged to meet with the affected Neighborhood Association.

4. Notification
   The City is required to notify owners of adjacent property by certified mail. Such notice is mailed out for each meeting.

5. Public Hearing
   The Subdivision Committee meets every second (2) and fourth (4th) Wednesday. All documents must be filed two weeks before the meeting.

6. Fees

   Preliminary Plan
   As described in Chapter 9, Article VIII of this ordinance.

   Final Plat
   As described in Chapter 9, Article VIII of this ordinance.

IV. Vacation Procedure

1. Application is filed with the Subdivision Committee of the Birmingham Planning Commission, 2nd Floor, City Hall. Applicant is required to submit a Declaration of Vacation which must be signed by all persons who own land that abuts or borders the alley or street to be vacated. A sample Declaration of Vacation from is available for applicant to follow.

2. Subdivision Committee Public Hearing
   Application will be heard by the Subdivision Committee which will recommend or not recommend the request to the City Council.

It is also important that the applicant contact the Traffic Engineering Department regarding the removal of existing street lights and wooden poles along the right-of-way. If removal is necessary, the applicant is required to pay the cost, which is separate from the cost of the vacation itself.

3. City Council Public Hearing
After the Subdivision Committee has heard the case, the Planning, Engineering and Permits Staff will arrange to set it for a Public Hearing before the full City Council. Notice of Vacation must be advertised by the city in the newspaper for four (4) consecutive weeks prior to the Council Meeting (See Ordinance 05-208 for Advertising Fee requirements).

The Council will vote to approve or not approve the vacation request at the conclusion of the public hearing. If the vacation is approved, the applicant will be required to pay a right of way fee (See Ordinance 05-208 for Advertising Fee requirements) for the value of the land being vacated, unless said fee is waived by the City Council. (See City Ordinance No. 93 – 239 for fee Schedule.)

4. Resurvey of the Vacation of Right-of-Way into Abutting Property
Once the Council has approved the Vacation, the applicant must than resurvey the vacated area into the abutting property. This requires the applicant to file a case with the Subdivision Committee again. Five (5) copies of a final plat drawn by a Registered Civil Engineer as well as a vicinity map are required in filing the resurvey case. In order to save time, the applicant may wish to complete this step when the vacation is filed (see Step #1). The Subdivision Committee can conditionally approve the resurvey at this time, subject to the Council's approving the vacation.

5. Recording of Final Plat and Vacation Documents
Once the resurvey has been approved and the applicant has met all conditions set forth by the Subdivision Committee for the resurvey, including payment of the right-of –way fee, the Final Plat and vacation documents will be recorded by the city in the Office of the Judge of Probate. After recording, the applicant will be able to obtain a building permit to use the vacated right-of-way.

ZONING ENFORCEMENT

The Zoning Ordinance of the City of Birmingham regulates land uses and impacts approvals of permits, including but not limited to: fence installation and repair, child care certifications, site clearance, building permits, certificates of occupancy, and business licenses. In this way, many violations are prevented by a zoning review in the beginning of the permit process, before applicants have put forth effort and funds towards their projects.

In cases where violations exist and are either reported to or seen by an inspector, the process for enforcement is as follows:

1. Complaint is received or violation is noted in the inspector's survey of his territory; zoning and ownership of the property is verified through maps and/or research of County tax assessor records or by other means.
2. The inspector visits the site to confirm the complaint and/or to ascertain activities/uses occurring there. Photographic evidence is obtained during this visit.
3. The inspector contacts the property owner, either by letter, telephone, and/or face-to-face to discuss the uses occurring in the context of uses allowed by the Ordinance. The inspector obtains legal identification from the property owner if possible. Methods to achieve compliance are presented to the property owner. These may include rezoning, variances, special exceptions, adjustments to development, or simply complying with the requirements of the Ordinance. In cases where applications are made by the property owner to the Zoning Board of Adjustment (ZBA) for variances, special exceptions, or modifications, enforcement is stayed until the ZBA's hearing of the case. When a rezoning is applied for, the property must be brought into compliance; if not, zoning enforcement proceeds in the usual manner. At any point in the enforcement process, a property owner may ask the Director of Planning, Engineering, and Permits for an interpretation concerning their case. After receiving that interpretation, the property owner may appeal that decision to the ZBA.
4. The inspector notifies the property owner via certified and first class mail in a Zoning Violation Notice of the violations to be corrected. A deadline of fourteen (14) working days is the most commonly given timeline for compliance.
5. When the deadline for compliance has passed, another inspection is made. If compliance has been achieved, the case is closed. If compliance has not been achieved, a Final Notice is sent, normally giving three to five (3-5) working days and a final inspection before a summons/warrant is issued for the property owner's appearance in Environmental Court.
6. If an appearance in Environmental Court is necessary, an inspection is conducted on the day of the court appearance and the inspector gives verbal and photographic testimony before the Municipal Judge regarding the violations occurring. A trial may occur if requested by the property owner. The Judge may grant more time for compliance efforts, fine the property owner, and/or sentence the property owner to confinement in the Municipal Jail. If convicted of this misdemeanor, the property owner may appeal the Judge's decision to the Circuit Court of Jefferson County.

Throughout this process, the inspector attempts to clearly and concisely communicate to the property owner the issues involved and possible options for remedy. While this process is followed consistently, opportunities

exist throughout the process for the property owners to receive extra time to achieve compliance. Having a property owner appear in Municipal Court is considered the last resort to achieve compliance.

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