

Join us! In an effort to enhance meetings post COVID-19 emergency orders, the City Council invites you to join and/or participate in a variety of ways: Via computer Zoom meetings (no app is necessary), telephone, email and/or text! See details on page 3.

**Vestavia Hills
City Council Agenda
May 9, 2022
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Don Richards, Vestavia Hills Chaplain
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. Proclamation – National Police Week – May 9-15, 2022 and Peace Officers Memorial Day – May 15, 2022
8. Proclamation – National Public Works Week – May 15-21, 2022
9. City Manager’s Report
10. Councilors’ Reports
11. Approval Of Minutes – April 19 & 20, 2022 (Work Session) And April 25, 2022 (Regular Meeting)

Old Business

New Business

12. Resolution Number 5388 – A Resolution To Appoint A Member To The Birmingham-Jefferson County Transit Authority
13. Public Hearing – Resolution Number 5390 – A Resolution Approving An 020 – Restaurant Retail Liquor License For HHCS OPCO LLC d/b/a Cajun Steamer Cahaba Heights; Gaston Lanaus IV, Brian Fauver And Jeffrey G. Brock, Executives

New Business (Requesting Unanimous Consent)

14. Public Hearing – Resolution Number 5391 - A Resolution Authorizing The City Manager To Expend Additional Funding For The Vestavia Hills Fire Department In Response To Inflation, Unexpected Mechanical Failures And Station Repairs

First Reading (No Action To Be Taken At This Meeting)

15. Public Hearing – Resolution Number 5389 – A Resolution Authorizing The City Manager To Expend Additional Funding For Final Designs On Proposed Intersection Improvements At Sicard Hollow Road And Blue Lake Drive And To Authorize The City Manager To Accept A Proposal With Sain Associates To Provide Said Supplement Design Services
16. Public Hearing – Ordinance Number 3098 – Rezoning And Conditional Use Approval – 4538 Pine Tree Circle; Lot 43, Topfield Subdivision; Request To Rezone From Vestavia Hills R-1 To Vestavia Hills B-3 With A Conditional Use For Use As A Veterinary Clinic, Grooming And/Or Boarding Of Dogs
17. Public Hearing – Ordinance Number 3099 – An Ordinance Repealing Ordinance Number 2331, 2331-A, And 2331-B And Establishing A New Vestavia Hills Zoning Code
18. Citizens Comments
19. Time Of Adjournment

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

Due to the COVID-19 safety advice given by the ADPH, the City Council work sessions and meetings are available via video-conference and teleconference. If you choose not to attend in person, you may still participate. Following are instructions for three options to participate remotely.

COMPUTER PARTICIPATION (*view/participate in real time*)

To participate in by videoconference, click <https://us02web.zoom.us/j/5539517181>. When the Zoom.us window opens in your browser, click “Allow” so that the page may open to a waiting room. The host will open the meeting and bring all into the meeting room at that time. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, activate the “Raise Hand” feature and unmute yourself by toggling the mute button. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then you may address the Council.

Using the icons on the Zoom screen, you can:

- Mute/unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- View Participants – opens a pop-out screen that includes the “Raise Hand” icon that you may use to raise a virtual hand
- Change your screen name displayed in the participant list and video window
- Toggle between “speaker” and “gallery” views – “Speaker view” shows the active speaker; “Gallery view” tiles all of the meeting participants

TELEPHONE PARTICIPATION (*view/participate in real time*)

To participate by telephone, dial 312.626.6799 and enter the meeting ID: 455 534 3275. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, press *6 on your phone keypad to unmute yourself. Then state your name and wait for the Mayor to recognize you. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then address the Council.

TEXT AND/OR EMAIL (*prior to the meeting or in real time*)

If you do not wish to join the meeting but would like to ask a question or make a statement regarding an item on the agenda, you may email the City Council directly at City.Council@vhal.org. You may also text your question/statement to City Council at 205.517.1370. Both of these options are available prior to and during each work session and meeting. Be sure to provide your name and address for the record and your comments will be recited to the City Council as the corresponding item is being addressed. Note: As a matter of record, your name and address are required. If identification is not provided, your comment/question will not be presented.

WHEREAS, the Congress and President of the United States have designated the week of May 9 – 15, 2022 as “National Police Week” and May 15, 2022 as “Peace Officers Memorial Day;” and

WHEREAS, the members of the Vestavia Hills Police Department play an essential role in safeguarding the rights and freedoms of the public and provide a critical public service to the community; and

WHEREAS, it is important that all citizens understand the challenges, duties, and responsibilities of their police department; and, that members of our Police Department recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression and intimidation; and

WHEREAS, it is well known and accepted that law enforcement is an inherently dangerous and demanding profession in which dedicated professionals knowingly place their lives in harm’s way to protect others who are unable to protect themselves.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim May 9 – 15, 2022 and May 15, 2022 as

**NATIONAL POLICE WEEK
and
PEACE OFFICERS MEMORIAL DAY**

and hereby express our continued support of the Vestavia Hills Police Department and all peace officers throughout our nation in their efforts to build safer and more secure communities.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Vestavia Hills to be affixed this the 9th day of May 2022.

Ashley C. Curry
Mayor

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of Vestavia Hills, Alabama; and

WHEREAS, these infrastructures, facilities and services could not be provided without the dedicated efforts of public works professionals, who are federally mandated first responders, and the engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation’s transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in Vestavia Hills to gain knowledge of and to maintain an ongoing interest and understanding of the importance of public works and public works programs in their communities; and

WHEREAS, “Ready and Resilient” is the theme for the 62nd annual National Public Works Week sponsored by the American Public Works Association.

NOW, THEREFORE, I, Ashley C. Curry, by virtue of the authority vested in me as Mayor of the City of Vestavia Hills in the State of Alabama, do hereby proclaim May 15 - 21, 2022 as

NATIONAL PUBLIC WORKS WEEK

in Vestavia Hills and urge all citizens to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Vestavia Hills to be affixed this the 9th day of May 2022.

Ashley C. Curry
Mayor

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

WORK SESSION

APRIL 19, 2022

The City Council of Vestavia Hills met in a special work session on this date at 10:00 AM, following publication and posting pursuant to Alabama law. Mayor Curry called the work session to order and the roll was checked with the following:

MEMBERS PRESENT:

Mayor Ashley C. Curry
Rusty Weaver, Mayor Pro-Tem
Kimberly Cook, Councilor
George Pierce, Councilor*
Paul J. Head, Councilor

Mrs. Cook led the following interviews for the Vestavia Hills Board of Education. The following individuals were interviewed by the City Council.

10:00 Clayton E. Simien
10:45 Lynn Worley
11:30 Tyler Zinder
12:15 Kristin Boggs
1:00 Nicholas Matthew Adams
1:45 Jamie Aiken
2:30 Michael A. Vercher
3:15 Trey Woodruff

AT 4:05 PM, the Mayor recessed the meeting. The meeting reconvened on Wednesday, April 20, 2022 at 8:00 AM. The Mayor called the meeting to order and the Clerk checked the roll.

MEMBERS PRESENT:

Mayor Ashley C. Curry*
Rusty Weaver, Mayor Pro-Tem
Kimberly Cook, Councilor
George Pierce, Councilor
Paul J. Head, Councilor

The following applicants were interviewed.

8:00 Christopher Ritchie
8:45 Jonathan Handey
BREAK
2:00 Katie Roach Dudley
2:45 Heinz Alexander Dueffer
3:30 Vinay Patel
4:15 Christine McJunkin

Each applicant was interviewed and Mrs. Cook thanked each and indicated that the Council would appoint a new member at the April 25th meeting.

There being no further business, the work session adjourned at 12:00 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

. CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

APRIL 25, 2022

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM, following publication and posting pursuant to Alabama law. A number of staff and members of the general public also attended virtually, via Zoom.com, following publication pursuant to Alabama law. The Mayor called the meeting to order. The City Clerk called the roll with the following:

MEMBERS PRESENT:

Mayor Ashley C. Curry
Rusty Weaver, Mayor Pro-Tem
Kimberly Cook, Councilor
Paul Head, Councilor*
George Pierce, Councilor

OTHER OFFICIALS PRESENT:

Jeff Downes, City Manager
Patrick Boone, City Attorney
Rebecca Leavings, City Clerk
Ryan Farrell, Asst. Fire Chief
Jason Hardin, Deputy Police Chief
Melvin Turner, Finance Director
Zach Clifton, Chief Accountant
Brian Davis, Public Services Director
Christopher Brady, City Engineer
Umang Patel, Court Director*

**present virtually via Zoom or telephone*

Huey J. Davis, Vestavia Hills Chaplain, led the invocation which was followed by the Pledge of Allegiance.

APPROVAL OF THE AGENDA

The Mayor opened the floor for a motion of approval of the agenda as presented.

MOTION Motion to approve the agenda as presented was by Mr. Weaver seconded by Mr. Pierce. Roll call vote was, as follows:

Mrs. Cook – yes	Mr. Pierce – yes
Mr. Weaver – yes	Mayor Curry – yes

motion carried.

ANNOUNCEMENTS, CANDIDATES, GUEST RECOGNITION

- Ruth Robinson, candidate for Circuit Judge, Place 20, Domestic Relations Court, introduced herself and asked for support in the upcoming election.
- Dan Roberts, Candidate for Alabama Senate, introduced himself and asked for support in the upcoming election.
- Mr. Pierce welcomed Tyler Kime and Linda Parker, Chamber of Commerce Board members present representing the Chamber.

PROCLAMATION

The Mayor presented a proclamation designating the week of May 2-6, 2022 as “Municipal Clerks Week.” Mr. Downes read the proclamation aloud and the Mayor presented it to the City Clerk, Rebecca Leavings. He and the Council thanked her for her service to the City and to the Council.

CITY MANAGER’S REPORT

- None.

COUNCILOR REPORTS

- Mrs. Cook stated that she and Mr. Pierce attended VHHS Awards Day celebrating the many accomplished graduating seniors. She described the speech given by the SGA President and applauded his leadership over the past school year.
- Mrs. Cook stated that the Board of Education meeting was tonight. She announced that Dr. Freeman’s contract was extended for a new term of five years. She feels that was a smart move by the Board as many school boards are desirous to have a superintendent like Dr. Freeman.
- Mr. Pierce announced that he attended the Heights Hang-Out on Friday evening with Telluride as a feature band. He thanked Katherine McRee, her committee and the merchants in Cahaba Heights for putting this together. He stated that the entire event was very fun to watch.

FINANCIAL REPORTS

Mr. Turner presented the financial reports for month ending March 2022 which is the halfway mark of the fiscal year. He read and explained the balances.

APPROVAL OF MINUTES

The Mayor stated that the approval of the April 11, 2022 (Regular Meeting) was needed and opened the floor for a motion.

MOTION Motion to approve the minutes of the April 11, 2022 (Regular Meeting) was made by Mr. Weaver and second was by Mrs. Cook. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

OLD BUSINESS

ORDINANCE NUMBER 3089

Public Hearing – Ordinance Number 3089 – Conditional Use Approval For A Veterinarian Clinic With Services Such As Medical, Grooming And Bathing Services Located In The Tenant Space Described As 1360 Montgomery Highway; Wade Cornelius, Vestridge Commons Shopping Center, LLC (Owner)

MOTION Motion to approve Ordinance Number 3089 was by Mr. Pierce and seconded by Mrs. Cook.

Mr. Weaver stated that the Planning and Zoning Commission considered this with extensive conversation. He stated the property is located in the Vestridge Commons Shopping Center, formerly an urgent-care Facility. This is a veterinarian clinic with no overnight boarding. He stated that the primary objection to overnight boarding was accommodated by prohibiting overnight boarding, with an exception only for emergency stays. He indicated other concerns were that this was not a suitable business for the area; however, the Commission found it met all of the zoning criteria for a veterinary clinic and unanimously recommends approval.

Discussion ensued concerning the parameters of conditional use approval should the use be removed from the property for a period of 12 months.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

ORDINANCE NUMBER 3090

Public Hearing – Ordinance Number 3090 – Conditional Use Approval For A Grooming And Bathing Service For Dogs; David Ashford, Old Towne Center 33rd Street Holdings LLC And Old Towne Center On Behalf Of Felicia Weston

MOTION Motion to approve Ordinance Number 3090 was by Mrs. Cook and seconded by Mr. Pierce.

Mr. Weaver stated that this is just a grooming facility by appointment only. There is no boarding nor extended stay of dogs. The Commission found that this met all criteria for conditional use and recommended approval.

The Mayor opened the floor for a public hearing. There being no one to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

ORDINANCE NUMBER 3091

Public Hearing – Ordinance Number 3091 – Annexation – 90 Day Final – 2433 Dolly Ridge Road, Lot 35, Rocky Ridge Estates; Megan Rudolph, Owner

MOTION Motion to approve Ordinance Number 3091 was by Mr. Weaver and seconded by Mr. Pierce.

Mr. Pierce stated that Engineering noted that this is a thru road and a 24” pipe had some issues.

Mr. Brady indicated the pipe situation has been remediated.

The Mayor opened the floor for a public hearing for this item and the following item, Ordinance 3092, is the compatible rezoning of the same property. There being no one else to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

ORDINANCE NUMBER 3092

Public Hearing – Ordinance Number 3092 – Rezoning – 2433 Dolly Ridge Road, Lot 35, Rocky Ridge Estates; Rezone From Jefferson County E-2 To Vestavia Hills R-1, Compatible Zoning For Annexation; Megan Rudolph, Owner

MOTION Motion to approve Ordinance Number 3092 was by Mr. Weaver and seconded by Mrs. Cook.,

The Mayor stated that the public hearing was previously heard and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

ORDINANCE NUMBER 3093

Public Hearing – Ordinance Number 3093 – Annexation – 90 Day Final – 1718 Vestaview Lane; John G. Moss, III, Owner

MOTION Motion to approve Ordinance Number 3093 was by Mr. Weaver and seconded by Mr. Pierce.

Mr. Pierce stated that there were no noted concerns except that the owner wanted to sublease to some friends and he was advised that the single-family status must be maintained. He stated he has come into compliance with the definition of single-family.

Mr. Moss attended via Zoom.

The Mayor opened the floor for a public hearing for this Ordinance as well as the following Ordinance 3094, the compatible rezoning of the same property. There being no one else to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

ORDINANCE NUMBER 3094

Public Hearing – Ordinance Number 3094 – Rezoning – 1718 Vestaview Lane; Rezone From Jefferson County R-1 To Vestavia Hills R-2, Compatible Zoning For Annexation; John G. Moss, III, Owner

MOTION Motion to approve Ordinance Number 3094 was by Mrs. Cook and seconded by Mr. Pierce.

The Mayor stated that the public hearing was previously heard and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

RESOLUTION NUMBER 5386

Public Hearing – Resolution Number 5386 – A Resolution Authorizing The City Manager To Offer A Relocation Reimbursement For The Recruitment Of A New Department Head

MOTION Motion to approve Resolution Number 5386 was by Mr. Weaver and seconded by Mr. Pierce.

Mr. Downes stated that this is a relocation reimbursement of the new department head for Parks and Leisure Services to an amount not to exceed \$7,500.

The Mayor opened the floor for a public hearing. There being no one else to address the Council, the Mayor closed the public hearing and called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

NEW BUSINESS

RESOLUTION NUMBER 5387

Resolution Number 5387 – A Resolution Appointing A Member To The Vestavia Hills Board Of Education

MOTION Motion to approve Resolution Number 5387 was by Mrs. Cook and seconded by Mr. Pierce

MOTION Motion to amend Resolution Number 5387 to appoint Jonathan Handey and to insert his name into the Resolution was made by Mrs. Cook and seconded by Mr. Weaver.

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes

Mayor Curry – yes

motion carried

Mrs. Cook read the following prepared statement:

Every year, I feel a great anticipation and excitement when it comes time for our school board appointment. I also feel a little nervous. What if no one applies? What if we don't get a good applicant pool? Especially after the last two years of surviving a pandemic, I was concerned that no one would want the job.

But, every year Vestavia Hills steps up. We are blessed to live in a community where Rebels rise to the occasion. This afternoon, I attended our high school awards day and was so impressed to see our next generation stand to be recognized for their accomplishment and leadership. I was filled with pride to hear the outgoing SGA president tell how his hopes and dreams for this past year were exceeded. He spoke of how we are stronger when we share a common goal and work as one to meet that goal. Rebels exceed expectations. Rebels RISE.

This year's board application and interview process prompted 14 people to apply. With so many qualified, exceptional candidates, this made our decision especially difficult. We interviewed all 14 candidates. We reviewed applications and recommendation letters. We read emails from the community – and there were many. We called references and talked to people in the community who knew our applicants. I prayed about this decision and asked God would focus my thoughts and help me discern who was the right candidate, this year.

While I could only nominate one person, there were many who rose to the top after interviews. There were many folks we got to know better and who had great ideas for our schools. I will share these ideas with our school board and superintendent. Many times the school system finds ways to plug people into advisory committees because they applied for the school board. We want community engagement; we want to take advantage of the talent and resources provided by our parents. I spoke with one of our school leaders, and she said that what really sets Vestavia Hills apart is parent engagement.

And this is what I was looking for in this pool of candidates. I was looking for people who are connected in the community – those who are trusted. I looked for people who were engaged in volunteer roles, and particularly those who have already been supporting the work of our board. I was looking for tough individuals who have the ability to make independent decisions for what is best for students. I wanted people who believe, as I do, that parents should have the right to make choices for their students. I wanted people who would listen to parents, and then make what might be tough decisions. Several of our school board members said it would be helpful to have a board member with younger elementary-age children in our schools. Our current board has mostly older children.

All of this was considered when we interviewed candidates. I listened closely to the community as I evaluated our options. I am pleased to recommend to you Jonathan Handey to fill this seat on our board of education.

I also want to thank all 14 applicants for taking the time to volunteer for this important role in our community. We are very grateful for your time and willingness to serve. I also want to thank board member Steve Bendall who is rolling off the Board. I remind this Council that Steve was our first appointment to the Board. He has served our City faithfully and with integrity. We are very grateful.

Mr. Weaver stated that he was shocked that 14 people applied for this appointment. He indicated that this was one of the toughest decisions he has had to make.

Mr. Pierce challenged the new appointee to remember who he is representing and continuing to work well with the City on issues in the future. He stated that everyone will not always agree, but it's the students that are important in the end.

There being no one to address the Council, the Mayor called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried

ORDINANCE NUMBER 3096

Ordinance Number 3096 – Annual Jefferson County Tax Levy Authorizing The Jefferson County Tax Assessor To Levy And Collect Municipal Taxes Pursuant To Alabama Law

MOTION Motion to approve Ordinance Number 3096 was by Mr. Weaver and seconded by Mr. Pierce.

The Mayor explained this is the annual tax levy for Jefferson County.

There being no one to address the Council, the Mayor called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

ORDINANCE NUMBER 3097

Ordinance Number 3096 – Annual Shelby County Tax Levy Authorizing The Shelby County Tax Assessor To Levy And Collect Municipal Taxes Pursuant To Alabama Law

MOTION Motion to approve Ordinance Number 3096 was by Mr. Weaver and seconded by Mrs. Cook.

The Mayor stated that this is for Shelby County.

There being no one to address the Council, the Mayor called for the question. Roll call vote was as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)

FIRST READING (NO ACTION TO BE TAKEN AT THIS MEETING)

- None.

CITIZEN COMMENTS

None.

At 6:48 PM, Mrs. Cook made a motion to adjourn. The meeting adjourned at 6:49 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5388

**A RESOLUTION TO APPOINT A MEMBER TO THE
BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. Mayor Ashley Curry has recommended Paige Coker to be appointed to the Birmingham Jefferson County Transit Authority; and
2. The Mayor and City Council concur that Paige Coker shall and is hereby appointed as a member of the BJCTA to represent the City of Vestavia Hills; and
3. Said appointment shall begin May 31, 2022 and shall expire May 30, 2026; and
4. This Resolution Number 5388 shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 9th day of May, 2022.

Rusty Weaver
Mayor Pro-Tem

ATTESTED BY:

Rebecca Leavings
City Clerk



VESTAVIA HILLS

MEMORANDUM

TO: Vestavia Hills City Council

FROM: Ashley C. Curry, Mayor *acc*

DATE: May 4, 2022

RE: Birmingham Jefferson County Transit Authority Appointment

Donald Harwell's term on the Birmingham Jefferson County Transit Authority (BJCTA) expires on May 30, 2022. I appreciate Donald's many years of service.

I am recommending Paige Coker to be the representative for the City of Vestavia Hills for the Board of Directors for the BJCTA. Ms. Coker will serve a four-year term that will begin May 31, 2022 and end May 30, 2026.

I appreciate her willingness to volunteer for this position. I know her input will be an asset to this most important Board.

Thank you.

CC: Rebecca Leavings, Vestavia Hills City Clerk

RESOLUTION NUMBER 5390

**A RESOLUTION APPROVING ALCOHOL LICENSE
FOR HHCS OPCO LLC D/B/A CAJUN STEAMER
CAHABA HEIGHTS; GASTON LANAUS IV, BRIAN
FAUVER, JEFFREY G. BROCK, EXECUTIVES**

WHEREAS, the City Council of the City of Vestavia Hills, Alabama, approves the alcohol license for HHCS OPCO LLC d/b/a Cajun Steamer Cahaba Heights, located at 3151 Green Valley Road, Vestavia Hills, Alabama, for the on-premise sale of 020-Restaurant Retail Liquor; Gaston Lanaus IV, Brian Fauver, Jeffrey G. Brock, executives.

APPROVED and ADOPTED this the 9th day of May, 2022.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

INTEROFFICE MEMORANDUM

DATE: May 4, 2022

TO: Dan Rary, Police Chief

FROM: Rebecca Leavings, City Clerk

RE: Alcohol License Request – 020-Restaurant Retail Liquor

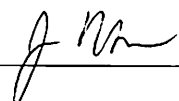
Please find attached information submitted by Gaston Lanaus IV, Brian Fauver, Jeffrey G. Brock who request an alcohol license to sell 020-Restaurant Retail Liquor at the HHCS OPCO LLC d/b/a Cajun Steamer Cahaba Heights, 3151 Green Valley Road, Vestavia Hills, Alabama.

I am scheduling this case to be heard by the City Council on 9th day of May, 2022 at 6:00 PM (Monday). Please advise me of your recommendation for this license. If you have any questions, please contact me.

Reply

I have reviewed the available background information on the above referenced applicant and submit the following to the City Council:

✓	<i>Application cleared by P.D. This indicates that there are NO convictions for drug trafficking, convictions regarding arrest involving danger to children, weapon charges, violent felony crimes against persons, felony sexual offenses or habitual alcohol related arrests</i>
	<i>Needs further review. This indicates that the Police Chief has found records of some convictions of alcohol related arrests</i>
	<i>Does not recommend. This indicates that the Police Chief has found records of convictions for drug trafficking, convictions regarding arrest involving danger to children, weapon charges, violent felony crimes against persons, felony sexual offenses or habitual alcohol related arrests</i>

Reviewed: _____




STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220427141039038

Type License: 020 - RESTAURANT RETAIL LIQUOR State: \$300.00 County: \$300.00
 Type License: State: County:
 Trade Name: CAJUN STEAMER CAHABA HEIGHTS Filing Fee: \$50.00
 Applicant: HHCS OPCO LLC Transfer Fee:
 Location Address: 3151 GREEN VALLEY RD VESTAVIA HILLS, AL 35243
 Mailing Address: PO BOX 1508 CEDAR PARK, TX 78630
 County: JEFFERSON Tobacco sales: NO Tobacco Vending Machines:
 Product Type: Type Ownership:
 Book, Page, or Document info: 20196879027
 Do you sell Draft Beer?:
 Date Incorporated: 09/05/2019 State incorporated: DE County Incorporated:
 Date of Authority: 11/14/2019
 Federal Tax ID: 842983931 Alabama State Sales Tax ID: R010397599

Name:	Title:	Date and Place of Birth:	Residence Address:
GASTON LANAUX IV 9722808 - AL	PRESIDENT	01/22/1976 LOUISIANA	2028 LAKEMOOR DR HOOVER, AL 35244
BRIAN FAUVER 28018497 - NC	MEMBER OF HHCM FUND I LLC	04/23/1981 PAINESVILLE OH	1804 BANBURY RD RALEIGH, NC 27608
JEFFREY GLENN BROCK 7686195 - NC	MANAGER	04/03/1971 NEW BERN NC	405 MAY CT RALEIGH, NC 27609

Has applicant complied with financial responsibility ABC RR 20-X-5-.14? YES

Does ABC have any actions pending against the current licensee? NO

Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO

Has a liquor, wine, malt or brewed license for these premises ever been denied, suspended, or revoked? NO

Are the applicant(s) named above, the only person(s), in any manner interested in the business sought to be licensed? YES

Are any of the applicants, whether individual, member of a partnership or association, or officers and directors of a corporation itself, in any manner monetarily interested, either directly or indirectly, in the profits of any other class of business regulated under authority of this act? YES

Does applicant own or control, directly or indirectly, hold lien against any real or personal property which is rented, leased or used in the conduct of business by the holder of any vinous, malt or brewed beverage, or distilled liquors permit or license issued under authority of this act? NO

Is applicant receiving, either directly or indirectly, any loan, credit, money, or the equivalent thereof from or through a subsidiary or affiliate or other licensee, or from any firm, association or corporation operating under or regulated by the authority of this act? NO

Contact Person: LEA ANN GARRETT

Business Phone: 512-468-6869

Fax:

Home Phone: 512-468-6869

Cell Phone: 512-468-6869

E-mail: LEAANGARRETT@CAJUNSTEAMER.COM

PREVIOUS LICENSE INFORMATION:

Trade Name: BLACKWELLS NEIGHBORHOOD PUB

Applicant: MENU BOX 2 LLC

Previous License Number(s)

License 1: 011015037

License 2:



STATE OF ALABAMA
ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220427141039038

If applicant is leasing the property, is a copy of the lease agreement attached? **YES**
 Name of Property owner/lessor and phone number: **CROSSHAVEN VENTURE 205-939-3111**
 What is lessors primary business? **REALESTATE**
 Is lessor involved in any way with the alcoholic beverage business? **NO**
 Is there any further interest, or connection with, the licensee's business by the lessor? **NO**

Does the premise have a fully equipped kitchen? **YES**
 Is the business used to habitually and principally provide food to the public? **YES**
 Does the establishment have restroom facilities? **YES**
 Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? **YES**

Will the business be operated primarily as a package store? **NO**
 Building Dimensions Square Footage: **4120** Display Square Footage:
 Building seating capacity: **144** Does Licensed premises include a patio area? **NO**
 License Structure: **SHOPPING CENTER** License covers: **OTHER**
 Number of licenses in the vicinity: **0** Nearest: **0**
 Nearest school: Nearest church: Nearest residence: **0 miles**
 Location is within: **CITY LIMITS** Police protection: **CITY**

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Name:	Violation & Date:	Arresting Agency:	Disposition:



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION



Confirmation Number: 20220427141039038

Initial each

Signature page

bl
 bl

In reference to law violations, I attest to the truthfulness of the responses given within the application.

In reference to the Lease/property ownership, I attest to the truthfulness of the responses given within the application.

bl

In reference to ACT No. 80-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.

X

In reference to Special Retail, Special Events retail licenses, and Wine Festival and Wine Festival Participant licenses, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.

X

In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.

X

In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.

bl

In accordance with Alabama Rules & Regulations 20-X-5-.01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.

bl

The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama, Title 28, and all laws of the State of Alabama relative to the handling of alcoholic beverages.

The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.

bl

I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): *GASTON LANAVA III*

Signature of Applicant: *[Handwritten Signature]*

Notary Name (print): *Wendy Abbott*

Notary Signature: *Wendy Abbott*

Commission expires: *10-4-22*

Application Taken:

App. Inv. Completed:

Forwarded to District Office:

Submitted to Local Government:

Received from Local Government:

Received in District Office:

Reviewed by Supervisor:

Forwarded to Central Office:

RESOLUTION NUMBER 5391

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND ADDITIONAL FUNDING FOR THE VESTAVIA HILLS FIRE DEPARTMENT IN RESPONSE TO INFLATION AND UNEXPECTED MECHANICAL FAILURES AND STATION REPAIRS

WHEREAS, the Vestavia Hills Fire Chief, in a memorandum dated May 4, 2022, the Fire Chief requested an appropriation of \$219,725 additional funding for unexpected expenses encountered by the Department during this fiscal year; and

WHEREAS, the Fire Chief elaborated on catastrophic engine failures despite critical maintenance, emergency repairs in Vestavia Hills James F. Wyatt Fire Station 5, and inflation rates on needed equipment and supplies which together, have caused an overrun in much of the departmental expenditures, details marked as Exhibit A, attached to and incorporated into this Resolution Number 539 as though written fully therein; and

WHEREAS, the City Manager has reviewed the request and the budget for this fiscal year and recommends approval of said request in an amount not to exceed \$219,725; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept the City Managers recommendation and appropriate additional funding for the Vestavia Hills Fire Department as detailed in the attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. An additional appropriation of \$219,725 is hereby approved to cover unexpected costs to the Fire Department for fiscal year 2022; and
2. Said funding shall be expensed within the City's General Fund; and
3. The City Manager is hereby authorized to expend said funding up to the appropriation threshold of \$219,725; and
4. This Resolution Number 5391 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 9th day of May, 2022.

Rusty Weaver
Mayor Pro-Tem

ATTESTED BY:

Rebecca Leavings
City Clerk

**VESTAVIA HILLS FIRE DEPARTMENT****MEMORANDUM**

TO: City Manager Downes

FROM: Chief Green

DATE: May 4, 2022

RE: Request for additional funding

Mr. Downes,

Per our conversation, we would like to request additional funding not to exceed \$219,725. Management of the Vestavia Hills Fire Department (VHFD) is a responsibility that I and my staff take extremely seriously. I have had either primary responsibility or have been heavily involved in the management of the department's budget for nine years, and this current budget has been met with many challenges that are outside of our control. This is the first, and hopefully the last time I have to make such a request.

The increased cost of goods has impacted nearly every budget line within the organization. As a department, if we could make a material or operational change to continue the mission, we would take that action to stay within budget. However, items such as personal protective equipment have increased 30%. VHFD is committed to a replacement schedule for protective equipment that ensures our personnel are provided the best equipment possible to ensure their immediate safety and long term health. Another tremendous price increase is associated with emergency medical supplies. Consumable items costs, gloves for example, have increased as much as 300% since the beginning of the COVID-19 pandemic. Lastly, the price of diesel and gasoline has escalated at a record pace ever since the beginning of the 2022 budget. When fuel prices remained steady, budgeting for fuel was relatively predictable; that has not been the case this year.

The maintenance and repair of apparatus has challenged the budget of the department and is the source for much of this request. Our fleet has experienced two unforeseen mechanical repairs which alone will account for a tremendous amount of the initial funding in this budget line. Since October, we have had two fire trucks experience catastrophic motor failures that have required in-frame motor rebuilds. Delaying these repairs would lead to further issues and was not an option.

VOLENS ET POTENS

Preventative maintenance is paramount to keeping a healthy fleet and we continue to focus on preventing issues on the front end which comes with a cost. The cost of preventative maintenance has been impacted by the price of oil, as our equipment uses large quantities of oil derived products.

Lastly, the VHFD has had multiple personnel retire from the organization over the past months. We have recruited quality members to fill their shoes, but several have come to us needing to complete either fire or paramedic training. Similar to hiring challenges across the nation, we are not seeing fully qualified candidates anymore and we must identify promising talent and invest in their training. The cost associated with completing their training has impacted the fire training budget line tremendously. Thankfully, four of our personnel just became Nationally Registered Paramedics from the investment made by the City.

Lastly, the department has encountered several emergency or mandated facility issues. Vestavia Hills James F. Wyatt Fire Station Number 5 had a bay door spring fail recently, which is normally an eight-hour turnaround from our repair vendor. Due to supply chain issues, we had multiple vendors search for the part nationwide and they could not source the necessary part. In order to continue emergency services with the help of a creative vendor, we replaced a panel of windows with a door panel and lessened the weight which allowed a different spring to be used. Also, Fire Station 5 had a shower pan failure mid-year, which had already caused damaged to the adjacent area. Due to the number of personnel assigned to this station, it was imperative that the repairs were made to continue operations.

These are just a few examples to show what our department has been faced with this budget year. I appreciate your understanding and support.

November 2021

- **01-52-5360-005-200** Station 5 Maintenance and Repair Machinery and Equipment **\$2,000**

The spring mechanism serving a bay door at Station 5 failed. The appropriate part could not be located within the United States, due to supply chain issues. The configuration of the door was changed to allow the use of a different part and restore operations.

January 2022

- **01-52-5390-002-200** Station #2 Plumbing & Electrical **\$5,000**

Birmingham Water Works is requiring the installation of a backflow preventer to the facility which is unbudgeted.

- **01-52-5390-005-200** Station #5 Plumbing & Electrical **\$5,000**

Emergency repair of a leaking shower which was causing damage to the facility and repair of adjacent water damaged areas.

- **01-52-5390-004** Station #4 Plumbing and Electrical **\$2,400**

Funds to relocate and install the SCBA fill station from Station #5 to Station #4 to increase bay space at Station 5 and enhance the capabilities at Station #4 in Liberty Park.

- **01-52-5210-000-200** Maintenance Contracts **\$3,480**

Unforeseen increases in required software, due to company mergers.

February 2022

- **20-52-8600-000-712** Capital Expenditures **\$3,200**

Supplement to the Fire Station #1 renovation project. Request of additional funding for the purpose of refinishing the kitchen cabinets. The cabinets are original to the building when constructed in 1991. The timing of this project works well with the current project and should eliminate any interior work to the facility for several years.

Forecasted Shortfalls

- **01-52-5045-000-200** Employee Training **\$5,000**

Increases in the cost of training delivery and unplanned retirements that required unbudgeted recruit and paramedic training.

- **01-52-5061-000-200** Foul Weather Gear (Turnout Gear and PPE) **\$5,000**

Unforeseen 30 % increase in cost of turnout gear in recent months has made the replacement cycle for protective equipment challenging.

- **01-52-5125-000-200** Medical Supplies **\$5,000**

Increased cost of nearly all medical supplies. Latex glove prices have increases of 200% and medications have had similar fluctuations.

- **01-52-5110-000-200** Janitorial Supplies **\$1,000**

Price increases to nearly all cleaning supplies since the beginning of the budget year combined with enhanced cleaning of facilities and apparatus has impacted this budget line.

- **01-52-5140-000-200** Gasoline **\$6,000**

Continued rise in gasoline prices have impacted this budget line.

- **01-52-5141-000-200** Diesel **\$33,500**

Continued rise in diesel fuel prices have impacted this budget line.

- **01-52-5370-000-200** Maintenance and Repair Vehicles **\$111,825**

Unforeseen catastrophic vehicle repairs have greatly impacted this budget line. We had one front line fire truck require a full in frame motor rebuild early in the budget year. Currently, we have another front line fire truck in the shop with the same diagnosis. Additional impacts to the budget include, the increased cost of commercial tires and increased cost to appropriately maintain a large fleet.

RESOLUTION NUMBER 5389

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPEND ADDITIONAL FUNDING FOR FINAL DESIGNS ON A PROPOSED INTERSECTION IMPROVEMENT AT SICARD HOLLOW ROAD AND BLUE LAKE DRIVE AND TO AUTHORIZE THE CITY MANAGER TO ACCEPT A PROPOSAL WITH SAIN ASSOCIATES TO PROVIDE SUPPLEMENTAL DESIGN SERVICES

WHEREAS, the City Council appropriated funding to match an APPLE grant through the Regional Planning Commission of Greater Birmingham; and

WHEREAS, as a part of this study, Sain Associates reviewed the intersection of Blue Lake Drive and Sicard Hollow Road and determined that a roundabout design would help to improve the overall safety and operations of this intersection; and

WHEREAS, the City has received a proposal from Sain Associates to allow the project to move forward to the design phase at a total expense of \$211,750, a copy of which is marked as Exhibit A, attached to and incorporated into this Resolution Number 5389 as if written fully therein; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to approve said expenditure in order to allow this project to move forward through design and ultimately to the bid services for this project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. That the City Manager is authorized to accept the proposal by Sain Associates in an amount not to exceed \$211,750 for final design plans as described above; and
2. The City Manager is authorized to execute and deliver any and all documents necessary in order to secure said designs; and
3. These designs shall be expensed to the City's Capital Projects Fund; and
4. This Resolution Number 5389 shall be effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 23rd day of May, 2022.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS
DEPARTMENT OF PUBLIC SERVICES
OFFICE OF CITY ENGINEER
INTER-DEPARTMENT MEMO

May 3, 2022

To: Brian Davis, Department of Public Services

Cc: Christopher Brady, City Engineer

From: Lori Beth Kearley, Senior Civil Engineer

RE: Fee Proposal for Engineering Design Services for Intersection Improvements at Blue Lake Drive and Sicard Hollow Road

The intersection of Blue Lake Drive and Sicard Hollow Road was studied through the Regional Planning Commission of Greater Birmingham’s Advanced Planning, Programming, and Logical Engineering (APPLE) program back in 2019. As part of this study, Sain Associates reviewed this intersection and determined that a roundabout design would help to improve the overall safety and operations of this intersection. Jefferson County has agreed to jointly fund construction of the project with an estimated construction cost of \$2.02 million (at time of APPLE study).

The City entered into an agreement with Sain Associates in April 2020 to perform further engineering and surveying due diligence to develop a conceptual layout of the roundabout and determine potential right-of-way and utility impacts. The fee proposal for those services totaled \$57,900.

Now that this effort has been completed, Sain Associates has submitted another proposal to move the project forward to final design plans. The scope items and associated fees included in the proposal are as follows:

Roadway Design Plans.....	Lump Sum \$126,000
Right of Way Sketches, Legal Descriptions, and Staking.....	Lump Sum \$6,600
Utility Coordination.....	Hourly with estimated budget of \$11,000
Environmental (Environmental Inc plus 10% markup).....	Not to Exceed \$13,750
Geotechnical (Bhate plus 10% markup).....	Lump Sum \$13,700
Lighting Design (Volkert plus 10% markup).....	Lump Sum \$16,700
Meetings and Reviews.....	Lump Sum \$13,500

Contract Documents, Advertising, and Bidding.....Lump Sum \$10,500
Total Estimated Budget.....\$211,750

We are seeking the City Council’s consideration in approving this proposal amount to allow us to move forward with the design, coordination, and bid services for the project.

If any additional information is needed, please let me know.



SAIN
ASSOCIATES

February 28, 2022

Mr. Christopher Brady, P.E.
City Engineer
City of Vestavia Hills
1032 Montgomery Highway
Vestavia Hills, AL 35216

Two Perimeter Park South
Suite 500 East
Birmingham, Alabama 35243
Telephone: (205) 940-6420
www.sain.com

SUBJECT: Blue Lake Drive and Sicard Hollow Road Design Services
Supplemental services
SA Project #20-0098

Dear Christopher:

We appreciate the opportunity to submit this proposal for supplemental engineering services. Following is a description of our understanding of your project and the scope of services that we propose to undertake.

General Project Understanding

Sain Associates previously prepared a traffic study for the Blue Lake Drive and Sicard Hollow Road intersection. The study yielded a recommendation for a roundabout as the preferred option for improving the intersection. Sain prepared a conceptual layout of the roundabout, along with estimated impacts to utilities and right of way. The City has reviewed the layout and desires to move the project forward to final design plans.

The City has discussed the project with Jefferson County. The City and County will jointly fund the project with local funding. This proposal is based upon reviews and approvals being required from only the City and County. It is not expected the City of Birmingham or the Alabama Department of Transportation (ALDOT) will be involved in the project. However, the project does encroach into the I-459 right of way. Based on our discussion with the City, permitting with ALDOT is not expected, but a discussion with ALDOT is needed with possibly obtaining a letter from ALDOT to document their approval of the encroachment. At the time of preparing this supplement, no discussion with ALDOT has been conducted at the direction of the City. The City will contact ALDOT as the project progresses.

The project may have impact to existing waterlines. Sain has subcontracted Bhate to perform a subsurface utility exploration (SUE) to determine a more accurate horizontal and vertical location of the underground waterlines in the intersection. The SUE is complete and has been surveyed, and we are preparing an exhibit to show the underground utilities as located by the SUE investigation. Once complete, Sain will submit the report and exhibit to the City for review. Further coordination with Birmingham Waterworks will be necessary to determine if the existing waterlines can remain in place or will require relocation or protection.

The required traffic and topographic survey have already been performed under the original contract for this project. The traffic will require updating to current year and design year projections for the

Blue Lake Drive Roundabout
City of Vestavia Hills
February 28, 2022
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geotechnical pavement recommendations. Our understanding is the traffic report has been reviewed and approved by the City and County.

The project will impact existing ditches, which may be determined to be jurisdictional waters. Sain will contract Environmental Inc to prepare a stream and wetland study to determine if the project improvements have impacts to jurisdictional waters. It is suspected the project may require a Nationwide Permit from the U.S. Corps of Engineers. As a result, the preparation and submittal of a Nationwide Permit has been included in this scope of services. A cultural resources report and threatened and endangered species study will also be prepared. Additional detail of the scope of services to be provided by Environmental Inc is included in their attached proposal.

The center circular island will be sodded. Sain will prepare an exhibit with sight lines and high/low growth areas for use when the City landscapes the roundabout in the future. No pedestrian or bicycle accommodations will be included in the project. Lighting design services and the preparation of a geotechnical report with recommendations have also been included in this scope of services.

Scope of Services

Roadway Design Plans:

Upon receiving notice to proceed from the City, Sain will prepare a preliminary (50%) plan set for review by the City and the County. The preliminary set will include a refined layout, grading plans, traffic control phasing, and a preliminary storm drainage design. This set will be submitted to the City for review and comment prior to proceeding with preparation of the final plan assembly. The following plan sheets are expected to be included in the overall final plan assembly:

- Title sheet with index
- Legend and abbreviations sheet
- Project notes
- Roadway typical sections and ditch typical sections
- Quantity summary list
- Geometric control layout
- Plan and profiles for proposed roundabout
- Drainage profiles and details, as necessary
- Paving layout sheets, including construction details for splitter islands
- Roundabout grading plan
- Signing and striping plans
- Traffic control notes and details
- Traffic control plans
- Utility sheets
- Erosion control plans
- Cross sections within roundabout and for segments of roadway beyond roundabout

Blue Lake Drive Roundabout
City of Vestavia Hills
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Sain anticipates that the required storm drainage system will consist of a combination of concrete flumes and ditches, along with inlets and storm sewer pipe. The following storm design years will be used for analysis of the required drainage system:

- Inlets and closed storm sewer pipe - 10 year
- Crossdrain/culvert - 50 year but not overtop for the 100 year
- Ditches -25 year, unless downstream of crossdrain/culvert, then follows the same design storm as crossdrain/culvert

According to FEMA flood mapping effective 9/24/2021, the project impacts will be just beyond the Cahaba River special flood hazard area, so floodplain modeling and mapping have not been included within this scope of services.

In addition to the 50% plan submittal and review described above, plan submittals and City reviews will occur at 85% and 100% completion. An opinion of probable construction costs will be included with each plan submittal. Plans will be prepared to current ALDOT standards and specifications.

This project will require an NPDES permit from ADEM if disturbance exceeds 1 acre. We will coordinate this submittal with the City as the Permittee. ADEM requires the Permittee create an online account, and we will assist you through this process if needed. The permit application fee is not included within this scope and will need to be submitted to ADEM by the City.

Right of Way Sketches, Legal Descriptions, and Staking:

The project has impact to properties. Sketches and legal descriptions for up to two acquisitions will be prepared. The legal description will be prepared in "metes & bounds" format using the deflection angle method. The legal descriptions will be tied to an available government corner (section corner, quarter section corner). The legal descriptions will describe the perimeter of the properties and indicate the directions and distance of each leg of the easement/ Right-of-Way takings. We have accounted for revisions based on the City and County's reviews. Sain will also stake the acquisitions if deemed necessary. Additional Right of Way services, such as appraisals and acquisitions, are not included in the scope of services.

Utility Coordination:

The project does have impact to existing utilities which will require relocations. Sain will prepare existing utility base sheets to be a part of the final plan assembly and will provide plans to utility owners for a review of potential conflicts. If the City and utility owners determine the relocation of utilities is necessary, Sain will incorporate into the plan set any relocation plans prepared by utility companies for the contractor's reference. Sain's preparation of utility relocation plans is not included in this scope of services.

Environmental Studies:

Environmental Inc will prepare the stream and wetland study, cultural resources study, and threatened and endangered species study. If the improvements result in impacts to jurisdictional waters, they will also

Blue Lake Drive Roundabout
City of Vestavia Hills
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prepare and submit an application for a Nationwide Permit. See their attached proposal for additional detail of their scope of services. If a Nationwide Permit is not required for the project, the City will not be billed for that service.

Geotechnical:

Bhate Geosciences will prepare the geotechnical investigation report, as detailed in the attached proposal, in order to provide geotechnical recommendations for the project.

Lighting Design:

Roadway lighting is recommended for the roundabout to allow approaching drivers to perceive and react to the intersection at nighttime. Volkert will prepare the lighting design plans.

Meetings and Reviews:

Sain has budgeted for the following face-to-face meetings:

- 50% review meeting
- 85% review meeting
- Two additional meetings with the City, possibly to present to the City Council

Contract documents, Advertising, and Bidding:

Sain will prepare contract documents necessary for the project. We will utilize the AIA standard documents for the front end documents, contract, and general conditions. The ALDOT specifications will be utilized as the technical specifications for the work. Sain will prepare any required special conditions for insertion into the contract documents. Sain will prepare an advertisement for bids and will advertise according to the state bid law requirements.

As part of this task, Sain will respond to contractor's requests for information (RFIs), conduct a Pre-Bid meeting, attend the bid opening, and prepare a bid tabulation and recommendation of award letter.

Construction services:

Services related to construction are not included in this supplement. However, if the City decides that construction services are desired once the project nears construction, Sain will work with the City and County to determine the level of services needed and can provide a supplemental services agreement at that time.

Exclusions

The following services are excluded from this proposal but can be provided if deemed necessary and requested by you: ROW appraisals and acquisitions, ROW map, ALDOT permitting or reviews, City of Birmingham permitting or reviews, environmental document, construction staking, public meetings, No-Rise Certification and/or floodplain modeling, retaining wall design, landscaping or irrigation design, CE&I, or other work not specifically included. Although not anticipated at this time, if the need arises for any of the items listed above, we will not begin the work until we have received written authorization from you to proceed with the additional services.

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City of Vestavia Hills
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Fees

We propose to provide the above described services based on the following fee schedule:

Roadway Design Plans	Lump Sum \$126,000
Right of Way Sketches, Legal Descriptions, and Staking	Lump Sum \$6,600
Utility Coordination	Hourly with estimated budget of \$11,000
Environmental (Environmental Inc plus 10% markup)	Not to Exceed \$13,750
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Lighting Design (Volkert plus 10% markup)	Lump Sum \$16,700
Meetings and Reviews	Lump Sum \$13,500
Contract Documents, Advertising, and Bidding	Lump Sum \$10,500
 Total Estimated Budget	 \$211,750

Reimbursable expenses such as printing, shipping, mileage, etc. are included in the above fees.

Procedures for Changes in Scope of Work

The scope of work documented herein is based upon information known as of the date of this proposal. Should future changes (e.g. site plan, regulatory, project phasing, additional meetings, etc.) necessitate changes in the scope of work, we will contact you to discuss the scope of the additional work and its impact to our contracted fees and project schedule. No additional work will be undertaken by Sain or our subconsultants without your authorization.

Terms and Conditions

This contract is subject to the enclosed Terms and Conditions. All subsequent services required by you outside the scope of service specified will be performed on a time and materials basis according to the schedule of rates enclosed. Any modification to this contract document must be approved in writing by both parties with approval indicated by each signatory's initials and the date of approval.

Proposal Limitations

We reserve the right to withdraw or modify this proposal if not contracted within 60 days.

Sain Associates has provided this proposal with the understanding that you have selected our firm to perform professional services based upon our staff's qualifications, experience and reputation and not solely upon the cost of the services proposed. We trust the fees outlined herein are acceptable and within your project budgetary plans. We look forward to commencement of the work and will be glad to address any questions or concerns you have regarding the technical scope and/or schedule of fees for this proposal. If you should request additional prices for the scope of work included herein from other consulting engineers and/or land surveyors, please consider our proposal withdrawn in order to comply with Alabama Administrative Code Chapter 330-X-14-.05(f).

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City of Vestavia Hills
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Schedule

We are available to start work upon authorization. The 50% design plans can be submitted within 2 months of starting work.

Thank you for the opportunity to provide this proposal. If you have any questions or need clarification on any item, please call me. We look forward to working with you.

Sincerely,

SAIN ASSOCIATES, INC.

Nathan Currie, P.E.
Project Manager/Associate
AL #32400

OFFERED:
SAIN ASSOCIATES, INC.
BY: Alicia Bailey, P.E.
Practice Leader/Sr. Principal

Signature of Authorized Representative

Date: 2/28/22

Enclosures:
Sain Terms & Conditions (sch. 2022)
Bhate Geosciences Proposal
Environmental Inc Proposal
Volkert Proposal

ACCEPTED:
CITY OF VESTAVIA HILLS, ALABAMA

BY: _____
Signature of Authorized Representative

Print Name & Title

Date: _____

SAIN ASSOCIATES, INC.

TERMS AND CONDITIONS

Rates:

Principal.....	\$190.00 - \$275.00 per Hour
Engineer/Planner.....	\$98.00 - \$148.00 per Hour
Senior Engineer.....	\$150.00 - \$210.00 per Hour
GIS Professional.....	\$125.00 - \$135.00 per Hour
Designer.....	\$87.00 - \$125.00 per Hour
Surveyor.....	\$100.00 - \$140.00 per Hour
Survey Crew (1-Person).....	\$100.00 per Hour
Survey Crew (1-Person + Robot).....	\$150.00 per Hour
Survey Crew (2-Person).....	\$175.00 per Hour
Survey Crew (3-Person).....	\$215.00 per Hour
Survey Per Diem.....	\$150.00 per person per Night
Level 1 Inspector.....	\$75.00 - \$95.00 per Hour
Level 2 Inspector.....	\$80.00 - \$110.00 per Hour
Administrative Support.....	\$60.00 - \$75.00 per Hour

Reimbursable Expenses

Printing, contract carrier service, and travel expenses are not included within Consultant's basic fee and will be passed along to Client at cost plus 10%.

Payment

Payment for services by Consultant is to be made monthly based upon the percentage of work completed and invoiced to Client. Client's obligation to pay for services rendered hereunder is in no way dependent upon its ability to obtain financing, to obtain payment from a third party, or to obtain approval of any governmental or regulatory agencies, or upon Client's successful completion of the project. Payment for services and expenses hereunder is due in full within thirty (30) days after receipt of invoice. For past due accounts in excess of 120 days Consultant will issue a past due statement with interest of 1½% per month from said thirtieth (30th) day. Consultant may elect to seek assistance in collection of accounts in excess of 120 days in which case Client will be billed for attorney's fees for collection in the amount of 1/3 of the outstanding balance or such greater amount as the court finds reasonable. Consultant reserves the right to suspend services under this agreement until receipt of payment in full for all amounts due for services rendered and expenses incurred.

AL Immigration Law Compliance

By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting there from.

Standard of Care

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care ordinarily provided by members of Consultant's profession practicing under the same or similar circumstances and professional licenses at the same time and in the same locality, as expeditiously as is prudent considering the ordinary professional skill and care of a competent member of Consultant's profession. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

Responsibility of the Client

Client shall provide all criteria and full information as to Client's requirements for the Project, including budgetary limitations.

Reliance on Information Provided by Others

Consultant shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's Consultants and Contractors, and information from public records, without the need for independent verification.

Schedules, Budgets and Estimates or Opinions of Cost

Any schedules or completion dates, budgets, or estimates of cost prepared by Consultant represent Consultant's professional judgment based on its experience and available information. Since neither Consultant nor Client has control over: the cost of labor, materials, or equipment, or contractor's methods of determining prices; competitive bidding or market conditions; utility conflicts or right-of-way acquisition; agency approval times or actions of a Consultant Program Manager not employed by Sain, the Consultant cannot and does not warrant or represent that actual schedules, budgets or completion dates or actual costs will not vary from schedules or completion dates, budgets or estimates of cost prepared by Consultant or proposed, established, or approved by Client.

Approvals

Client agrees and acknowledges that the approval process necessary to maintain a project timeline is both unpredictable and outside of the Consultant's control. Consequently, the Consultant makes no representations as to its ability to timely achieve or to obtain said permits or approvals from any governing authority or outside agency.

Site Visits/Jobsite Safety/Construction Phase Services

Consultant and Client acknowledge and agree that the Consultant shall not have responsibility and will not be liable for jobsite safety or construction means and methods, regardless of whether Consultant's scope of services documented herein include site visits during the construction phase. The Consultant is not responsible for, and shall by no means be liable for, the acts or omissions of any owner, contractor, subcontractor or material supplier.

Right of Entry

Client, at its sole cost and expense, shall furnish the Consultant, its agents, employees, and subcontractors a right-of-entry and any other authorizations or licenses needed for Consultant to enter the Project location to perform the services contemplated by this Agreement. Client agrees and acknowledges that the services provided by the Consultant may require certain activities that may disrupt the use of the Project's property location and may disturb, alter, or damage the terrain and vegetation thereabout and that Consultant will not restore the property to its original state.

Certifications

Consultant shall not be required to sign any documents, no matter by whom requested, that would result in Consultant's having to certify, guaranty, or warrant the existence of conditions that Consultant cannot ascertain or verify. Further, Consultant and Client acknowledge and agree that Consultant shall not be



SAIN ASSOCIATES, INC.

TERMS AND CONDITIONS

Exhibit A - Resolution No. 5389

expected to provide any certifications unless expressly agreed upon by Consultant, as evidenced in writing within the scope of Consultant's work invoiced to Client.

Unforeseen Conditions and Occurrences

If, during the course of performance of services pursuant to this Agreement, any unforeseen hazardous substance, material, object, element, or other unforeseen conditions or occurrences are encountered which, in the Consultant's judgment, materially affects or may affect the services to be provided hereunder, the risk involved in providing the services, or the scope of the services, Consultant will notify Client. Subsequent to that notification, Consultant may: (a) if practicable, in Consultant's judgment and with Client's approval, complete the original scope of services in accordance with this Agreement; (b) agree with Client to modify the scope of services and the estimate of costs to include the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the Parties and incorporated herein; or (c) terminate the services effective on the date of notification for convenience.

Use of Electronic Media

Copies of documents that may be relied upon by the Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for convenience of the Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Limitation of Remedies

Liability of remedies of Sain Associates, Inc. resulting from errors, omissions, or the negligence of Sain Associates, Inc., its agents or employees, pursuant to work under this agreement shall not exceed the lesser of the value of engineering or surveying services required to correct the deficiency or the basic consulting fee for work covered hereunder or the actual cost of the remedies. This provision is being agreed to as a result of the fees being charged.

Consultant's Choice of Arbitration or Court

Client and Consultant agree that if a dispute arises out of or relates to this Agreement, the parties will attempt to settle the dispute through good faith negotiations. If direct negotiations do not resolve the dispute, the parties agree to endeavor to settle the dispute by mediation prior to the initiation of any legal action unless delay in initiating legal action would irrevocably prejudice one of the parties. Mediation shall take place in Jefferson County, Alabama, and if a mediator cannot be agreed upon by parties, then it is agreed that AAA (American Arbitration Association) will appoint a mediator. If mediation is unsuccessful, any such dispute shall be subject to and resolved at the election of Consultant, by either arbitration in accordance with the Rules of the AAA or by a trial by judge in either the Circuit Court for Jefferson County, Alabama, or the United States District Court for the Northern District of Alabama.

Indemnification

Client and Consultant each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence.

Force Majeure

Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Termination of Contract

Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges.

Ownership of Documents

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or Client's disclosure of any such documents to any third party.

Third Parties

Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Client or Consultant. Consultant's services hereunder are being performed solely for the benefit of the Client, and no other entity shall have any claim against Consultant because of this Agreement or Consultant's performance of services hereunder.

Consequential Damages Waiver

Neither the Client nor the Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

Conflicting or Inconsistent Terms/Severability

In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any provision of this Agreement which is held to be void or unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions.

Schedule 2022





Bhate Geosciences Corporation
Geotechnical, Materials, Environmental Engineers

February 4, 2022

Mr. Nathan Currie
Sain Associates
2 Perimeter Park East, Suite 500
Birmingham, Alabama 35243

Subject: Proposal to Provide Subsurface Exploration,
Geotechnical Engineering and Materials Evaluation
Proposed Traffic Roundabout
Blue Lake Drive at Sicard Hollow Road
Vestavia Hills, Alabama
BHATE Proposal Number: 2092-22

Dear Nathan:

We are pleased to submit the following proposal to perform a subsurface exploration and geotechnical/materials evaluation of the area proposed for roadway improvements and construction of a new roundabout at the intersection of Cahaba Heights Road, Blue Lake Drive, and Sicard Hollow Road. You provided us with a satellite image on which the planned surface improvements were overlaid. It was apparent that some of the planned construction was confined to currently paved areas, while other improvements extended beyond the existing pavements and into the shoulders of the road.

We understand the objective of the subsurface/materials evaluation would be to determine the current roadway pavement sections in the event the "equivalent buildup" method of design is applied to the new or improved pavements. In addition, you requested that we perform a subsurface exploration to obtain representative samples of the proposed roadway subgrade, conduct laboratory tests to evaluate the load carrying capacity, and conduct a traditional pavement thickness evaluation based on traffic information (current volume and loading, expected pavement life, and growth factor) It is our understanding that grading of the proposed improved areas would be minimal; however, it is possible that some widening of shoulders over sloping or wooded ground could take place.

The exploration program would consist of two elements: coring through the existing pavement in sufficient places to permit a statistical evaluation of the pavement buildup to be conducted. We recognize that the pavement thickness are various locations along the three roads is likely to vary considerably, and thus is it important to have sufficient data points to perform a reasonable assessment of the "average" pavement buildup. We would not perform a detailed pavement condition assessment, but would note the general condition of the pavement surface and any particular areas exhibiting severe distress.

Following is our proposed scope of services:

1. Coring through the current pavement at an estimated eight (8) to twelve (12) locations. The number of locations cored would be dependent on the uniformity of the initial field data. If the initial thickness measurements are all relatively uniform, then we would drill the lesser number of locations. Following coring through the asphalt we would extend hand auger probes through the underlying aggregate base course (if present). We would also manually probe the subgrade beneath the base course, and apply an asphalt patch upon completion.
2. Mobilization of a truck-mounted drilling rig.
3. Site reconnaissance, test boring layout, and pavement condition and geologic map review.
4. Soil test borings – boreholes would be backfilled upon completion. Some settlement of the borehole backfill should be expected.
 - Roadway widening areas - 12 soil test borings to depths ranging from approximately six (6) to 15 feet each or refusal
5. Laboratory soil classification testing
 - Soil moisture content tests (24)
 - Atterberg limits tests (6)
 - Wash #200 sieve analyses (6)
 - California bearing ratio tests performed on representative samples of new pavement subgrade (2)
6. Geotechnical evaluation of the proposed pavement areas and report preparation.

REPORT

Based on the scope of services described, our report would address the following items:

1. Site geology and surface conditions.
2. A description of the surface conditions and a general narrative of the current pavement condition.
3. The cumulative pavement thickness at the locations where coring through the existing pavement takes place.
4. A description of the subsurface conditions at the test boring locations.
5. Laboratory test results.

6. Site preparation and grading considerations pertaining to potential pavement widening areas.
7. Pavement subgrade considerations, and an alternate pavement design based on traffic information to be provided by Sain, and results of laboratory tests performed on representative subgrade samples.
8. We have assumed that all new fill slopes would have design inclinations of 3H:1V or flatter. In the event that steeper slopes are planned, we should be notified so that we can develop a scope of supplementary services which would likely include laboratory strength testing on samples of the planned embankment fill and slope stability analyses.

ESTIMATED COST

Our services would be conducted on a unit-rate basis in accordance with our 2022 unit-fee schedule. However, based on the proposed scope of services and assuming no unusual subsurface conditions are encountered, our budget estimate is **\$11,996.00 to 12,426.00.** Submittal of the written report would culminate the services to be provided under this proposal. Post-report consultation or attendance at project meetings would be charged on a unit-rate basis for the Bhate personnel involved. If site conditions encountered during exploration warrant additional exploration or evaluation, then we would notify you and discuss the recommended additional services. However, the budget would not be exceeded without your authorization.

We have assumed the locations where drilling would take place would be accessible to a truck-mounted drilling rig. Costs associated with site access preparation, mobilization of special equipment, etc. by virtue of difficult terrain, dense vegetation or wet surficial soils would be in addition to the basic budget estimate. In the event drilling on the sides of slopes is anticipated, site access preparation, including clearing of trees and benching into the existing slopes would likely be required.

The planned widening and roundabout areas are located where three heavily-travelled roads converge. As a result, traffic control will be essential to permit our field crews to safely perform the proposed exploration program in and adjacent to the roads, and to protect motorists. We have not included traffic control in our scope of services. Over the years we have counted on the municipality/client to furnish a squad car and officer as a means of traffic control. We anticipate that our field exploration can probably be completed in two days. If Bhate is required to furnish traffic control measures such as signage and flagmen, then we should be notified so that we can obtain pricing from a service that provides traffic control.

SCHEDULE OF SERVICE PERFORMANCE

We anticipate field work could begin approximately ten (10) business days after we receive written authorization to proceed, and a written report of our findings would be issued within approximately three (3) weeks after the completion of the field exploration.

UNDERGROUND UTILITIES

We will notify the underground utility location service of our intent to drill or dig. However, we understand that BHATE has been engaged to perform subsurface utility mapping of the planned construction areas, and we assume that field marking of identified utilities will be conducted prior to the start of the subsurface exploration.

GENERAL NOTES

We (BHATE) would perform only those services outlined previously. Client and BHATE may subsequently agree in writing to provide additional services under this agreement for additional negotiated compensation.

Services we provide would be consistent with the engineering practices prevailing at the time and in the area the services are performed. No other warranty, expressed or implied, is intended. Our geotechnical report would be prepared for the exclusive use of our client and

AUTHORIZATION

The attached General Terms and Conditions should be acknowledged as a part of this proposal. A signed copy of the attached Proposal Acceptance Sheet, returned to our office, would serve as our authorization to proceed with the proposed scope of services.

CLOSING

We appreciate the opportunity to present this proposal to you. When you have reviewed this proposal, feel free to call us if you have any questions or if you wish to discuss the proposal in detail.

Respectfully submitted,

BHATE GEOSCIENCES CORPORATION

Charles R. Burgin

Charles R. Burgin, P.G., P.E.
Senior Principal

attachments

Traffice Roundabout
Blue Lake Drive at Sicard Hollow Road
Vestavia Hills, Alabama
BHATE Proposal Number: 2092-22
Page 4





ENVIRONMENTAL, INC.

96B Cogswell Avenue, Pell City, Alabama 35125

Environmental, Remediation, and Ecological Consultants

January 27, 2022

Mr. Nathan Currie
Sain Associates, Inc.
Two Perimeter Park South, Suite 500 East
Birmingham, Alabama 35243

Subject:
Proposed Scope of Services & Fees
Blue Lake Drive
Vestavia Hills, Jefferson County, Alabama
Environmental, Inc. Proposal No.: E22-19

Dear Mr. Currie:

Environmental, Inc. is pleased to provide this proposed Scope of Services to be performed on the Blue Lake Drive Roadway Improvements project site in Vestavia Hills, Jefferson County, Alabama. It is our understanding that the project area consists of roadway improvements at the intersection of Blue Lake Drive and Sicard Hollow Road; the project limits were provided to our office via electronic mail on January 26, 2022.

I. WETLAND DELINEATION /THREATENED & ENDANGERED SPECIES SCOPE

Environmental, Inc. will provide qualified personnel to assess the property and determine the presence/absence of any potential jurisdictional wetlands and/or Waters of the U.S., as defined by the U.S. Army Corps of Engineers (USACE) Field Guide for Wetland Delineation, 1987 Corps of Engineers Manual (Manual) and the Regional Supplement to the Corps of Engineers Manual for the Eastern Mountains and Piedmont Region (April 2012). Environmental, Inc. will also provide qualified personnel to conduct a Threatened & Endangered Species Assessment in accordance with US Fish & Wildlife Service (USFWS) procedures. The Wetland/Threatened & Endangered Species Assessment will include, at a minimum, the following services:

- A review of publically available aerial photographs and hydrologic maps.
- A review of published literature regarding the watershed, geology, soils, and topography of the general area of the site.
- A reconnaissance of the subject site to review representative vegetation and hydrology information.
- Flagging the identified USACE jurisdictional features (if any) identified on the site and locating the boundary of jurisdictional features via handheld GPS.
- Submittal of shape files of any identified USACE jurisdictional features.
- A review of published literature regarding habitat requirements, known distributions, and Recovery Plans for each USFWS target species.
- A site reconnaissance to observe the site for target species and USFWS target species habitat.
- Generation and submittal of a summary report detailing the findings of the assessments.

COST

Wetland/Threatened & Endangered Species Assessment \$ 2,500.00

Phone: (205) 629-3868 • Fax: (877) 847-3060

II. CULTURAL RESOURCE SURVEY SCOPE

Environmental, Inc. will provide qualified personnel to conduct a Cultural Resource Survey in accordance with the guidelines set forth by the Alabama Historical Commission (AHC). The survey will include, at a minimum, the following services:

- Background research for previously recorded archaeological sites, previous archaeological surveys, cemeteries, historic structures, and historic communities.
- A field assessment of the project area utilizing standard archaeological techniques including visual observation and subsurface shovel tests.
- Laboratory analysis of materials, if any, recovered from the site.
- Evaluation of the significance of any archaeological sites or historic properties identified, within the guidelines and criteria for establishing eligibility for the National Register of Historic Places (NRHP).
- Transportation of any collected archaeological materials to the University of Alabama Archaeological Museum in Moundville, Alabama.
- Completion of a Phase I Cultural Resource Assessment Report detailing our findings.

COST

Cultural Resource Survey \$ 2,500.00

III. USACE NATIONWIDE PERMITTING SCOPE (IF REQUIRED)

If required, the Nationwide Permitting process will be conducted in accordance with the guidelines set forth by the USACE for projects impacting less than 0.5-acres of waters of the U.S. The permit application will include, at a minimum, the following services:

- A written narrative of the proposed project activities, the basic project purpose and need, a discussion of the potentially jurisdictional streams and wetlands, a discussion of proposed unavoidable impacts, and information regarding archaeological and historical properties, and threatened and endangered species.
- Submission of maps, figures, and Wetland Data Forms, as required by the USACE.
- If mitigation is required, a discussion of proposed mitigation and coordination of mitigation credit purchase.

COST

USACE Nationwide Permit Application (If required) \$ 7,500.00



CLOSING & SCHEDULE

We are prepared to begin the assessment field work within 10 business days of notice to proceed with final reports submitted to your office within 30 days from the initiation of field work. Terms and Conditions for these services would be in accordance with the guidelines established in Sain Associates Consultant Contract for Services.

Thank you for allowing us to submit this information. We appreciate your consideration of Environmental, Inc. If you have any questions concerning this proposal, please call (205) 629-3868 or email cstinnett@envciv.com.

Sincerely,

ENVIRONMENTAL, INC.



Chad Stinnett
Senior Project Scientist





Volkert, Inc.

The Stockyard
1616 2nd Avenue South
Suite 150
Birmingham, AL 35233

205.214.5500
birmingham@volkert.com

www.volkert.com

February 11, 2022

Nathan Currie, P.E.
SAIN Associates
Two Perimeter Park South
Suite 500 East
Birmingham, AL 35243

Subject: Intersection Improvements On
Blue Lake Drive at Sicard Hollow Road
City of Vestavia
Jefferson County
Volkert Project No. TBD

Nathan,

Per our previous emails and telephone discussions, please find our scope and fee proposal for the above-mentioned project. Volkert will provide lighting design services as described herein and provide PDF's for SAIN to include in their bid documents.

Thanks for reaching out and we appreciate the opportunity to work with you on this project.

If you have any questions or need additional information, please do not hesitate to call.

Sincerely,
Volkert, Inc.

A handwritten signature in blue ink that reads "Ken W. Powers".

Ken W. Powers, P.E.
Manager, Electrical Department

KWP
Enclosures



SCOPE OF WORK:
ROUNABOUT LIGHTING FOR
INTERSECTION IMPROVEMENTS
BLUE LAKE DRIVE AT SICARD HOLLOW ROAD
CITY OF VESTAVIA
JEFFERSON COUNTY, AL
FOR SAIN ASSOCIATES

February 11, 2022

Description of Work:

This project will provide a roadway lighting system for one (1) new roundabout at the intersection of Blue Lake Drive and Sicard Hollow Road in Jefferson County. Currently, the intersection is neither lighted nor signalized. Scope and fee proposal is based on submittal documents provided by SAIN dated Feb 5, 2022, which included the proposed roadway configuration with an aerial overlay.

Design Approach:

The system will consist of conventional light poles throughout the intersection. LED light sources will be utilized.

Lighting calculations will be performed using the AGI32 lighting software developed by Lighting Analysts.

The lighting design will be in accordance with the minimum recommendations of IES DG-19-08, Design Guide for Roundabout Lighting, Table 1, and applicable local requirements. Assumed roadway classifications are Collector/ Collector. A Low Pedestrian Area Conflict classification is assumed. Based on these assumptions, the design will provide approximately a 1.2-foot candle average with a 4:1 or better uniformity.

A single layout will be designed to allow for at least two (2) manufacturer's luminaires to use the same pole locations and mounting heights and still meet or exceed IES and any City recommendations. The basis of design for LED sources will be the Holophane Mongoose and the Cooper Archeon, which are on ALDOT's list of approved luminaires.

One (1) single line wiring diagram will be designed based on the highest manufacturer's luminaire/driver load.

Volkert will coordinate with the local electrical utility to establish a new 240/480V single phase service.

Deliverables:

Volkert will provide PDF's of schedules, lighting layouts and single line diagrams to be included in SAIN's plan set for bidding purposes. Cadd files will be available in Microstation format. Upon request, all project files will be submitted on DVDs for each of the following submittals: Preliminary, 90%, and Final. Project files will include voltage drop calculations, lighting calculations, correspondence, cadd files, and an Engineer's Opinion of Probable Construction Cost.

Assumptions:

The proposed roundabout will have no pedestrian crosswalks or sidewalks, therefore lighting design will consider vehicular traffic only.

Survey files/base mapping/base plans/alignments will be provided by SAIN and will include proposed roadway and ground elevations.

Three (3) submittals and one (1) review meeting are anticipated, plus one site visit with the local electrical utility to coordinate electrical service.

Volkert will provide Erosion and Sediment Control quantities associated with construction of light pole foundations.

Excluded from Scope of Services:

Survey

Geo-tech for soil borings at pole locations (passive pressure graphs / L-pile info)

Utility coordination except as noted herein

Staking of pole locations

Traffic Control Plans / ESC Plans

Railroad Coordination

FAA Coordination

Construction Administration

Development of Record Drawings

**VOLKERT, INC.
MANPOWER AND FEE PROPOSAL**

FOR

SAIN Associates

PROJECT # TBD

Roundabout Lighting

City of Vestavia - Blue Lake Dr @ Sicard Hollow Rd

Roadway Lighting Design For

Sain Associates Project No. 20-0098

February 11, 2022

Project No.	TBD
County	Jefferson
Description	Roundabout Lighting - Blue Lake Dr at Sicard Hollow Rd
Scope of Work	Roadway Lighting Design
Project Length	0.20 Miles
Consultant	Volkert, Inc.
Fee Proposal (Roadway Plans)	

PERSONNEL COST			
	Man-days x Daily Rate		
Project Manager (10% of Eng.)	0.72	\$ 558.00	\$ 401.76
Engineer	7.15	\$ 459.00	\$ 3,281.85
Engineering Technician/CADD	4.87	\$ 317.00	\$ 1,543.79
Clerical	0.00	\$ -	\$ -
Total Direct Labor			\$ 5,227.40
Combined Overhead (%)	150.77		\$ 7,881.35
Out-of-Pocket Expenses**			\$ 67.12
Sub-Total			\$ 13,175.87
Operating Margin (15%)			\$ 1,976.38
Sub-Total			\$ 15,152.25
SUB-CONSULTANTS (attach man-day & fee FROM each sub-consultant; show total fee for each here)			
			\$ -
			\$ -
			\$ -
Subconsultant Administration Expense (5%)			\$ -
Sub-Total			\$ 15,152.25
Facilities Capital Cost of Money (% of Direct Labor)	0.313		\$ 16.36
TOTAL FEE			\$ 15,168.61

**See Grand Total Fee sheet

Project Number <u>TBD</u>	CPMS # _____
County <u>Jefferson</u>	
Description <u>Roundabout Lighting - Blue Lake Dr at Sicard Hollow Rd</u>	
Scope of work <u>Roadway Lighting Design</u>	
Length <u>0.20</u> miles	
Consultant <u>Volkert, Inc.</u>	

ROADWAY PLANS SHEET TITLE	NO OF SHEETS	ESTIMATED MAN-DAYS			
		ENGINEER		TECHNICIAN	
		SHEET	TOTAL	SHEET	TOTAL
TITLE SHEET	0.00	0.00	0.00	0.00	0.00
INDEX SHEET	0.00	0.00	0.00	0.00	0.00
INDEX TO SPECIAL/STD DRAWINGS	0.00	0.00	0.00	0.00	0.00
GEOMETRIC LAYOUT/SURVEY CONTROL	0.00	0.00	0.00	0.00	0.00
PROJECT NOTE SHEET (Project)	0.00	0.00	0.00	0.00	0.00
PROJECT NOTE SHEET (TCP)	0.00	0.00	0.00	0.00	0.00
PROJECT NOTE SHEET (Signage)	0.00	0.00	0.00	0.00	0.00
PROJECT NOTE SHEET (Signals)	0.00	0.00	0.00	0.00	0.00
PROJECT NOTE SHEET (ITS)	0.00	0.00	0.00	0.00	0.00
PROJECT NOTE SHEET (Lighting)	1.00	0.13	0.13	0.13	0.13
PROJECT NOTE SHEET (Traffic Loops)	0.00	0.00	0.00	0.00	0.00
LIGHTING LEGEND & ABBREVIATIONS	0.50	0.13	0.07	0.13	0.07
LIGHTING DESIGN CRITERIA	0.50	0.13	0.07	0.07	0.04
SUMMARY SHEET					
Main Summary	1.00	0.25	0.25	0.25	0.25
SUMMARY BOX SHEETS					
Roadway Drainage (non-culvert)	0.00	0.00	0.00	0.00	0.00
Culvert Extension, New Culvert	0.00	0.00	0.00	0.00	0.00
Bridge Culvert Extension, New Bridge Culvert	0.00	0.00	0.00	0.00	0.00
Guardrail/End Anchors	0.00	0.00	0.00	0.00	0.00
Slope Paving (Under Bridges)	0.00	0.00	0.00	0.00	0.00
Side Drain Pipe	0.00	0.00	0.00	0.00	0.00
Signing	0.00	0.00	0.00	0.00	0.00
Base & Pavement	0.00	0.00	0.00	0.00	0.00
Bridge	0.00	0.00	0.00	0.00	0.00
Striping & Pavement Markings	0.00	0.00	0.00	0.00	0.00
Curb & Gutter	0.00	0.00	0.00	0.00	0.00
Bridge End Slabs	0.00	0.00	0.00	0.00	0.00
Roadway Lighting Schedules	1.00	0.25	0.25	0.50	0.50
Signals	0.00	0.00	0.00	0.00	0.00
ITS	0.00	0.00	0.00	0.00	0.00
Sidewalk	0.00	0.00	0.00	0.00	0.00
Slope Paving (Ditches)/Ditch Summary	0.00	0.00	0.00	0.00	0.00
Concrete Safety Barrier	0.00	0.00	0.00	0.00	0.00
Retaining Wall	0.00	0.00	0.00	0.00	0.00
Misc. Boxes	0.00	0.00	0.00	0.00	0.00
Erosion Control	0.00	0.00	0.00	0.00	0.00
Removal Items	0.00	0.00	0.00	0.00	0.00
Utility Relocation	0.00	0.00	0.00	0.00	0.00

ROADWAY PLANS SHEET TITLE	NO OF SHEETS	ESTIMATED MAN-DAYS			
		ENGINEER		TECHNICIAN	
		SHEET	TOTAL	SHEET	TOTAL
TRAFFIC CONTROL					
Sequence of Construction	0.00	0.00	0.00	0.00	0.00
Summary & Items	0.00	0.00	0.00	0.00	0.00
Typical Section Sketches	0.00	0.00	0.00	0.00	0.00
Layout Sheets (signs, devices, shifts, etc.)	0.00	0.00	0.00	0.00	0.00
Special Drawings	0.00	0.00	0.00	0.00	0.00
LIGHTING					
Lighting Layout Sheets	1.00	0.25	0.25	0.50	0.50
Single Line Diagrams	1.00	0.50	0.50	0.50	0.50
Voltage Drop Calculations			0.25		0.00
Lighting Calculations (Photometrics)			1.50		0.00
Photometric results	1.00	0.13	0.13	0.13	0.13
Special Details	2.00	0.50	1.00	0.25	0.50
Soils & Passive Pressure (by others if req'd)			0.00		0.00
UTILITY COORDINATION					
Service Point Site Visit			0.50		0.00
Railroad coordination			0.00		0.00
			0.00		0.00
MEETINGS AND REVIEW COMMENTS					
Preliminary			1.00		1.00
90%			0.50		0.50
Final			0.25		0.50
Cost Estimates					
Design Hearing			0.50		0.25
			0.00		0.00
SUB-TOTAL	9.00		7.15		4.87
10% Supervision			0.72		
TOTALS	9.00		7.15		4.87

Project No. <u>TBD</u>
County <u>Jefferson</u>
Description <u>Roundabout Lighting - Blue Lake Dr at Sicard Hollow Rd</u>
Scope of Work <u>Roadway Lighting Design</u>
Project Length <u>0.20</u> Miles
Consultant <u>Volkert, Inc.</u>

Out-of-pocket Expenses (Roadway Plans)

TRAVEL COST

Mileage Cost	Trips	Miles/Trip	\$/Mile	Total
Site Visit with Power Company	1	12	\$0.585	\$ 7.02
Site Visit Durung Design/Plan Reviews	1	12	\$0.585	\$ 7.02
	0	0	\$0.585	\$ -
	0	0	\$0.585	\$ -
Total Mileage Cost				\$ 14.04

Subsistence Cost	Days	# People	\$/Day	Total
Travel allowance (6 hour trips)	0	0	\$11.25	\$ -
Travel allowance (12 hour trips - meal provided by others)	0	0	\$20.00	\$ -
Travel allowance (12 hour trips)	0	0	\$30.00	\$ -
Travel allowance (overnight)***	0	0	\$75.00	\$ -
				\$ -
Total Subsistence Cost				\$ -
Total Travel Cost				\$ 14.04

PRINTING / REPRODUCTION COST

Type of printing/reproduction	# of Sets	Sheets/Set	Total Sheets	Cost/Sheet	Total
QC set	1	9	9	\$ 0.39	\$ 3.51
Preliminary Submittal	3	9	27	\$ 0.39	\$ 10.53
90% Submittal	3	9	27	\$ 0.39	\$ 10.53
Final Submittal	1	9	9	\$ 0.39	\$ 3.51
				\$ 3.00	\$ -
Total Printing/Reproduction Cost					\$ 28.08

Communication Cost (telephone, fax, etc.)	Total
	\$ -

Postage Cost (overnight, stamps, etc.)	Total
	\$ 25.00

Other (provide description on next line)	Total
	\$ -

Total Out-of-pocket Expenses	\$ 67.12
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Comments:

***You must have ALDOT approval for ANY overnight trips of less than 100 miles.

ORDINANCE NUMBER 3098

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS R-1 TO VESTAVIA HILLS B-3 WITH A CONDITIONAL USE FOR VETERINARY SERVICES, GROOMING AND BOARDING OF DOGS

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills R-1 (low density residential) to Vestavia Hills B-3 (conditional business district):

4538 Pine Tree Circle
Lot 43, Topfield Subdivision
Adam J. and Katherine A. McLaurin

BE IT FURTHER ORDAINED, that a conditional use for veterinary care, grooming and/or boarding of dogs is approved for 4538 Pine Tree Circle, Lot 43, Topfield Subdivision under the following conditions:

1. Zoning is conditioned upon the lot being surveyed to include the existing Pawms property to create a single lot. Said plat shall be recorded in the Jefferson County Probate Office and a copy returned to the City Clerk prior to zoning becoming effective; and
2. Building to be construed with STC sound rating for exterior walls; and
3. If the property use as a veterinary clinic, grooming and/or boarding of dogs ceases or is vacated at any time for a period of more than 12 months, said conditional use is hereby voided.

APPROVED and ADOPTED this the 23rd day of May, 2022.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 3098 is a true and correct copy of such 23rd day of May, 2022, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2022.

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE PLANNING AND ZONING COMMISSION

Date: APRIL 14, 2022

- **CASE:** P-0422-09
- **REQUESTED ACTION:** from Vestavia Hills R-1 to Vestavia Hills B-3 With A Conditional Use For Animal Boarding
- **ADDRESS/LOCATION:** 4538 Pine Tree Cir.
- **APPLICANT/OWNER:** Adam J. & Katherine A. McLaurin
- **REPRESENTING AGENT:** Engineering Design Group
- **GENERAL DISCUSSION:** Applicant is seeking rezoning and Conditional Use to expand the current Pawms pet boarding facility. The proposed building would be 5,710 sq. ft. with 14 parking spaces, exceeding the zoning requirements. The owner will also construct a sidewalk along the front. A connecting sidewalk between the two buildings would also be constructed. A site plan is attached.

Like the first facility would have no outdoor kennels but instead play in an indoor courtyard in the center of the facility. As required by the zoning ordinance, kennels require conditional use approval. Both lots would be combined if approved.

CAHABA HEIGHTS COMMUNITY PLAN: The request is consistent with the Cahaba Heights Community Plan for limited mixed use.

- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

City Planner Recommendation:
 - A. Zoning contingent on lots being resurveyed.
 - B. Strongly encourage high STC sound rating for exterior walls
 2. **City Engineer Review:** Will continue to evaluate based on Timberlake Dr. improvements.

3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.

4. **Building Safety Review:** I have reviewed the application and I have no issues with this request.

With the Commission finding that the application met all nine criteria as defined in Section 13.3.4 of the Vestavia Hills Zoning Ordinance

MOTION Ms. Barnes made a motion to recommend Rezoning for 4538 Pine Tree Dr. from R-1 to B-3 with a Conditional Use Approval for a animal boarding with the following conditions:

1. Zoning contingent on lots being resurveyed.
2. Building to be constructed with STC sound rating for exterior walls

Second was by Mr. Romeo. Motion was carried on a roll call; vote as follows:

Mr. Honeycutt – yes

Mr. Farrell – yes

Ms. Barnes – yes

Mr. Larson – yes

Mr. Romeo – yes

Mr. Maloof– yes

Mr. Vercher– yes

Motion carried.

CITY OF VESTAVIA HILLS

APPLICATION

PLANNING AND ZONING COMMISSION

I. INSTRUCTIONS AND INFORMATION:

- (1) The Vestavia Hills Planning and Zoning Commission meets regularly on the second Thursday of each month at 6:00 PM in Council Chambers at the Municipal Center.
- (2) All materials and information relating to a zoning/rezoning request or conditional use approval before the Planning and Zoning Commission must be submitted to the Office of the City Clerk no later than **25 working days prior to the scheduled meeting at which it shall be considered.** All information relating to Preliminary Map approvals must be submitted to the Office of the City Clerk no later than 20 days prior to the scheduled meeting at which is shall be considered. All information relating to Final Map approvals must be submitted to the Office of the City Clerk no later than 15 days prior to the scheduled meeting at which it is to be considered.
- (3) This application must be filled out in its entirety complete with zip codes.
- (4) All applicable fees shall accompany this application prior to its being considered complete. Fees include an application fee of \$100.00 along with applicable postage per property owner to be notified for Commission meeting. Fees may also include notification fees for City Council meeting and publication fees which will be billed to applicant at a later date. ***No permits will be issued until all fees have been paid.*
- (5) Appropriate plats and maps with proper legal description shall accompany this application. **Please refer to attached checklist.**

II. APPLICANT INFORMATION: (owner of property)

NAME: Adam J and Katherine A McLaurin

ADDRESS: 4538 Pine Tree Circle, Vestavia Hills, Alabama 35243

MAILING ADDRESS *(if different from above)* _____

PHONE NUMBER: Home 205-356-6051

Office _____

EMAIL ADDRESS: AJMC28@Hotmail.com

NAME OF REPRESENTING ATTORNEY/AGENT & CONTACT INFORMATION:

III. ACTION REQUESTED

Request that the above described property be zoned/rezoned

From: R-1

To: B-3 with a conditional use to allow an enclosed outdoor exercise area for s

For the intended purpose of: Small dog and cat boarding, grooming, daycare
and vet care

small dogs

(Example: From "VH R-1" to "VH O-1" for office building)

if additional information is needed, please attached full description of request

IV. PROPERTY DESCRIPTION: (address, legal, etc.)

4538 Pine Tree Circle, Vestavia Hills, AL 35243

Lot 43 on the attached survey

Property size: 144 feet X 145 feet. Acres: 0.55

V. INFORMATION ATTACHED:



Attached Checklist complete with all required information.



Application fees submitted.

VI. I do hereby declare the above statements are true and that I am the owner and myself or my duly appointed representative will be at the scheduled hearing.

[Signature]
Owner Signature/Date

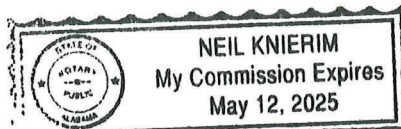
13-8-2022

Representing Agent (if any)/date

Given under my hand and seal
this 8 day of Merch, 2022.

Neil Alan Knierim
Notary Public

My commission expires _____
day of _____, 20____.

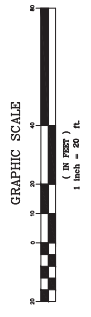
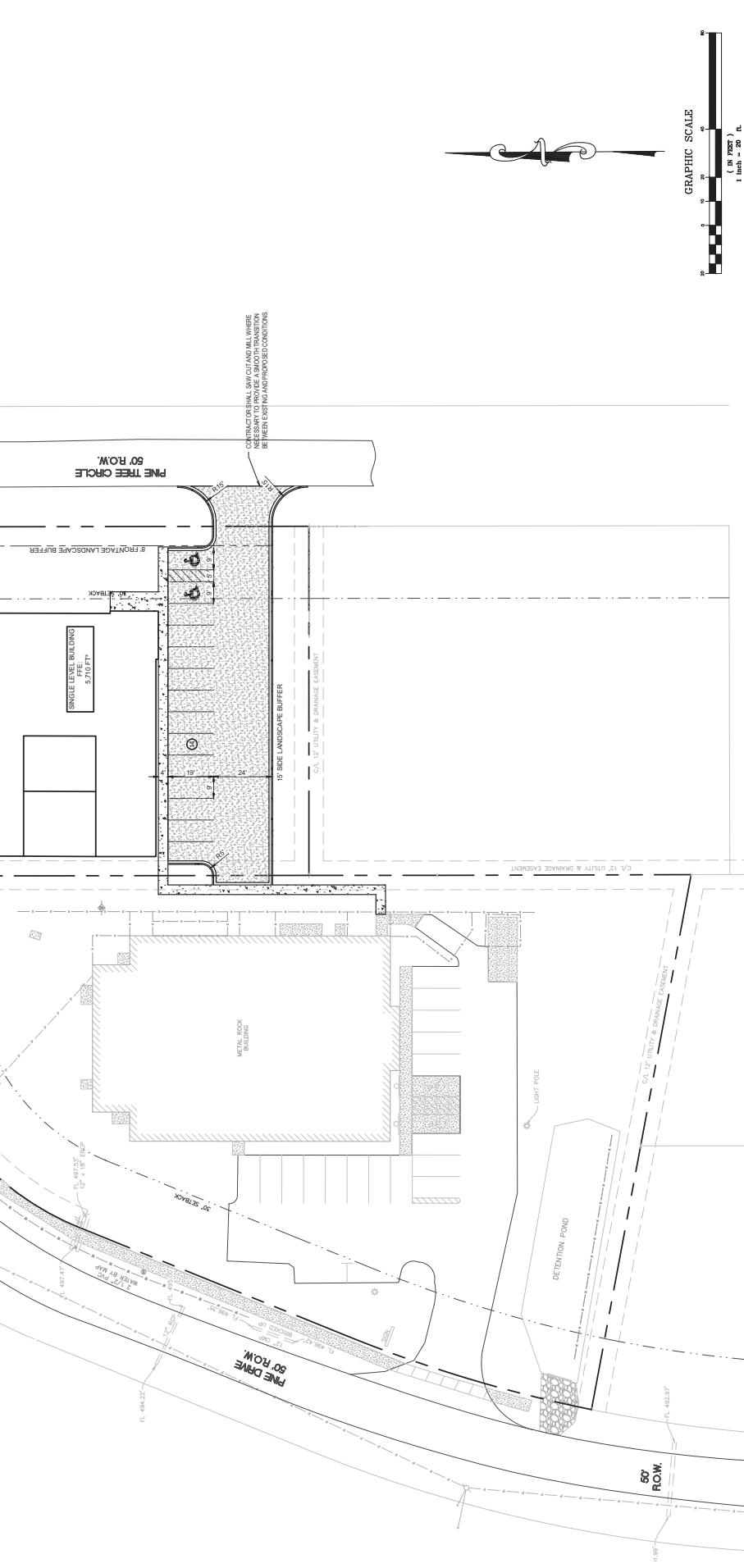




PROJECT NAME	PAWMS PET RESORT
PROJECT ADDRESS	4538 PINE TREE CIRCLE VESTAVIA HILLS, ALABAMA
SHEET TITLE	SITE PLAN
DATE	MARCH 30, 2022
DRAWN BY	CLG
CHECKED BY	WHL
PROJECT NO.	JAW00008
CAD FILE	JAW00008
DATE	JULY 2018
SHEET NO.	C2.0

SITE DATA TABLE	
TOTAL SITE AREA:	77,660 FT ² (1.78 AC)
GROSS SITE AREA:	77,660 FT ² (1.78 AC)
NET SITE AREA (DISTURBED AREA):	
IMPERVIOUS SURFACE COVERAGE:	37,821 FT ² (0.87 AC)
TOTAL GROSS IMPERVIOUS SURFACE:	37,821 FT ² (0.87 AC)
BUILDING COVERAGE:	37,790 FT ² (0.87 AC)
PAVED VEHICULAR USE AREA:	6,396 FT ² (0.14 AC)
IMPERVIOUS SURFACE RATIO (TOTAL IMPERVIOUS/GROSS SITE AREA):	49%
PROPOSED GROSS FLOOR AREA AND BUILDING HEIGHT:	
BUILDING AREA:	37,790 FT ² (0.87 AC)
PERMITTED MAXIMUM BUILDING HEIGHT:	8'
PERMITTED MAXIMUM BUILDING COVERAGE:	8%
PARKING REQUIRED:	
1,530 FT ² OFFICE SPACE (1 SPACE PER 250 SQ. FT. OF A (7 SPACES) REQUIRED:	
SEATING:	2
TOTAL PARKING SPACES PROVIDED:	14
ADDITIONAL SITE DATA:	
SUBJECT PROPERTY PARCEL ID NUMBER:	B-3
NUMBER OF EXISTING BUILDINGS:	2
NUMBER OF PROPOSED BUILDINGS:	1
NUMBER OF PHASES:	1

PROPOSED GROSS FLOOR AREA AND BUILDING HEIGHT:	
BUILDING AREA:	37,790 FT ² (0.87 AC)
PERMITTED MAXIMUM BUILDING HEIGHT:	8'
PERMITTED MAXIMUM BUILDING COVERAGE:	8%
PARKING REQUIRED:	
1,530 FT ² OFFICE SPACE (1 SPACE PER 250 SQ. FT. OF A (7 SPACES) REQUIRED:	
SEATING:	2
TOTAL PARKING SPACES PROVIDED:	14
ADDITIONAL SITE DATA:	
SUBJECT PROPERTY PARCEL ID NUMBER:	B-3
NUMBER OF EXISTING BUILDINGS:	2
NUMBER OF PROPOSED BUILDINGS:	1
NUMBER OF PHASES:	1



CONTRACTOR SHALL VERIFY ALL UTILITIES AND MAKE NECESSARY TO PROVIDE A SMOOTH TRANSITION BETWEEN EXISTING AND PROPOSED CONDITIONS.



Zoning




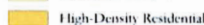



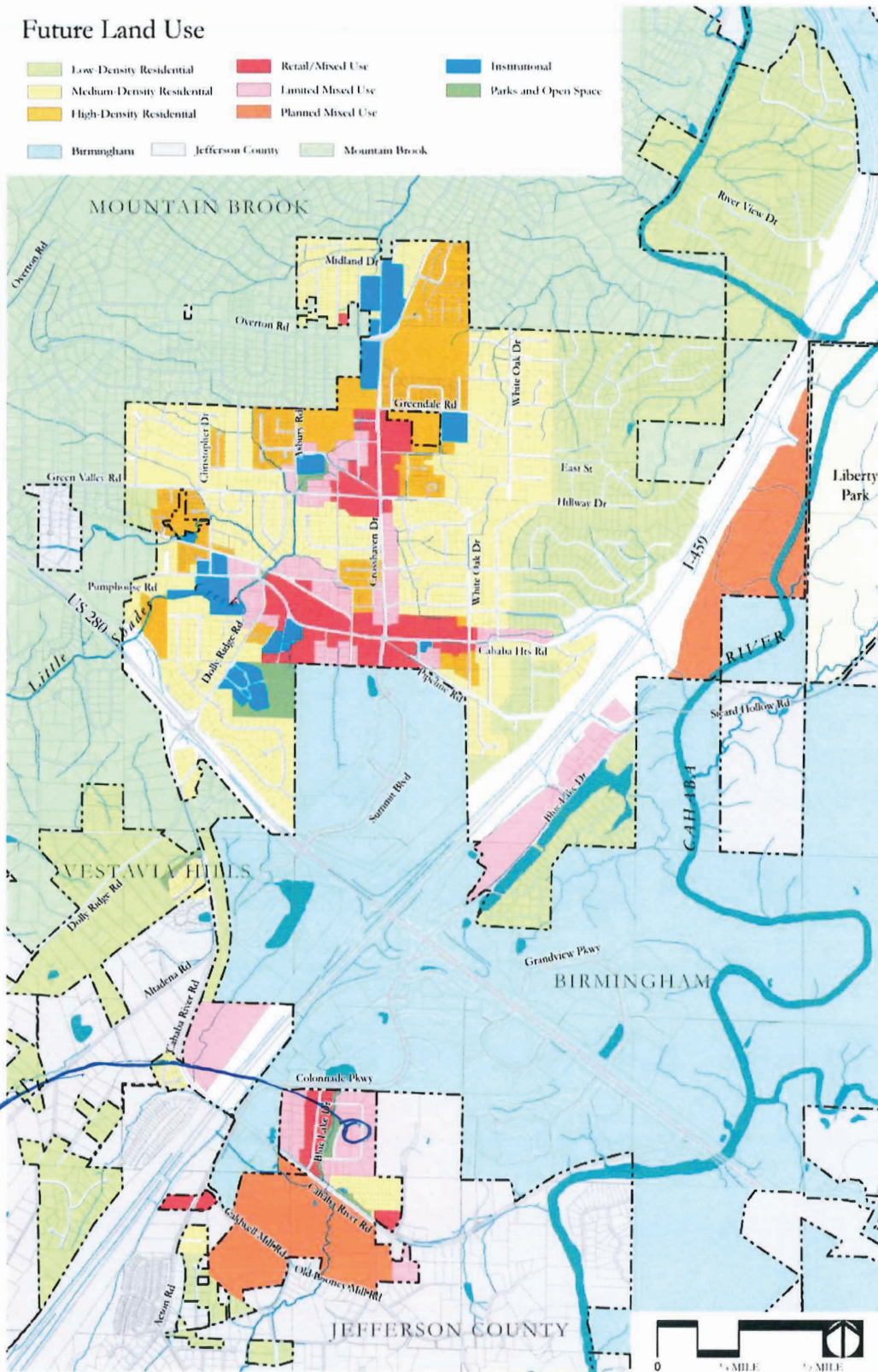
Zoning1

PARCELID	2800274003005000
DISTRICT	020
ESN_NUM	62
PROPADD	4528 PINE TREE CIR
TAX_TOWNSH	28
SECTION	27
QSECTION	4
BLOCK	003
PARCEL	005000
VH_ZONING	R-1
ZNG_ORD	1981
ZNG_ORD_DT	03/21/2003
ZNG_ORD2	

Zoom to

Future Land Use

- | | | |
|--|---|--|
|  Low-Density Residential |  Retail/Mixed Use |  Institutional |
|  Medium-Density Residential |  Limited Mixed Use |  Parks and Open Space |
|  High-Density Residential |  Planned Mixed Use | |
|  Birmingham |  Jefferson County |  Mountain Brook |



Subject Parcel

Figure 4: Future Land Use Map



This Revision of the Vestavia Hills Zoning Code has been ongoing for 2 years. This is the final product. A redline version as well as a clean version may be found on the City's website at www.vhal.org under "news."

Ordinance Number 2331, the Vestavia Hills Zoning Code (the Code), was adopted in December 2010. In the past decade, the zoning ordinance has been amended with two subsequent amendments: one in 2012 and one in 2016, both addressing issues with fencing. The Code was drafted by a consultant from KPS Group, Inc., with proceeds from the City and from a grant through the Birmingham Metropolitan Planning Organization (MPO). Through the years, staff has kept an on-going listing of issues and necessary cleanups that needed to be made to the document to (1) stay on the cutting edge of development practices, stormwater regulations, and the current development market; and (2) normal housekeeping revisions due to conflicts and/or typos in the original document. After 12 years of working with this document, the staff has suggested revisions needed in order to accomplish these tasks.

The suggested revisions are highlighted below and attached, a redline copy of the suggested revisions are included. The staff requests that you review the suggested drafts and, if you have any questions, concerns, suggested revisions or need any other information, please contact Conrad Garrison (cgarrison@vhal.org) or myself (rleavings@vhal.org) and we will be happy to assist.

Pursuant to state code, Planning and Zoning Commission held a public hearing and adopted a Resolution recommending the adoption of the new code subject to two conditions: (1) Keeping daycares in PR-1 (PUD) subject to conditional use approval and (2) allowed outdoor entertainment in VH B1.2 subject conditional use approval.

HIGHLIGHTS OF PROPOSED REVISIONS TO ZONING CODE

- Added Definitions. In administration of this document and with the implementation of new stormwater ordinances and regulations, several definitions needed to be added and/or revised within the glossary. Also, the implementation of new stormwater ordinances required some added definitions. For instance, satellite dishes and solar energy systems are not the size of yesteryear, but a new phenomenon has come along that it was necessary to add playhouse and, most importantly, tree houses to this definition. Finally, a clarification between impervious and pervious surfaces.
- In General Regulations, an old BZA opinion that allowed open decks in certain building setbacks was re-defined in the new code which resulted in many homes within the City out of compliance. As more zero setback homes were built in the 90's, the necessity of replacing decks left many residents forced to come in for variances that weren't required when the original structure was built. Also, the location of a/c units in zero setback subdivisions were amended which required these mechanical units to be placed in the back of home, diminishing the enjoyment of the backyard for these residents instead of it being placed between the homes with much less intrusion.
- Planned Unit Development (PUD). The PUD ordinance was originally written and passed in 2001 as Ordinance Number 1838, and later, was copied into the Code. These revisions are clean-up needed from the original along with some recommended changes by staff. These include:
 - Clean up of typos and redundant terms;

- Each classification allows permitted and some conditional uses from the lesser classification, however, in the delineation, PR-1 detached housing was omitted and didn't carry through to the higher density zonings. Many of these changes will allow PR-1, lesser density development, in all of the zones.
- Deleting the requirement for a conditional use for "home occupations". Currently, anyone wishing to do business from their home must go through a conditional use approval which takes 3 to 4 months and a good deal of expense. In other parts of the City, the applicant fills out an affidavit which conforms to the City's home occupation and allows a business license to be issued. This would make the requirements for Liberty Park residents that same as every other resident of the City.
- Allow more flexibility in cluster housing developments to allow the developer to comply with current market conditions when platting a subdivision.
- Amending the requirements for B-1.2 zoning to clarify submittal/approval requirements and amend setback and height limitations.
- Allowing outdoor entertainment in a B-1.2 with a conditional use.
- Amending other sections to clarify size of compact parking spaces, where enclosures for dumpsters are allowed and cleaning up a contradiction in when a property has to become in compliance to rebuild and allowing home occupations in condominiums (they were permitted in apartments and townhomes, but not in condominiums).

Thank you for your consideration in this revision of the City's zoning code. We stand ready, willing and able to assist in any way.

Respectfully Submitted:

Conrad Garrison, City Planner
Rebecca Leavings, Zoning Official

**THE PLANNING AND ZONING COMMISSION
OF THE CITY OF VESTAVIA HILLS, ALABAMA**

RESOLUTION

A RESOLUTION TO INITIATE A REVISION OF ORDINANCE 2331, AS AMENDED

WHEREAS, Ordinance Number 2331, The Vestavia Hills Zoning Code (“Zoning Code”) was adopted by the Vestavia Hills City Council on December 13, 2010; and

WHEREAS, the Zoning Code was later amended by the adoption of Ordinance Numbers 2331A and 2331B to address fencing concerns and clarifications; and

WHEREAS, Section 11-52-76, Alabama Code 1975 states that “*The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced and from time to time, amended, supplemented, or changed and may adopt such ordinances as may be necessary to carry into effect and make effective the provisions of this article.*”; and

WHEREAS, the Zoning Official, City Engineer and Building Officials are administrators of the Zoning Code and have recommended revisions to the Code to add and/or clarify definitions, phrases, etc., within the Zoning Code; and

WHEREAS, A redline version of the Zoning Code with the revised recommendations is marked as Exhibit A, a copy of which is attached to this Resolution Number //// as though written fully therein; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to refer the suggested revisions to the Vestavia Hills Planning and Zoning Commission for a public hearing and to issue recommendations to the Vestavia Hills City Council on the revisions to the Zoning Code.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. The City’s Zoning Official is hereby authorized to present the revisions detailed in the attached Exhibit A to the Vestavia Hills Planning and Zoning Commission for review, public hearing and a recommendation as to the adoption of said revisions; and
2. Upon recommendation of the Planning and Zoning Commission, the Zoning Official shall present said revisions with the recommendation of the Commission for consideration; and

3. This Resolution Number /// shall become effective upon adoption and approval.

ADOPTED and APPROVED this 14 day of April, 2022.



Michael Vercher
Chairman

ATTESTED BY:



Conrad Garriosn
City Planner

Two additional recommendations made by the Planning & Zoning Commission

1. Increase height limitation in B-3 zoning to 5 stories;
2. Allow outdoor entertainment as a Conditional Use in B-1.2.

ORDINANCE NUMBER 3099

AN ORDINANCE TO REPEAL ORDINANCE NUMBERS 2331, 2331-A and 2331-B AND APPENDIX A, VESTAVIA HILLS CODE OF ORDINANCES AND TO ESTABLISH THE ZONING CODE OF THE CITY OF VESTAVIA HILLS, ALABAMA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. Ordinance Numbers 2331, 2331-A and 2331-B, and Appendix A, Vestavia Hills Code of Ordinances, are hereby repealed in its entirety and the Zoning Code of the City of Vestavia Hills, Alabama, is hereby adopted, approved and amended to read, in its entirety, as follows:

CITY OF VESTAVIA HILLS

ZONING ORDINANCE



Adopted: May 25, 2022

CITY OF VESTAVIA HILLS, ALABAMA

2022

Mayor

Ashley C. Curry

Vestavia Hills City Council

Rusty Weaver, Mayor Pro-Tempore

Kimberly Cook

Paul Head

George Pierce

Vestavia Hills Planning and Zoning Commission

Michael Vercher, Chair

Lyle Larson

David Maluff

Jonathan Romeo

Hasting Sykes

Erica Barnes

Rick Honeycutt

Rusty Weaver

Ryan Farrell

Rebecca Leavings, City Clerk

Keith Blanton, Director, Department of Building Safety

Christopher Brady, City Engineer

Conrad Garrison, City Planner

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Article 1 GENERAL PROVISIONS

§1.1. Legislative Intent and Purpose

Pursuant to Title 11-52-70, Code of Alabama, 1975, (Acts 1923, No. 443, pg. 590; Code 1923, Section 1878; Code of Alabama, 1949, Title 37, Section 772) each municipal corporation in the State of Alabama may divide the territory within its corporate limits into business, industrial and residential zones or districts and may provide the kind, character and use of structures and improvements that may be erected or made within the several zones or districts established and may, from time to time, rearrange or alter the boundaries of such zones or districts and may also adopt such ordinances as necessary to carry into effect and make effective the provisions of said Title 11-52-70.

By virtue of that authority, the City of Vestavia Hills, Alabama, hereinafter referred to as “the City”, adopted Ordinance Number 28 on December 2, 1953, regulating the general use of private land. It established districts and outlined the intended use for each said zone or district. Ordinance Number 28 became known as the Zoning Code for the City. Said Code, including revisions, has been reprinted several times since 1953.

§1.2. Application of Regulations

No building, structure, or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all the regulations of this ordinance for the district in which it is located except as otherwise provided for legal nonconformities pursuant to [Article 10](#). All construction shall be done in strict compliance with the City Building Code, Fire Code, Plumbing Code, Subdivision Regulations, and Electrical Code, as adopted by the City.

§1.3. Short Title

This Ordinance shall be known as the “Zoning Ordinance of the City of Vestavia Hills, Alabama”, and the map herein referred to, which is identified by the title “City of Vestavia Hills, Alabama, Zoning Map”, dated January 1, 1962 and as amended, shall be known as the “Zoning Map of the City of Vestavia Hills, Alabama,” hereinafter referred to as “the Zoning Map”. Said map and all explanatory matter thereon is hereby adopted and made a part of this Ordinance, as aforesaid.

§1.4. Organization

1.4.1. This Ordinance is organized as follows:

1. For purposes of organization, this Zoning Ordinance, is divided into fourteen (14) Articles. The Article designation number represents the first digit (or two as the case may be) of that series of numbers used to identify the respective regulations of the Ordinance; e.g., in the reference number §1.2.3.4, the digit “1” represents the Article.
2. Each Article is subdivided into several major headings known as Sections, which are represented by the second digit; e.g., in the reference number §1.2.3.4, the digit “2” represents the Section.
3. Each Section is subdivided into Subsections, which are represented by the digit(s) following the Section designation number; e.g., in the reference number §1.2.3.4 the digit “3” represents the Subsection.
4. Each Subsection may be subdivided into Paragraphs, which are represented by the digit following the Subsection designation; e.g., in the reference number §1.2.3.4 the digit “4” represents the Paragraph.

5. Each Paragraph may be subdivided into Items, which are represented by the lower-case letter following the Paragraph designation; which may then be further subdivided as (1), (2), (3)... (a), (b), (c)...and (i), (ii), (iii)...
- 1.4.2. Internal Referencing. All references to Articles, Sections, Subsections, Paragraphs and Items within this Ordinance shall refer to Articles, Sections, Subsections, Paragraphs and Items in this Ordinance unless otherwise specified. When an Article, Section or other subdivision is referenced within a provision or requirement of this Ordinance, unless otherwise specified, all subdivisions within such reference shall be assumed to be applicable.
- 1.4.3. Page Numbering. Each Article contains its own separate page numbering system. The page numbers are prefixed by the respective Article number. As an example, page 10 of Article 8 is designated page 8-10.

Article 2 GLOSSARY

For the purposes of this Ordinance, certain words and terms are defined as herein indicated and shall apply to all parts of this Ordinance unless otherwise specified.

§2.1. General Definitions.

Unless specifically defined herein, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. All words used in the present tense shall include the future tense, all words in the singular number shall include the plural number, and all words in the plural number shall include the singular number, unless the natural construction of the wording indicates otherwise. The words “used for” shall include the meaning “designed for”, and the word “structure” shall include the word “building”. The word “lot” shall include the words “plot” and “tract” and the word “shall” is mandatory.

- 2.1.1. *Abutting*. Touching at one point or along a common side, boundary or property line. Two properties separated by a street or right-of-way are “Adjacent”, but not “Abutting”. However, for purposes of annexation, two properties separated by a street or right-of-way are considered contiguous and therefore eligible for annexation.
- 2.1.2. *Access Management*. The process of providing and managing vehicular access from public streets to private development while preserving the flow of traffic in terms of safety, capacity, and speed.
- 2.1.3. *Accessory Structure*. A subordinate structure or a portion of the principal structure, the use of which is incidental to the principal use of the premises, including any detached minor building

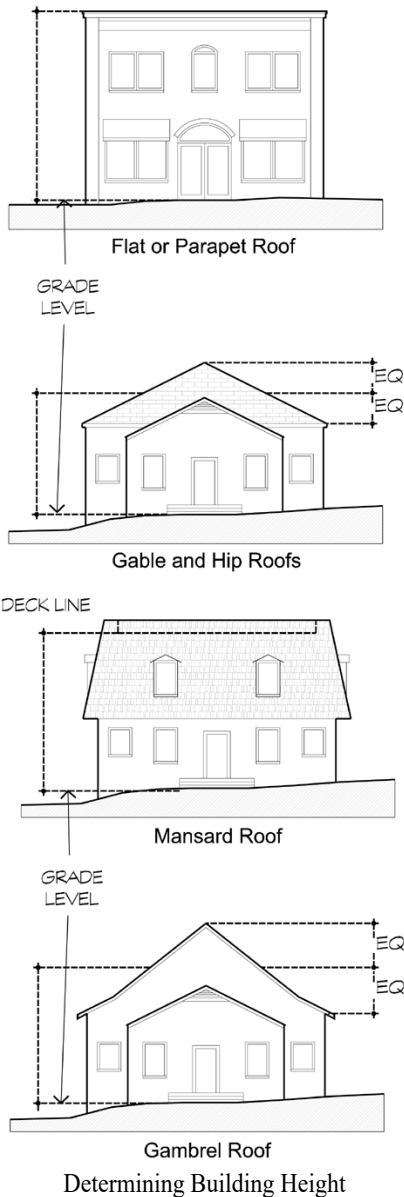
consisting of masonry or frame walls and roof, at least one story in height or other type of structure necessary as an adjunct to the use and occupancy of a principal structure, except open structures such as pergolas, arbors and other garden houses of similar character. The term “Accessory Structure” shall also include children’s playhouses, tree houses, storage houses built on skids and on permanent foundations and any other Structure not expressly exempted in this Section.

- 2.1.4. *Accessory Use*. A use which is incidental to and customarily found in connection with the principal use of the premises.
- 2.1.5. *Adjacent*. Either abutting or on the opposite side of a common street, right-of-way, or easement that separates it from the subject property. However, properties separated by a freeway or railroad ROW shall not be considered “Adjacent”.
- 2.1.6. *Alley*. A public or private right-of-way or easement, on which no parcel fronts, providing access for two (2) or more properties along the side or rear of said properties.
- 2.1.7. *Alteration and Altered*. The word “Alteration: shall include any of the following:
 - 1. Any addition to the height or depth of a building or structure.
 - 2. Any change in the location of any exterior walls of a building or structure.
 - 3. Any increase in the interior accommodations of a building or structure.

In addition to the foregoing, a building or structure shall be classified as altered when it is repaired, renovated, remodeled, or rebuilt at a cost in excess of fifty (50) percent of its value prior to

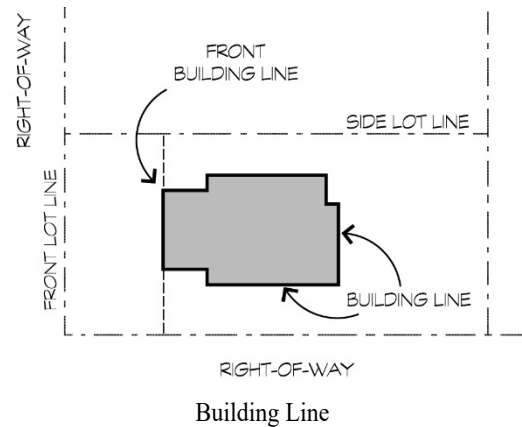
- the commencement of such repairs, renovation, remodeling, or rebuilding.
- 2.1.8. *Applicable District.* That zoning district in which a structure, subdivision or property is located or proposed to be located.
- 2.1.9. *Applicant.* A landowner, including his heirs, successors and assignees, or developer authorized to represent a property for which an application for development has been filed.
- 2.1.10. *Application for Development or Application.* Any application required to be filed and accepted prior to start of construction or development including, but not limited to, an application for a building, design review, or sign permit; for the approval of a subdivision plat or plan; or for the acceptance of a development plan.
- 2.1.11. *Basement.* A story partly or wholly underground. For purposes of height measurement a basement shall be counted as a story when more than one-half (1/2) of its height is above grade level.
- 2.1.12. *Best Management Practices, Stormwater.* A collection of structural practices and vegetative measures which, when properly designated, installed and maintained, will provide effective erosion and sedimentation control for all rainfall events.
- 2.1.13. *Block.* A unit of land bounded by streets or a combination of streets, public land, public parks, cemeteries, railroad rights-of-way, watercourses, or any other barrier to the continuity of development.
- 2.1.14. *Board of Zoning Adjustment.* The Board of Zoning Adjustment of the City of Vestavia Hills, Alabama established pursuant to the provisions of [Article 12](#) and through which, the Board considers requests for variances and special exceptions and hears appeals to decisions of city staff in regard to this Zoning Ordinance.
- 2.1.15. *Buffer.* A landscaped strip of land provided between two or more properties, uses, or buildings to mitigate the incompatible characteristics of adjacent uses and/or buildings. Buffers may include berms, shrubs, trees, fences or walls, other screening devices, or a combination of such devices as required by [§9.3 Buffers](#).
- 2.1.16. *Build-to Line.* A line parallel to the front lot line establishing the furthest distance a building may be built from such lot line.
- 2.1.17. *Building.* Any structure, consisting of a foundation, walls or supports and roof with or without other parts, constructed or used for a residence, business, industry, or other public or private purpose, or accessory thereto, and including greenhouses, stables, garages, roadside stands, manufactured homes, and similar structures, whether stationary or movable, but excluding recreational vehicles/travel trailers, fences, walls, signs and awnings. Features which are structurally essential and connected to the structure shall be considered as part of the structure within the meaning of this Zoning Ordinance.
- 2.1.18. *Building Area.* The portion of the lot occupied by the main building, accessory buildings, other structures and impervious surfaces.
- 2.1.19. *Building Code.* The code(s) adopted by the City, and as may be amended from time to time by the Council, which governs the design and construction of buildings and structures, including fire, plumbing and electrical codes.

2.1.20. *Building Height.* The vertical distance measured from the finished grade level at the front of the building to the deck line for mansard roofs, to the uppermost point of the parapet wall for flat roofs, and to the average height between eaves and ridges for gable, hip, and gambrel roofs.



2.1.21. *Building Line.* The perimeter of that portion of a building or structure nearest a lot line, but excluding open steps, terraces, cornices, and other ornamental

features projecting from the walls of the building or structure.



2.1.22. *Building Official.* An official of the City of Vestavia Hills Department of Building Safety designated to administer and enforce the City Building Code and applicable provisions of this Zoning Ordinance.

2.1.23. *Caliper.* The trunk diameter of a tree measured six inches above grade level.

2.1.24. *Certificate of Occupancy.* A certificate issued by the Department of Building Safety, with approval of the Fire Marshal, upon completion of a new building or upon a change or conversion of the structure or use of a building, which certifies that all requirements and regulations as provided herein and within all other applicable requirements, have been complied with.

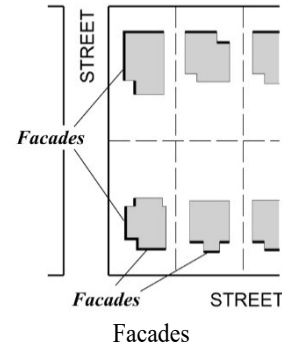
2.1.25. *City, The.* The City of Vestavia Hills, Alabama unless otherwise indicated by context.

2.1.26. *City Council or Council.* The City Council of the City of Vestavia Hills, Alabama.

2.1.27. *City Engineer.* A registered professional engineer, licensed by the State of Alabama, and employed by the City of Vestavia Hills or engaged as a consultant by the City.

- 2.1.28. *City Fire Code or Fire Code.* An ordinance adopted by the City providing standards for fire safety and as may be modified from time to time by the City Council.
- 2.1.29. *City Planning Staff.* Municipal staff designated to review development plans, including the Zoning Official/City Clerk, Fire Marshal, City Engineer, Building Official and others as needed.
- 2.1.30. *Clear Sight Triangle.* See “Sight Triangle, Clear”.
- 2.1.31. *Commercial Vehicle.* Any motor vehicle licensed by the state as a commercial vehicle.
- 2.1.32. *Commission, The.* See “Planning Commission”.
- 2.1.33. *Comprehensive Plan.* The official public document prepared in accordance with §11-52-8 of the Code of Alabama, 1975, as amended, consisting of maps, charts, and textual material, that constitutes a policy guide to decisions about the future development of the City.
- 2.1.34. *Conditional Use.* A use which may be permitted only by the Council following a recommendation by the Commission in accordance with [§13.3](#). The recommendation by the Commission may be to approve or deny the application, which said recommendation is advisory only. Zoning is a legislative matter decided by the Council. The Council is not bound by the recommendation of the Commission.
- 2.1.35. *Condominium.* A division of property or interest in property as defined by, created under and subject to the "Alabama Uniform Condominium Act of 1991" and subsequent amendments and revisions.
- 2.1.36. *Conservation Easement.* A voluntary agreement between a landowner and a municipal agency or qualified not-for-profit corporation to restrict the development, management, or use of the land in perpetuity or as otherwise defined by the terms of the easement.
- 2.1.37. *Covenant.* A restriction upon the use of a property placed in a deed running with the land and enforced by private landowners or homeowner or condominium associations.
- 2.1.38. *Dedication.* The deliberate assignment of land by its owners for any general or public uses, reserving to themselves no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
- 2.1.39. *Deed.* A legal document conveying ownership of real property.
- 2.1.40. *Density.* The number of dwelling units per acre of lot area.
- 2.1.41. *Design Capacity.* The maximum number of persons that may be accommodated by a use as determined by its design and by the Building Code.
- 2.1.42. *Developer.* Any owner, agent of such owner or tenant with the written permission of such owner, who makes or causes to be made a land development.
- 2.1.43. *Development.* Any of the following activities:
1. The improvement of one (1) lot or more abutting lots, tracts or parcels of land for any purpose involving:
 - a. a group of two (2) or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single non-residential building on a lot or lots regardless of the number of occupants or tenure; or
 - b. the division or allocation of land or space, whether initially or cumulatively, between or among two

- or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features;
 - 2. A subdivision of land.
 - 3. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 2.1.44. *Driveway*. A private drive providing access between a street or access drive and a parking or other vehicular use area.
- 2.1.45. *Dwelling Unit*. 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 by not more than one (1) family.
- 2.1.46. *Easement*. A right granted by a landowner to a grantee, allowing for limited use of private land for a public or quasi-public or private purpose, and with which the property owner shall not have the right to make use of the land in a manner that violates the right of the grantee.
- 2.1.47. *Engineer*. A professional engineer registered by the State of Alabama Board of Registration for Professional Engineers and Surveyors.
- 2.1.48. *Entity*. A person, association, firm, corporation, or organization of any kind.
- 2.1.49. *Erect*. To build, construct, reconstruct, move upon or any other physical operation on the premises required for development.
- 2.1.50. *Façade*. The exterior wall of a building extending the entire width of a building elevation that faces a public street or any public way.



- 2.1.51. *Family*. One or more persons related by blood, marriage, or adoption, or by some other legal custodial relationship, living and cooking together as a single housekeeping unit in a single dwelling unit; or two unrelated individuals living and cooking together as a single housekeeping unit in a single dwelling unit. For purposes of this Ordinance, “family” shall not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations; or any group of individuals who are in a group living arrangement. See also “Housekeeping Unit”.
- 2.1.52. *Fence*. Any barrier of any material or combination of materials, other than a building, erected to enclose or screen areas of land or used as a means of protection, confinement or buffering. For the purposes of this Ordinance, the “fence” includes the term “wall”, but does not include the term “retaining wall”.
1. *Buffer Fence*. A fence used toward fulfillment of the requirements of [§9.3 Buffers](#).
 2. *Privacy Fence*. A fence intended to provide a physical and visual barrier between common or public areas and a private area or use. Privacy fences are distinguished from other fences by their height and opaque design.

3. *Screen Fence*. A fence used toward fulfillment of the requirements of [§9.4 Screening](#).

2.1.53. *Floodplain*. An area adjacent to a watercourse, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety and to property.

Floodplains are identified by the National Flood Insurance Program.

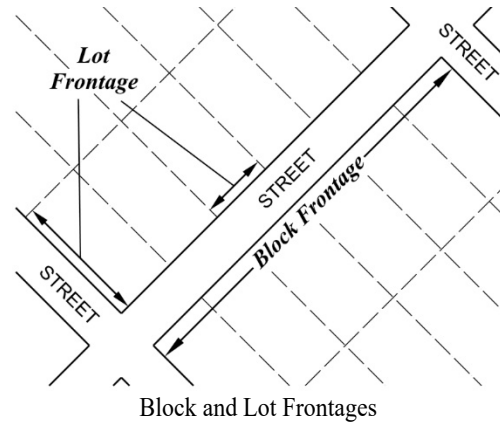
2.1.54. *Floodway*. The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

2.1.55. *Floor Area, Gross*. The gross horizontal areas of all floors, measured from the exterior faces of the exterior walls of a building. Unfinished garages, basements and cellars are not included in the calculation of gross floor area.

2.1.56. *Fowl*. Winged animals other than household pets, including but not limited to, chickens, geese, and ducks, that are kept, bred or raised for commercial purposes.

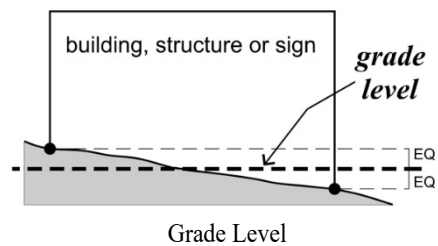
2.1.57. *Frontage*.

1. *Frontage, Block*. All the property on one side of a street between two intersecting streets measured along the right-of-way line of the street, or if the street is dead-ended, then all of the property on one (1) side between an intersecting street and the dead end of the street.



2. *Frontage, Lot*. The width of a lot as measured along its front lot line.

2.1.58. *Grade Level*. The average level of the finished ground surface adjacent to the exterior walls of the building.



2.1.59. *Grading Plan*. A map of a proposed development defining existing and proposed elevations, watercourses, vegetative cover and drainage patterns, including one (1) foot contours, spot elevations, and flow arrows. The plan also describes the limits and depths of excavations, fills and removal of native vegetation.

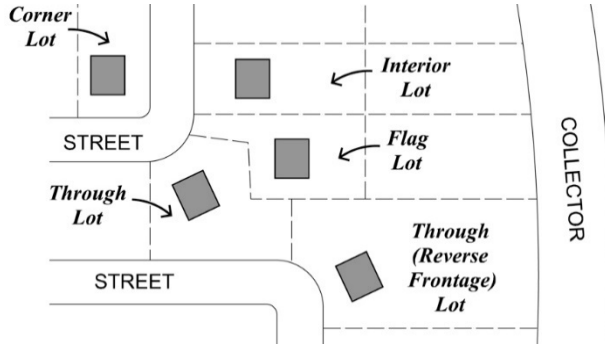
2.1.60. *Greenway*. An open space corridor that links urban, suburban, and rural communities to natural and scenic areas with a network of connected trails, walkways, and natural preservation areas.

2.1.61. *Gross Floor Area*. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors,

- stairways, ramps, closets, the thickness of interior walls, columns or other features.
- 2.1.62. *Gross Leasable Area*. The total floor area for which the tenant pays rent and that is designed for the tenant’s occupancy and exclusive use, including any basements and mezzanines.
- 2.1.63. *Half Story*. See “Story, Half Story”.
- 2.1.64. *Housekeeping Unit* or *Single Housekeeping Unit*. A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and facilities for the preparation and serving of food within the dwelling unit.
- 2.1.65. *Impervious Surface*. A man-made surface that does not allow the passage or infiltration of rain water. This may include improvements such as roadways, sidewalks, driveways, parking lots and patios. Improvements constructed of pervious materials and intended to minimize stormwater runoff can be submitted to the City’s Engineer’s office for approval.
- 2.1.66. *Improvements*. Those physical additions and changes to the land that may be necessary to produce usable and desirable developments including but not limited to driveways, landscaping, streets, sidewalks, curbs and gutters, sewer, and stormwater control facilities.
- 2.1.67. *Interim Use*. Any temporary use of land in any area of a planned development, which has been approved as a part of the Master Development Plan and criteria. An interim use can be any use and may or may not be a permitted use or a conditional use in the applicable district.
- 2.1.68. *Intersection Sight Distance*. The length of the line of sight between a motorist, stopped at an intersection, and the nearest intersection, driveway, alley or other signalized or non-signalized access point to the left or to the right of the motorist.
- 2.1.69. *Junk*. Materials including scrap, copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste iron, steel and other old or scrap ferrous or non-ferrous material, including wrecked, scrapped, ruined, dismantled or junked motor vehicles or parts thereof.
- 2.1.70. *Landscape Architect*. A landscape architect registered by the State of Alabama.
- 2.1.71. *Landscaping*. Treatment of grade with ground cover, shrubs, trees and other vegetation, and/or ornamentation
1. *Building Landscaping*. A landscaped strip between a building and its lot boundary or off-street parking area, as required by [§9.2 Site Landscaping](#).
 2. *Frontage Landscaping*. A landscaped strip between off-street parking areas or buildings and adjacent public streets as required by [§9.2 Site Landscaping](#).
 3. *Interior Landscaping*. Landscaping within an off-street parking area as required by [§9.2 Site Landscaping](#).
 4. *Perimeter Landscaping*. A landscaped strip between an off-street parking area and abutting lots. Perimeter landscaping does not include landscaping between an off-street parking area and buildings on the same lot.
- 2.1.72. *Livestock*. Animals of any kind, including fish and fowl, kept, bred or raised for commercial or other purposes, excluding house pets such as domestic cats and dogs, fish, fowl, and other similar animals kept for personal pleasure in accordance with regulations of the Health Department and applicable animal control authority of the applicable County.

2.1.73. *Lot*. A designated Parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

1. *Corner Lot*. A lot abutting upon two or more streets at their intersection or on two parts of the same street forming an interior angle of less than 135 degrees.
2. *Flag Lot*. A lot that does not meet the lot width requirements of its district within the normally required front yard setback.
3. *Interior Lot*. Any lot which is not a corner lot.
4. *Reverse Frontage Lot*. A through lot with vehicular access restricted to the street of lesser classification.
5. *Through Lot*. A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.



Lot Types

2.1.74. *Lot Area*. The area contained within the lot lines of a lot, excluding any street right-of-way, but including the area of any easement.

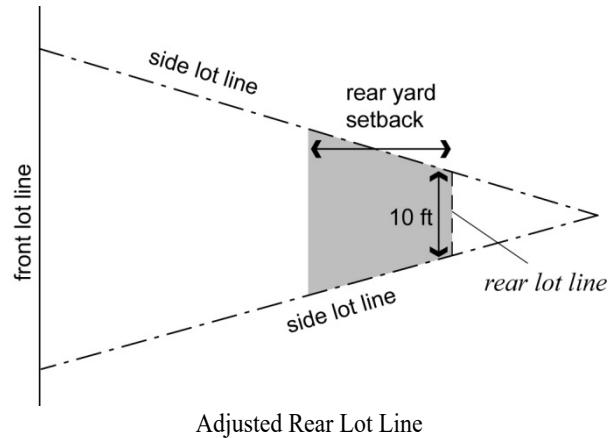
2.1.75. *Lot Depth*. The average distance between the front and rear lot lines.

2.1.76. *Lot Lines*.

1. *Front Lot Line*. A lot line separating a lot from the street on which it fronts. On corner lots and double-frontage lots, all

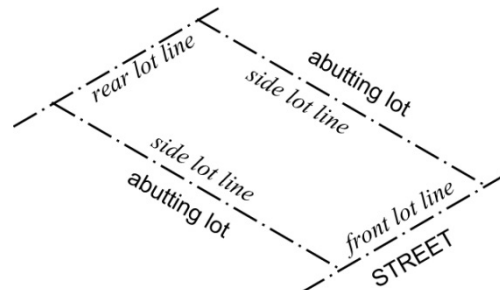
lot lines abutting a street (except alleys 16' or less in width), shall be front lot lines.

2. *Rear Lot Line*. A lot line, which is most distant from a front lot line. In the case of corner lots, the rear lot line shall be that lot line, other than a front lot line, that is shorter in dimension. For the purposes of determining rear yard setbacks on a lot where the side lot lines meet in a point, the "rear lot line" is assumed to be a line not less than ten (10) ft long drawn within the lot between the two side lot lines and parallel to the front lot line, and which is referred to as the "Adjusted Rear Lot Line".

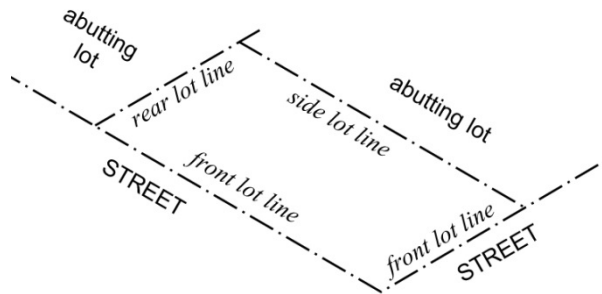


Adjusted Rear Lot Line

3. *Side Lot Line*. Any lot line, which is not a front or rear lot line.

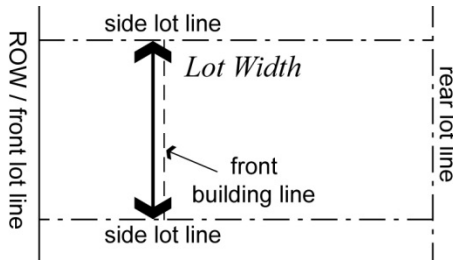


Lot Lines, Interior Lot

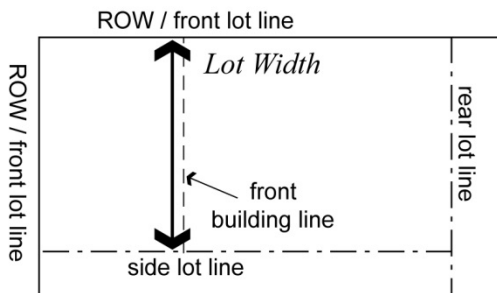


Lot Lines, Corner Lot

2.1.77. *Lot Width.* In the case of interior lots, the distance between the side lot lines. In the case of corner lots, the distance between the front lot line and the opposing lot line. Such distance shall be measured along a straight line, which is at right angles to the axis of the lot, and shall be measured at the front yard setback line. When a lot abuts on a curved street, the lot width is determined using the arc length.



Lot Width, Interior Lot



Lot Width, Corner Lot

2.1.78. *Lot of Record.* A lot that exists as shown on a deed or plat, which has been recorded by the applicable County.

2.1.79. *Master Development Plan.* A plan required for the review and approval of a planned development, in which necessary information is provided sufficient for the Commission, Council and other

reviewers to determine its compliance with the intents and requirements of the applicable provisions of this Ordinance.

2.1.80. *Mulch.* A material (pine straw, bark chips, wood chips, etc.) placed on the ground to stabilize soil, protect roots, limit weed growth and otherwise promote tree and shrub growth.

2.1.81. *Net Floor Area.* The actual occupied area, not including unoccupied accessory areas such as corridors, stairways, ramps, toilet rooms, storage areas, mechanical rooms and closets.

2.1.82. *Nonconformities.* An improvement, premises or use that does not conform to regulations of this Ordinance and/or other regulations of the City, but which lawfully existed prior to the effective date of such regulations.

1. *Nonconforming Improvements.* Any improvements made to land not in conformance with the provisions of this Ordinance or other applicable regulations of the City. Improvements, which may be classified as nonconforming, include but are not limited: parking areas, driveways, lighting, sidewalks, buffers and screening, and other landscaping.

2. *Nonconforming Premises.* A premises and/or building thereupon not meeting the applicable dimensional requirements of this Ordinance.

3. *Nonconforming Use.* The use of any building or land which was lawful at the time of passage of this Ordinance or amendment thereto, but which use does not conform, after the passage of this Ordinance or amendment thereto, with the use regulations of the district in which it is situated.

2.1.83. *Open Space.* Land, not covered by parking areas, rights-of-way or buildings other than recreational structures, pools

and stormwater facilities, which is landscaped or left in a natural state as required by the provisions of this Ordinance.

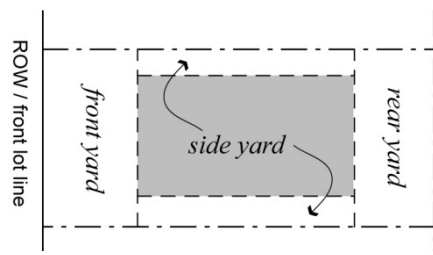
1. *Common Open Space*. Open space within a development held in common ownership and maintained by a property owners' association of all residents for recreation, protection of natural land features, amenities or buffers; is freely accessible to all residents of the development; and is protected by the provisions of this Ordinance to ensure that it remains in such use(s).
- 2.1.84. *Patio*. A level, landscaped, and/or surfaced area directly adjacent to a principal building near finished grade and not covered by a permanent roof.
- 2.1.85. *Planned Development*. One or more contiguous parcels planned and developed as a single entity according to an approved Master Development Plan.
- 2.1.86. *Planning Commission or Commission*. The City of Vestavia Hills Planning and Zoning Commission.
- 2.1.87. *Poultry*. Fowl normally raised as food such as chickens, ducks, geese, guineas and turkeys or for commercial uses such as peacocks.
- 2.1.88. *Premises*. A lot, parcel, tract or plot of land including all buildings, improvements and structures existing thereon.
- 2.1.89. *Principal Building*. A building, in which is conducted the principal use of the lot on which it is situated.
- 2.1.90. *Principal Use*. The primary or predominant use of any lot or parcel.
- 2.1.91. *Property Maintenance Code or City Property Maintenance Code*. The International Property Maintenance Code as adopted by the City Council, as amended.
- 2.1.92. *Public Hearing*. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate. Public hearings are advertised and held in accordance with the Code of Alabama, 1975, as amended.
- 2.1.93. *Public Notice*. Notice published prior to a Public Hearing, as required by the Code of Alabama, 1975, as amended. Such notice states the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Public notice for rezoning, conditional use and/or variance requests also include the posting of a sign at conspicuous locations along the perimeter of the subject property; the sign is posted at least one (1) week prior to the hearing and describes the nature, date, time, and location of the hearing.

Public notice of a public hearing to consider an application for zoning or rezoning must be provided (published or posted) by the City in accordance with the Code of Alabama, 1975, as amended, including specifically, Title 11-52-77 and Title 11-45-8 and Act 1123 of the 1973 Legislature.
- 2.1.94. *Remote Parking*. A parking area not located on the same lot as the use for which the parking is provided.
- 2.1.95. *Retaining Wall*. A wall resisting the lateral displacement of soil or other materials to improve or control drainage and erosion.
- 2.1.96. *Ridge Line*. The intersection of two roof surfaces forming the highest horizontal line of the roof.
- 2.1.97. *Right-of-Way*. Land reserved, used, or to be used for a street, alley, walkway, drainage facility, or other public purpose.

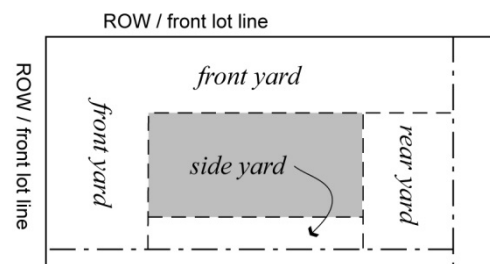
- 2.1.98. *Right-of-Way Line*. The line that forms the boundary of a right-of-way, typically corresponding with the front lot line of abutting properties.
- 2.1.99. *Runoff*. The portion of rainfall, irrigation water and any other liquids that flows across ground surface and eventually is returned to streams.
- 2.1.100. *Setback*. The distance between a building or structure and a lot line. See also “Yard”.
- 2.1.101. *Setback Line*. A line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed.
- 2.1.102. *Shrub*. A woody plant, generally multi-stemmed and smaller than a tree.
- 2.1.103. *Sight Triangle, Clear*. An area of unobstructed vision at a street intersection defined by a line of sight between points at a given distance from the intersection of the street centerlines. See also “Intersection Sight Distance”.
- 2.1.104. *Site*. Area of a lot occupied by a structure.
- 2.1.105. *Stacking Space*. A space intended for the queuing of vehicles to a drive-through window, fuel pump, ATM or similar standing point.
- 2.1.106. *Story*. That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
1. *Half Story*. A space under a sloping roof in which space the possible floor area with headroom of five (5) feet or less contains at least forty (40) percent of the total floor area of the story directly beneath it; or a building story that contains not more than fifty (50) percent of the total floor area of the story directly beneath it.
- 2.1.107. *Street*. Any vehicular way that is (1) an existing state, county, or municipal roadway; (2) shown upon a plat approved pursuant to law; (3) approved by other official action; (4) shown on a plat duly filed and recorded in the office of the applicable county tax assessor; (5) shown on the official map or adopted master plan. The term “street” includes the land between the street lines, but excludes alleyways that are 20’ or less in width, whether improved or not.
1. *Access Drive*. A private street providing access to a development from a street on which the development has only a very narrow street frontage.
 2. *Access Street*. A minor street, which is parallel and in close proximity to a higher order street and that provides access to abutting properties. Also commonly referred to as a frontage road or service road.
 3. *Arterial*. A street that distributes traffic to and from collectors. Arterials include U.S. Highway 31, U.S. Highway 280, and Columbiana Road.
 4. *Collector*. A street that collects traffic from local streets and connects with minor and major arterials. Collector streets include, but are not limited to, Acton Road, Altadena Road, Cahaba Heights Road, Cahaba River Road, Crosshaven Drive, Dolly Ridge Road, Green Valley Road, Massey Road, Rocky Ridge Road, Shades Crest Road, and Tyler Road.
 5. *Cul-de-sac*. A local street terminating in a vehicular turnaround at one end.
 6. *Local Street*. A street used primarily to provide access to abutting properties.

- 2.1.108. *Street Centerline*. A line running parallel with the street right-of-way which is half the distance between the extreme edges of the official right-of-way width as surveyed, or where not surveyed, half the distance from the edges of pavement.
- 2.1.109. *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, backstops for tennis courts, fences, or radio tower.
- 2.1.110. *Structural Alterations*. Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.
- 2.1.111. *Temporary Building*. Portable, mobile or transportable contractor’s construction buildings, the use of which is incidental to construction operations being conducted on the same or adjoining lot or tract will be allowed with permit all districts, provided they are not used as a dwelling.
- 2.1.112. *Tree*.
1. *Canopy Tree*. A deciduous tree, usually single-trunked, with a defined crown of foliage, which attains a mature height of at least thirty (30) feet.
 2. *Understory Tree*. A deciduous or evergreen tree which attains a mature height of no greater than thirty (30) feet.
- 2.1.113. *Use*. The purpose for which land or a building or other structure is designed, arranged, or intended or for which it is or may be occupied or maintained.
- 2.1.114. *Variance*. Relief or an adjustment to the literal requirements of this Ordinance granted pursuant to the provisions of [Article 12](#).

- 2.1.115. *Waiver*. Limited relief or adjustment to the literal requirements of this Ordinance granted by the Zoning Official.
- 2.1.116. *Wall*. (1) A vertical screen or barrier distinguished from a “fence” in its design and materials. See “Fence”. (2) A vertical exterior or interior surface of a building.
- 2.1.117. *Yard*. An open space lying between the principal building and the nearest lot line.
1. *Front Yard*. A yard extending the full width of the lot between any building and the front lot line and measured from perpendicular to the front building line.
 2. *Rear Yard*. A yard extending across the full width of the lot between the principal building and the rear lot line (or adjusted rear lot line) and measured perpendicular to the rear building line.
 3. *Required Yard*. The minimum required open space between a building or structure and the nearest lot line, unoccupied and unobstructed by any structure from the ground upward.
 4. *Side Yard*. A yard between the main building and the side lot line and extending from the front yard to the rear yard and measured perpendicular to the side building line.



Yards, Interior Lot



Yards, Corner Lot

2.1.118. *Zoning Approval*. Certification issued by the Zoning Official stating that an application for development is in conformity with the requirements of this Ordinance.

2.1.119. *Zoning Official*. The municipal official designated to administer this Zoning Ordinance. The term “Zoning Official” may also include a designated representative of the Zoning Official.

§2.2. Use Definitions

2.2.1. *Animal Shelter*. Non-profit (e.g., SPCA) or public organization providing shelter for small domestic animals.

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

2.2.3. *Automotive Repair Service*.

1. *Minor Automotive Repair Service*. A place of business engaged in the repair and maintenance of automobiles and light trucks including the sale, installation, and servicing of mechanical equipment and parts but not including painting, body work, upholstery work, fabrication of parts, or rebuilding of engines.

2. *Major Automotive Repair Service*. A place of business engaged in the repair and maintenance of automobiles and light trucks including the sale, installation, and servicing of mechanical equipment and parts including painting,

body work, upholstery work, fabrication of parts, or rebuilding of engines.

2.2.4. *Bed and Breakfast*. An establishment having guest rooms, which are subordinate and incidental to the main, owner occupied, single-family residential use.

2.2.5. *Boarding House*. Any building or portion thereof that contains not less than three (3) nor more than nine (9) guest rooms, which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly, for a definite period of time longer than thirty (30) days.

2.2.6. *Business Support Service*. A place of business that supplies support services primarily to business or professional offices or services, such as photocopy, computer, and office equipment, supplies and services.

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

2.2.8. *Clinic*. A building or portion of a building where patients are not lodged overnight, but are admitted for examination and treatment.

2.2.9. *Club, Private*. A building or portion thereof or premises owned or operated by a corporation, association, person 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.

2.2.10. *Conservation Subdivision*. A residential development, in accordance with [§7.3](#), wherein a portion(s) of the site is set aside as open space.

2.2.11. *Construction Service*. A place of business engaged in construction

activities, incidental storage, and wholesaling of building material (but not a home improvement center which also sells at retail), such as a building contractor, trade contractor, or wholesale building supplies store.

- 2.2.12. *Convenience Store*. A retail sales business, which specializes in providing household products and foods. Convenience stores may also provide for any or all of the following as an accessory use: video tape rental, preparation and sale of deli foods.
- 2.2.13. *Country Club*. A recreational facility, usually restricted to members and their guests, which generally includes a clubhouse, dining and recreation facilities.
- 2.2.14. *Day Care Center*. A care facility, licensed by the State of Alabama Department of Human Resources, which receives more than six (6) children for care during only part of the day.
- 2.2.15. *Day Care Home, Family*. A care facility, licensed by the State of Alabama Department of Human Resources, which is a single-family dwelling and which receives children for care during only part of the day.
- 2.2.16. *Donation Bin*. A container or receptacle held out to the public as a place for people to drop off clothing or other items as donations to a charitable organization.
- 2.2.17. *Duplex*. A building designed and arranged to provide separate sleeping, cooking and kitchen accommodations and toilet facilities for occupancy by two families.
- 2.2.18. *Dwelling*. A building containing one or more dwelling units used for residential purposes, but in the case of a building having two or more portions divided by one or more party walls forming a

complete separation, each such portion shall be considered a separate dwelling.

1. *Single-family Dwelling*. A building designed for or occupied exclusively by one family and having only one dwelling unit from the ground to roof and having independent outside access.
 2. *Dwelling, Multi-Family*. A building or portion thereof designed for occupancy by four or more families living independently of each other under one roof.
- 2.2.19. *Entertainment*.
1. *Indoor Entertainment*. A commercial establishment providing spectator entertainment within an enclosed building, including movie theaters and playhouses; and art centers and similar indoor cultural facilities.
 2. *Outdoor Entertainment*. A commercial establishment providing spectator entertainment in open or partially enclosed or screened facilities, including amphitheaters, sports arenas, racing facilities, and amusement parks.
- 2.2.20. *Farm*.
1. *Raising of Crops*. The tilling of soil, the raising of crops, horticulture and gardening and including the sale of crops or horticultural products incidental to the operation of a farm.
 2. *Raising of Livestock*. The keeping or raising of cattle, horses, swine, and/or fowl and including sale of such livestock and dairy products incidental to the operation of a farm.
- 2.2.21. *Farming, Forestry*. Operations involving the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or performing forest services, including temporary sawmills and chippers for cutting of timber growth on

the same premises but excluding lumber yards, mills, and similar activities.

- 2.2.22. *Farm Support Business.* A commercial establishment engaged in the sale of farm support goods and services, including the following activities: the sale of feed, grains, fertilizers, pesticides, and similar farm support goods, the provision of warehousing and storage facilities for raw farm products, and the provision of veterinary services to large animals.
- 2.2.23. *Gas Station.* A business that includes gasoline sales and that may also include an automatic car wash function and retail sales of food, beverages, and sundries, but which does not include any automotive repair services, sales, or rental. A “Gas Station” that contains a minor automotive repair function is considered a “Service Station”.
- 2.2.24. *Group Home.* A non-profit or for-profit facility 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.
- 2.2.25. *Home Improvement Center.* A place of business providing building, appliance, yard and garden materials, tools, and supplies at retail and wholesale.
- 2.2.26. *Home Occupation.* An occupation or activity carried out for gain which is clearly incidental to use of the premises for dwelling purposes in accordance with [§7.1 Home Occupations](#).
- 2.2.27. *Hotel.* A building offering transient lodging accommodations to the general public and which may include other functions, such as restaurants, conference rooms, entertainment, personal services, and recreational facilities. “Hotels” are distinguished from “motels” in that hotel

guest rooms are accessible from the interior of the building.

- 2.2.28. *Institution.* A nonprofit, religious, or public use, such as a religious building, library, public or private school, hospital, or government-owned or government-operated building, structure, or land used for public purpose. For the purposes of this Ordinance, institutional uses are further categorized as:
 - 1. *Low Intensity Institutional Use.* Civic, service, and fraternal organizations and cultural facilities up to 10,000 sq. ft.; day care centers; pre-schools; elementary schools; group homes with more than six (6) residents.
 - 2. *Medium Intensity Institutional Use.* Nursing homes; civic, service, and fraternal organizations and cultural facilities between 10,000 and 50,000 sq. ft., government buildings up to 12,500 sq. ft.; health institutions up to 50,000 sq. ft.; junior high and middle schools; places of assembly up to 750 seats; stadiums and arenas up to 5,000 seats; other institutions up to 50,000 sq. ft.
 - 3. *High Intensity Institutional Use.* Government buildings greater than 12,500 sq. ft.; health institutions greater than 50,000 sq. ft.; places of assembly greater than 750 seats; high schools, universities, colleges, junior colleges; other institutions greater than 50,000 sq. ft.
- 2.2.29. *Kenel.* A lot or premises on which three (3) or more dogs are housed, groomed, bred boarded, trained, or sold, all for a fee or compensation.
- 2.2.30. *Laundromat.* An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public.

- 2.2.31. *Laundry and Dry Cleaning Establishment.* A service establishment engaged in the cleaning or laundering of garments primarily for individuals.
- 2.2.32. *Laundry, Industrial.* A service establishment primarily engaged in high volume laundry and garment services, including linen supply; diaper service; industrial laundries; and carpet and upholstery cleaners.
- 2.2.33. *Live-Work.* A two-story or taller building designed to accommodate a business on the ground story and one single-family dwelling on the upper story. The business is owned and/or operated by the owner of the dwelling and therefore the building may be designed to accommodate interior access between the business space and the dwelling above.
- 2.2.34. *Lodging.* A use in which temporary living quarters are made available to the general public for compensation, including but not limited to hotels and motels.
- 2.2.35. *Lounge.* A licensed establishment engaged in the preparation, sale, or serving of liquor for consumption on the premises, including taverns, bars, cocktail lounges, night clubs, private clubs, restaurant lounges, hotel or motel lounges, and similar uses where liquor consumption is a primary or incidental activity on the premises for the establishment. Not included within this definition are establishments that sell or serve only beer or wine as an incidental activity on the premises or establishments that sell liquor, beer, or wine in packages for off-premise consumption.
- 2.2.36. *Maintenance Service.* An establishment providing building and yard maintenance services, such as janitorial services, exterminating services, landscape services, and window cleaning services to include incidental covered storage only.
- 2.2.37. *Manufacturing, Light.* The manufacture, predominantly 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.
- 2.2.38. *Mixed Use.* The co-location of residential uses with non-residential uses on one lot or in one building, as may be permitted within certain districts within this Ordinance.
- 2.2.39. *Motel.* A building offering transient lodging accommodations to the general public and which may include other functions, such as restaurants, conference rooms, entertainment, personal services, and recreational facilities. “Motels” are distinguished from “hotels” in that motel guest rooms are accessible from the exterior of the building.
- 2.2.40. *Neighborhood Retail.* Retail uses that serve the daily and weekly needs of residents in surrounding neighborhoods and that are housed in buildings of a scale compatible with surrounding residential development. Such uses include but are not limited to delicatessens, small grocery stores, drug stores, convenience stores, hardware stores, clothing stores and jewelry stores. Neighborhood retail does not include appliance, furniture, gasoline or automotive sales.
- 2.2.41. *Neighborhood Services.* Service uses that serve the daily and weekly needs of residents in surrounding neighborhoods and that are housed in buildings of a scale compatible with surrounding residential development. Such uses include, but are not limited to, banks, dry

cleaning pick-up stations, beauty salons, barber shops, shoe repair, alterations, and fitness centers. Neighborhood services do not include automotive repair services.

- 2.2.42. *Nursery School or Kindergarten.* Any premises or portions thereof used for educational work or parental care of children of less than the age required for enrollment in the public school system. Nursery school or kindergarten includes every preschool, nursery school or kindergarten operated separate and apart from another school offering general education courses or from a place of worship. For purposes of this Ordinance, nursery schools or kindergartens operated in conjunction with and on the premises of any such school or place of worship shall be considered a part of such school or place of worship.
- 2.2.43. *Nursing Home.* A home for the aged or infirm in which three or more persons not of the immediate family are received, kept or provided with food or shelter or care for compensation, but not including hospitals, clinics or similar establishments devoted primarily to the diagnosis and treatment of the sick or infirm.
- 2.2.44. *Personal Service.* A retail establishment providing services involving the care of a person, such as a barber shop, beauty shop, cosmetic studio, dry cleaning and laundry pick-up station, indoor exercise and fitness center, tanning salon, seamstress, tailor, shoe repair shop, key repair shop, travel agency, interior decorator, formal wear rental, and similar uses.
- 2.2.45. *Place of Assembly.* Buildings arranged for general assembly for civic, public, social or religious purposes, including banquet rooms, coliseums, community centers, civic centers, places of worship and similar uses.
- 2.2.46. *Place of Worship.* Building used for non-profit purposes by a recognized and legally established sect solely for purposes of worship.
- 2.2.47. *Public Facility.* Buildings arranged for the purpose of providing public services, not otherwise listed in this section, including government offices, post offices, transit stations, police stations, fire and emergency service stations, civil defense operations, and similar uses.
- 2.2.48. *Public Utility Facility.* Facility that provides public utility services to the public at large, including water and sewerage facilities, gas distribution facilities, electric transmission and distribution facilities, and cable transmission and distribution facilities.
- 2.2.49. *Recreation.*
1. *Active Recreation.* Outdoor recreation that requires dedicated facilities and maintenance, such as swimming, organized sports, tennis and similar activities.
 2. *Indoor Recreation.* A commercial establishment providing recreational or sports activities to participants within an enclosed building, including bowling alleys, billiard parlors, video game centers, ice and roller skating rinks, and other commercial indoor recreational and sports activities.
 3. *Outdoor Recreation.* A commercial establishment providing recreation or sports activities to participants in open or partially enclosed or screened facilities, including driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, and other commercial outdoor recreational and sports activities.
 4. *Passive Recreation.* Outdoor recreation that does not require significant maintenance or facilities, such as

walking, hiking, picnicking, viewing, and environmental education activities. Passive recreation shall also include the impromptu use of an open space for non-organized sports activities or games.

2.2.50. *Restaurant.*

1. *Fast Food Restaurant.* An establishment where food and drink are rapidly prepared for carry out, fast delivery, drive-through, or drive-in and may also include standard sit-down consumption.
2. *Standard Restaurant.* An establishment where food and drink are prepared, served, and primarily consumed within the building where guests are seated and served.

2.2.51. *Salvage Yard.* A lot or structure or part thereof, used primarily for the collecting, storage and sale of junk or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof.

2.2.52. *Service Station.* Any building, structure, or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories but not including major work such as motor overhaul, body and fender repair or spray painting.

2.2.53. *Shopping Center.* A group of commercial establishments planned, constructed and managed as a single entity with common parking and driveway facilities.

2.2.54. *Telecommunication Facilities.* Any cables, wires, lines, wave guides, antennas, structures, and any other facilities or equipment associated with the transmission or reception of electronic communication located near or installed upon a tower or antenna support structure.

2.2.55. *Townhouse.* A single-family dwelling in a row of at least three such units in which each unit has its own front and rear outdoor access, no unit is located over another, and each unit is separated by one or more vertical common fire-resistant walls.

2.2.56. *Triplex.* A building containing three (3) dwelling units, each of which has direct access to the outside or to a common hall.

§2.3. Abbreviations used in this Ordinance

2.3.1. ac – Acre(s)

2.3.2. ADEM – Alabama Department of Environmental Management

2.3.3. ALDOT – Alabama Department of Transportation

2.3.4. ATM – Automated Teller Machine

2.3.5. bldg – Building

2.3.6. BR – Bedroom or guest accommodation

2.3.7. BZA – Board of Zoning Adjustment

2.3.8. DRB – Design Review Board

2.3.9. DU – Dwelling unit

2.3.10. ft – Foot or Feet

2.3.11. GFA – Gross Floor Area

2.3.12. lf – Linear feet

2.3.13. max. – Maximum

2.3.14. min. – Minimum

2.3.15. MPO – Metropolitan Planning Organization

2.3.16. n/a – not applicable

2.3.17. PUD – Planned Unit Development

2.3.18. ROW – Right-of-way

2.3.19. sq. ft. – Square feet

2.3.20. % - Percent

2.3.21. § - Section, Subsection or similar
division of this Ordinance

Article 3 ESTABLISHMENT OF DISTRICTS

§3.1. Purpose

The following Ordinance has been prepared by the Vestavia Hills City Planning and Zoning Commission, hereinafter referred to as “the Commission” and adopted by the Vestavia Hills City Council, hereinafter referred to as “the Council”. This Zoning Ordinance regulates the general use of private land. It does this through the establishment of zones or districts and outlines the intended use for each. Thus there are residential districts and institutional, business and planned development districts.

The Ordinance further sets forth conditions for use. For instance, in order to control the density of population it prescribes minimum front, rear and side yards, numbers of families per lot, and amount of total ground space per family on any one lot.

This Zoning Ordinance is administered by the Zoning Official.

This Ordinance provides for a Board of Zoning Adjustment. The Board’s duties are largely judicial. If the Building Official refuses to issue a Building Permit, applicant can appeal to the Board of Zoning Adjustment for a review of his decision.

§3.2. Zoning Districts

For the purposes of this Ordinance the City is hereby divided into the following districts:

- 3.2.1. E-2 Residential Estate District
- 3.2.2. R-1 Low Density Residential District
- 3.2.3. R-2 Medium Density Residential District
- 3.2.4. R-3 Medium Density Residential District
- 3.2.5. R-4 Medium Density Residential District
- 3.2.6. R-5 Multi-family Residential District
- 3.2.7. R-6 Zero Lot Line Residential District
- 3.2.8. R-7 Duplex and Triplex Residential District
- 3.2.9. R-8 Townhouse Residential District)
- 3.2.10. R-9 Planned Residential Community District
- 3.2.11. RC-1 Residential District (Condominiums)
- 3.2.12. A Agricultural District
- 3.2.13. B-1 Neighborhood Business District
- 3.2.14. B-1.2 Neighborhood Mixed Use District
- 3.2.15. B-2 General Business District
- 3.2.16. B-3 Arterial Business District
- 3.2.17. O-1 Office Park District
- 3.2.18. O-2 Office Park District
- 3.2.19. INST Institutional District
- 3.2.20. PUD Planned Unit Development District
- 3.2.21. MXD Planned Community Mixed Use District

§3.3. Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of any district shown on the zoning map, the following rules shall apply:

- 3.3.1. Where such district boundaries are indicated as approximately following centerlines of streets or alleys, lot lines, stream centerlines, property lines or corporate limit lines, such lines shall be considered to be such boundaries.
- 3.3.2. Where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing on the Zoning Map.
- 3.3.3. Authority for each entry made on the map must be found in the applicable Zoning Ordinance or Amendment.

- 3.3.4. The controlling document for determining the zoning classification of any particular property in the City shall be in the Ordinance adopted and enacted by the Council, which zoned or rezoned said parcel.
- 3.3.5. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by the preceding rules, the Board of Zoning Adjustment, hereinafter referred to as “the BZA” shall interpret the district boundaries.

§3.4. District Boundaries Established

The boundaries of each district are indicated upon the Zoning Map. Said map and all notations, references and other information shown thereon shall be as much a part of this Ordinance as is fully described herein. Said map shall be retained in the office of the City Clerk.

Article 4 GENERAL REGULATIONS

§4.1. Uses

- 4.1.1. In each district no use other than the specific types specified for that district shall be permitted. Uses not specified as permitted, as Special Exception Uses or as Conditional Uses, are prohibited.
- 4.1.2. No permit shall be issued for Special Exception Uses, as indicated in the district regulations, except with the written approval of the BZA, and subject to such conditions as said BZA may require to preserve and protect the character of the District and otherwise promote the purposes of this Ordinance.

Special Exceptions, unlike variances, do not require a showing of unnecessary hardship. A Special Exception denotes a species of administrative permission that allows property to be used in a manner which the regulations expressly permit and under conditions specified in this Ordinance though it may not be permissibly used as a substitute for a variance. A use prohibited by this Ordinance may not be authorized by Special Exception. See [§12.3 Special Exceptions](#).
- 4.1.3. Any use listed in a district as a Conditional Use shall only be permitted upon approval by the Council upon a recommendation by the Commission in accordance with the procedure set forth in [§13.3 Conditional Uses](#). The recommendation by the Commission may be to approve or deny the application, which said recommendation shall be advisory only. Zoning is a legislative matter decided by the Council. The Council shall not be bound by the recommendation of the Commission.

§4.2. General Lot Regulations

- 4.2.1. Street Access. No structure shall be constructed on a nonconforming lot that does not abut a public street with a minimum right-of-way width of forty (40) ft.
- 4.2.2. Official Street Line. Where an official line has been established for the future widening or opening of a street upon which a lot abuts, such official line shall be considered as the property line.

§4.3. Area and Dimensional Regulations

- 4.3.1. Open Space and Height. In each district each structure hereafter erected or altered shall be provided with the yards specified, shall be on a lot of the area and width specified and shall not exceed the heights specified in the district schedule. No open space or lot required for a building or structure shall during its life be occupied by or counted as open space for another building or structure.
 - 1. No lot shall be reduced in area so that yards and other open spaces total less than the minimum area required under this Ordinance.
 - 2. The sale of lots in an unapproved subdivision is prohibited by Title 11-52-33, Code of Alabama, 1975.
- 4.3.2. Dimensional Standards for Residential Zoning Classifications. In any residential district, the dimensional standards normally required shall not apply if modification or variations from these standards are shown on an approved preliminary plot plan or subdivision plat provided the same shall have been first approved by the BZA, or the Commission by the authority vested in it by the Subdivision Regulations.
- 4.3.3. Existing Lots of Record. A single-family dwelling may be constructed on any nonconforming lot in any residential

district if said lot contains less than the minimum lot area required in the applicable district, provided the following condition is met:

1. No structure shall be constructed on a nonconforming lot without front, rear, and side yard setbacks as required in the applicable district.

4.3.4. Lot Width. Minimum lot width shall be measured along the front building line.

4.3.5. Lot Frontage. Lot frontage should be comparable to the minimum lot width. However, where the lot frontage is less than the minimum lot width, the Commission may approve such lots, if having a minimum of forty (40) feet lot frontage, but all building line restrictions shall remain in full force and effect on such irregularly shaped lots, unless otherwise approved by the Commission. In no case shall the minimum lot frontage be less than forty (40) feet except as follows:

1. Townhouses shall have a minimum lot frontage of eighteen (18) feet
2. Lots on culs-de-sac shall have a minimum lot frontage of twenty-five (25) feet, measured along the arc.

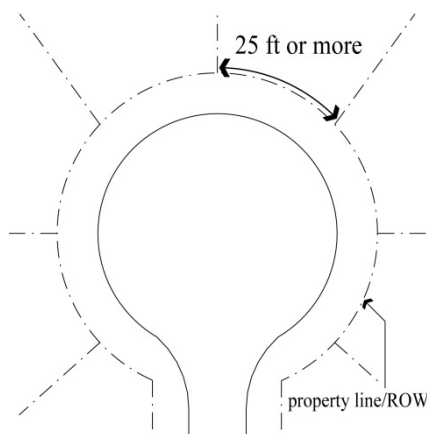


Figure 4.3.5: Lot frontage for cul-de-sacs

3. Non-residential uses in non-residential districts may have a lot frontage width less than forty (40) feet so long as access

to such lot is provided by another frontage greater than forty (40) feet in width, by an alley or by a shared access approved by the Commission.

4.3.6. General Setback Regulations

1. The minimum front yard setback may be reduced where the setbacks of the buildings on abutting lots is less than the normally required front yard setback (see Figure 4.3.6). In such case, the setback may be less than that normally required, but not less than:

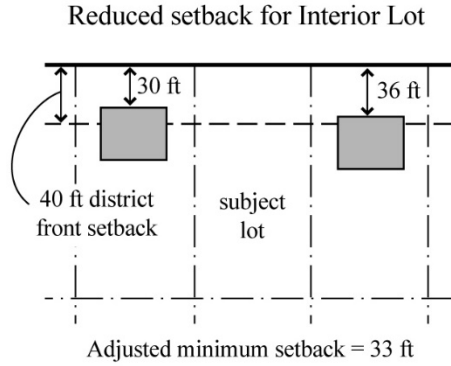
- a. For interior lots, the average of the as-built setbacks on the abutting lots.
- b. For corner lots, the as-built setback on the abutting lot per corresponding frontage.

2. No side yard setback shall be required in excess of twenty-five (25) feet.

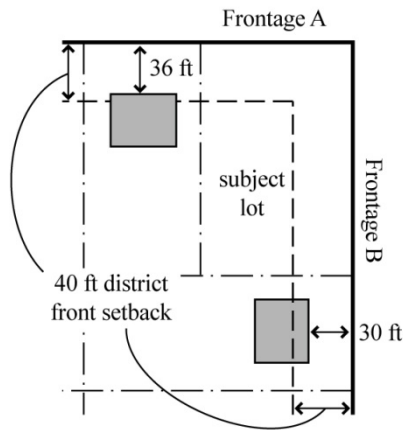
3. For corner lots in single-family residential districts, the minimum front yard setback shall be observed on both lot frontages abutting street rights-of-way (except alleys 16' or less in width), unless otherwise provided by this Ordinance.

4. Every part of a required yard shall be open from its lowest point to the sky unobstructed except for:

- a. Accessory uses conforming to [§4.4 Accessory Structures](#).
- b. Uncovered terraces, decks, steps and porches, which are not, in any part, located within five (5) feet of any abutting lot line zoned R-5, R-6, R-7, R-8 and R-9 only. Uncovered steps and stairs, of any height, may encroach no more than twenty-five (25) percent into a required front yard on a single-family or duplex lot.



Reduced setback for Corner Lot



Adjusted minimum setback on Frontage A = 36 ft
Adjusted minimum setback on Frontage B = 30 ft

Figure 4.3.6 Reduced front yard setbacks

- c. Roof overhangs, projecting into a required yard no more than three (3) feet but in no case shall they project closer than three (3) feet to any property line.
- d. Bay windows, chimneys, window air condition units and similar architectural features or mechanical components of single-family dwellings and duplexes projecting no more than four (4) feet into a required yard. The cumulative width(s) of such encroachments shall not constitute more than ten (10) percent of the total length of the corresponding wall. In no case shall such projections extend nearer than three (3) feet from any abutting lot line.

- e. Mechanical components of central air conditioning systems, irrigation pumps, grinder pumps, or similar mechanical equipment projecting into a required side yard no more than four (4) feet and no closer than five (5) feet to any lot line, except in subdivisions with side setbacks of a minimum of 5' or less or as may be otherwise approved by the Building Official in the case of zero lot line developments.
- f. Moveable awnings attached to and supported by a building wall may be placed over doors or windows in any required yard, but such awnings shall not project closer than five (5) feet to any lot line. Canopies shall provide a clear space between grade level and the bottom of the valance of at least eight (8) feet. See also [§7.2 Gas and Service Stations](#) for gas and service station canopies.

In addition to the aforesaid, a reduction of a front, rear or side yard up to one (1) foot may be approved by the Building Official provided that no portion of the building shall extend closer than three (3) feet to the nearest property line.

- 5. On through lots, the required front yard setback shall be provided on each frontage except where a note appears on a recorded plat prohibiting access to one of the abutting frontages. Along such frontage, the minimum rear yard shall be required per the applicable district.
- 4.3.7. Height Regulations. The maximum building height regulations prescribed in this Ordinance shall not apply to belfries, chimneys, church spires, cooling towers, elevator bulkheads, fire towers, flag poles, television antennae, tanks, water towers, or mechanical equipment rooms that:

1. do not separately or in combination with other rooftop structures exceed ten (10) percent of the horizontal roof area; and
 2. no sign, nameplate, display or advertising device of any kind shall be inscribed upon or attached to any such structure or otherwise erected so as to extend above the roof of the principal structure.
- 4.3.8. Sight Distance Requirements. No planting, fence, building, wall, sign or other structure shall be placed or maintained so as to obstruct the vision of motorists within a clear sight triangle determined by the City Engineer in accordance with the City Public Works and Engineering Standards.

Foundation. Footings and foundations for new constructions and additions installed on a lot or parcel that has an average grade slope exceeding 1/3 shall be designed by a State of Alabama licensed engineer. A geotechnical engineer shall be required to evaluate the site and inspect the footings and foundations.

§4.4. Accessory Structures

- 4.4.1. Time of Construction. No accessory building shall be constructed until the construction of the principal building, to which it is accessory, has been commenced, and no accessory building shall be used unless the principal building is also being used
- 4.4.2. Location
 1. Accessory structures shall be located only in the rear yard and shall not be located nearer than ten (10) feet from the principal dwelling.
 2. Side yard setback. The side yard setback shall be that required of principal structures in the applicable district.

3. Rear yard setback. Accessory structures shall not be located nearer than fifteen (15) feet from the rear lot line.
- 4.4.3. Height. Accessory structures shall not exceed one (1) story in height nor sixteen (16) feet. Greater height may be permitted only by a Special Exception upon request to the BZA in accordance with the provision of [§12.3 Special Exceptions](#).
- 4.4.4. Building Materials. If the accessory structure is a detached minor building consisting of masonry or frame walls and roof, then in such event said minor building shall be constructed with building materials of the same type and kind as used for the construction of the principal structure on the premises.
- 4.4.5. Miscellaneous
 1. The term “accessory structure” shall not include:
 - a. Any use not on the same lot to which it is accessory unless authorized by the Board of Zoning Adjustment.
 - b. Any use not customarily incidental to a permitted use.
 - c. Any use detrimental to a residential neighborhood, if located within a residential area or if abutting residential uses.
 - d. An accessory dwelling except where specifically permitted by this Ordinance.

§4.5. Fences.

- 4.5.1. Visibility. No fence or wall shall be permitted between the building line and the front lot line. Fences shall not be placed within the clear sight triangle as determined by the City Engineer.
- 4.5.2. No fence shall be erected, installed, constructed or otherwise structurally altered in the City except in strict

compliance with the terms and provisions of this ordinance.

4.5.3. Any person, firm, corporation, partnerships or other entity desiring to build a fence on any property located within the City shall follow the procedure and comply with the following requirements:

1. Unless it has been approved as part of a valid Building Permit, no fence shall be erected, installed, constructed or otherwise structurally altered on any property until a fence permit is issued by the City.
2. No approval for the issuance of a permit shall be made until such time as the Building Official and Fire Marshal have approved the plans and specifications for the erection, installation, construction or structural alteration of said wall or fence and certifies that the same meet the requirement of paragraphs 3 and 4 below.
3. The person, firm, corporation, partnership or other entity applying for a permit shall submit plans and specifications for the erection, installation, construction or structural alteration of the fence. The plans and specifications shall include the following:
 - a. A map or survey of the lot upon which the fence will be located.
 - b. The location of the fence on the property
 - c. The dimensions of the fence, including the height, width and length.
 - d. Estimated cost.
 - e. List and description of materials to be used.
4. No fence shall be erected, installed, constructed, or otherwise structurally altered unless the material utilized therefore is such that the grade and

quality of said material is the same on all sides, including the front and back. Materials are limited to chain link, masonry, vinyl, composite, or wood.

5. In all residential zoning districts, fences, regardless of material, shall be no higher than eight feet measured from the ground. Any fence exceeding 8' in height shall require a Conditional Use Approval pursuant to Section 13.3. If Conditional Use Approval is requested, drawings indicating the requested fencing, location, height and materials will be required.
6. In all residential zoning districts, fences may be located between the front building line and the front setback line provided said fences are open, ornamental in style, finished on both sides and excluding any chain link or privacy wood fencing.
7. For security purposes, in all residential zoning districts, fences may be located between the front building setback and the front lot line providing that all of the following criteria are met:
 - a. The residential property must be a lot of record recorded in the Office of the Judge of Probate; and
 - b. The recorded lot must consist of a minimum one (1) acre of property; and
 - c. The primary residential unit constructed upon the property must be located a minimum 100' from the front lot line; and
 - d. The fence and gate shall be constructed so as to be open, ornamental and decorative in style and constructed of finished stone, masonry and/or metal. Said fencing located within the front yard setback shall exclude wood and/or chain link fencing; and

- e. Said fencing shall be located a minimum of 2' inside the front lot line or a minimum of 5' from any public improvements, within the right-of-way, whichever is greater. Said location shall be approved by the City Planner and/or City Engineer in order to mitigate adverse effects to the subject or adjacent properties. NOTE: All public improvements, including utilities, shall be designated on required drawings in the form of a survey and certified by an Engineer and/or Surveyor licensed by the State of Alabama; and
- f. Said security gate shall be set back minimum 40' from the edge of pavement or at least 2' inside of the private property line, whichever is greater; and
- g. A Knox switch/switches shall be installed and gate shall be at proper width in order to allow access for emergency vehicles and shall be approved by Fire Marshall prior to permitting."

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

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

- 4.6.1. Owner's Association. An association representing the owners shall own the common open space or facility in perpetuity. Membership in the association shall be mandatory and automatic for all owners of the subdivision or condominium and their successors. The association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the

common open space and/or facilities located thereon shall be borne by the association.

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

1. allocates responsibility and guidelines for the maintenance and operation of the common open space/facilities including provisions for ongoing maintenance and for long-term capital improvements;
2. estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the common open space/facilities and outlines the means by which such funding will be obtained or provided;
3. provides that any changes to the plan be approved by the Commission; and
4. provides for enforcement of the plan.

- 4.6.3. In the event the party responsible for maintenance of the common open space/facility fails to maintain all or any portion in reasonable order and condition, the City may take any corrective action, to the extent permitted by law, which is deemed necessary and suitable to remedy the situation.

§4.7. Condominiums

The condominium form of ownership is permitted in any and all Zoning Districts although the area and dimensional regulations for certain districts or uses may not directly relate to such form of property ownership, such as minimum lot areas, widths or yards. Therefore, condominiums shall not be held literally to such regulations; but instead shall be consistent with their intent. For example, if this Ordinance requires a minimum lot area of 10,000 sq. ft. for a particular district or use, such area shall be provided, although it is not within a separately owned lot, and shall not be

counted toward another part of the same development. Similarly, in a district that requires a ten (10) foot side yard setback; there shall be a twenty (20) foot separation between the sides of buildings in a condominium development.

Furthermore, when a district limits the intensity of development to one principal building per lot, such regulations shall not apply literally in the case of condominiums. In such case, more than one such building shall be permitted so long as the minimum (lot) area is provided per principal building.

§4.8. Commercial Vehicles in Residential Districts

In all residential zoning districts, commercial vehicles, as permitted, shall only be parked behind the front building line or within an enclosed structure.

§4.9. Donation Bins

4.9.1. Donation bins may be located on premises in non-residential districts only and shall not, after the effective date of these regulations, be placed on a premises without written approval of the Zoning Official. The following information shall be provided to the Zoning Official with the request for placement:

1. Name, address and phone number of the applicant.
2. Name, address and phone number of the owner of the concerned property and a letter of authority/permission from said owner.
3. Information as to the manner and schedule for which the bin is to be emptied or removed.

4.9.2. Standards. The Zoning Official shall only approve bin placement in accordance with the following:

1. Bins shall be set back as required for principal buildings in the applicable non-residential district and may not encumber any required sight triangle, off-street parking or stacking space, circulation or loading/unloading area, buffer, required yard or landscaping area.
2. All goods shall be regularly removed to avoid overflow and the bin area shall be maintained in a safe, orderly condition.
3. Bins shall not be placed in any manner that conflicts with conditions imposed on the premises through conditional use, special exception use, variance, design review or similar approval.

§4.10. Swimming Pools in Residential Districts

- 4.10.1 In all residential zoning districts, pools shall be constructed within the side and/or rear yards with a minimum setback of 5' from any adjacent property line.
- 4.10.2 All mechanical pool equipment shall be located a minimum of 3' from any adjacent property line.
- 4.10.2 Decks constructed for above ground pools in Residential District R-1, R-2, R-3 and R-4 shall be located within the regular side setbacks of the respective zoning district.

Article 5 RESIDENTIAL DISTRICTS

§5.1. E-2 Residential Estate District

This district is intended to accommodate detached, single-family dwellings on estate-sized lots.

5.1.1. Use Regulations. See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations:

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.1.2. Area and Dimensional Regulations: The area and dimensional regulations set forth following and in Table 5.1 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one principal building and its accessory structures may be built on any lot of record, which, at the time of enactment of this Ordinance, is separately owned.
2. The maximum building height may be increased to three (3) stories, or 45 feet, whichever is less, upon approval of a Special Exception. Such increase in height shall only be permitted upon a favorable recommendation by the Fire Marshal and subject to any conditions required by the Fire Marshal and/or Board, which may include installation of a home fire sprinkler system.

5.1.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 5.1 E-2 District Area and Dimensional Regulations	
Min. Floor Area	
One Story	2,000 sq. ft.
Two Story	2,000 sq. ft.
Min. Total Floor Area	2,000 sq. ft.
Min. Yard Setbacks	
Front	75 ft
Rear	50 ft
Side	25 ft
Min. Lot Area	1 acre
Min. Lot Width	150 ft
Max. Building Height (see also §5.1.2.2)	35 ft or 2 ½ stories, whichever is less
Max. Building Area	
On percent of lot	25%

§5.2. R-1 Low Density Residential District

The district is intended to accommodate detached, single-family dwellings on large lots together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

2. For parking requirements, see [Article 8](#).
3. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

5.2.1. Use Regulations. See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations:

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.2.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.2 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one main structure and its accessory buildings may be built on any lot of record, which, at the time of enactment of this Ordinance, is separately owned.
2. On no lot separately owned shall the aggregate width of required side yards be such that less than twenty-four (24) feet of the width of the lot be left to build upon after side yard requirements are observed.
3. The maximum building height may be increased to three (3) stories, or 45 feet, whichever is less, upon approval of a Special Exception. Such increase in height shall only be permitted upon a favorable recommendation by the Fire Marshal and subject to any conditions required by the Fire Marshal and/or Board, which may include installation of a home fire sprinkler system.

5.2.3. Development Standards.

1. For accessory structures, see [§4.4](#).

Table 5.2 R-1 District Area and Dimensional Regulations	
Min. Floor Area	2,000 sq. ft.
Min. Yard Setbacks	
Front	60 ft
Rear	30 ft
Side	17 ft
Min. Lot Area	20,000 sq. ft.
Min. Lot Width	115 ft
Max. Building Height (see also §5.2.2.3)	35 ft or 2 ½ stories, whichever is less
Max. Building Area	
On percent of lot	30%

§5.3. R-2 Medium Density Residential District

This district is intended to accommodate detached, single-family dwellings on moderately-sized lots together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.3.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.3.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.3 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one main structure and its accessory buildings may be built on any lot of record, which, at the time of enactment of this Ordinance, is separately owned.
2. On no lot separately owned shall the aggregate width of required side yards be such that less than twenty-four (24) feet of the width of the lot be left to build upon after side yard requirements are observed.

5.3.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 5.3 R-2 District Area and Dimensional Regulations	
Min. Floor Area	1,600 sq. ft.
Min. Yard Setbacks	
Front	50 ft
Rear	30 ft
Side	15 ft
Min. Lot Area	15,000 sq. ft.
Min. Lot Width	100 ft
Max. Building Height	35 ft or 2 ½ stories, whichever is less
Max. Building Area	
On percent of lot	30%

§5.4. R-3 Medium Density Residential District

This district is intended to accommodate detached, single-family dwellings on moderately-sized lots together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.4.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.4.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.4 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one main structure and its accessory buildings may be built on any lot of record, which, at the time of enactment of this Ordinance, is separately owned.
2. On no lot separately owned shall the aggregate width of required side yards be such that less than twenty-four (24) feet of the width of the lot be left to build upon after side yard requirements are observed.

5.4.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 5.4 R-3 District Area and Dimensional Regulations	
Min. Floor Area	1,400 sq. ft.
Min. Yard Setbacks	
Front	50 ft
Rear	30 ft
Side	15 ft
Min. Lot Area	15,000 sq. ft.
Min. Lot Width	100 ft
Max. Building Height	35 ft or 2 ½ stories, whichever is less
Max. Building Area	
On percent of lot	30%

§5.5. R-4 Medium Density Residential District

This district is intended to accommodate detached, single-family dwellings on moderately-sized lots together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.5.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.5.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.5 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one main structure and its accessory buildings may be built on any lot of record, which, at the time of enactment of this Ordinance, is separately owned.
2. On no lot separately owned shall the aggregate width of required side yards be such that less than twenty-four (24) feet of the width of the lot be left to build upon after side yard requirements are observed.

5.5.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 5.5 R-4 District Area and Dimensional Regulations	
Min. Floor Area	1,200 sq. ft.
Min. Yard Setbacks	
Front	40 ft
Rear	25 ft
Side	10 ft
Min. Lot Area	12,000 sq. ft.
Min. Lot Width	70 ft
Max. Building Height	35 ft or 2 ½ stories, whichever is less
Max. Building Area	
On percent of lot	30%

§5.6. R-5 Multi-family Residential District

This district is intended to accommodate multi-family dwellings together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.6.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.6.2. Area and Dimensional Regulations. The area and dimensional regulations set forth in Table 5.6 shall be observed (See also [Article 4 General Regulations](#)).

5.6.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 5.6 R-5 District Area and Dimensional Regulations	
Min. Living Area per Dwelling Unit	1,000 sq. ft.
Min. Yard Setbacks	
Front	25 ft
Rear	30 ft
Side	20 ft
Min. Lot Area	17,500 sq. ft for first 4 units plus 3,500 sq. ft. per additional unit
Max. Building Height	40 ft or 3 stories, whichever is less
Min. Building Group Spacing	
Front-to-front	40 ft
Front-to-side	30 ft
Front-to-back	50 ft
Back-to-back	40 ft
Side-to-back	30 ft
Side-to-side	20 ft
Any other situation	16 ft
Max. Building Area	
On percent of lot	35%

§5.7. R-6 Zero Lot Line Residential District

This district is intended to accommodate detached, single-family dwellings on small lots together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.7.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.7.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.7 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one main structure and its accessory buildings may be built on any lot of record, which, at the time of enactment of this Ordinance, is separately owned.
2. Accessory structures and uses customarily incidental to single family uses are permitted in the rear yard only, subject to [§4.4](#).

5.7.3. Development Standards.

1. Homes may be attached with patio fence or wall in order to achieve privacy between homes.
2. For accessory structures, see [§4.4](#).
3. For parking requirements, see [Article 8](#).
4. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
5. For sign regulations, see [Article 11](#).

Table 5.7 R-6 District Area and Dimensional Regulations ^(Notes)	
Min. Floor Area	
One story	1,000 sq. ft.
Two story first floor total	700 sq. ft. 1,100 sq. ft.
Min. Yard Setbacks	
Front	12 ft ⁽¹⁾
Rear	20 ft
Side	0/10 ft ⁽²⁾
Min. Lot Area	4,000 sq. ft.
Min. Lot Width	40 ft
Maxi. Building Height	35 ft or 2 ½ stories, whichever is less
Max. Density	4 DU/acre ⁽³⁾
Min. Dwelling Spacing	
Front-to-front	40 ft
Front-to-side	20 ft
Front-to-back	40 ft
Back-to-back	40 ft
Side-to-back	30 ft
Side-to-side	10 ft
¹ Front yard setback shall be measured from the outside edge of the gutter, curb or edge of pavement, or back of sidewalk, where required, whichever is greater, but under no circumstances within the right-of-way of any dedicated street. ² One side yard with no (zero) setback is permitted, provided however the total of setbacks of both sides shall be at least ten (10) ft. Building separation, in any case, shall comply with City Building and Fire Codes. ³ Included in the calculations shall be all parts of the development including, but not limited to, common areas, streets and public improvements, park areas, etc.	

§5.8. R-7 Duplex and Triplex Residential District

This district is intended to accommodate detached, single-family dwellings on small lots, duplexes and triplexes together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.8.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.8.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.8 shall be observed (See also [Article 4 General Regulations](#)):

1. Accessory structures and uses are permitted in the rear yard only.

5.8.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements for permitted non-residential uses, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

5.8.4. Procedures for creating an R-7 District. See [§13.4 Amendments](#).

Table 5.8 R-7 District Area and Dimensional Regulations ^(Notes)	
Min. Floor Area	
One story	1,000 sq. ft.
Two story first floor total	700 sq. ft. 1,100 sq. ft.
Min. Yard Setbacks	
Front	12 ft ⁽¹⁾
Rear	25 ft
Side	10 ft
Min. Lot Area	3,750 sq. ft. ⁽²⁾
Min. Lot Width	40 ft
Max. Building Height	35 ft or 2 ½ stories, whichever is less
Min. Dwelling Spacing	
Front-to-front	40 ft
Front-to-side	20 ft
Front-to-back	50 ft
Back-to-back	40 ft
Side-to-back	30 ft
Side-to-side	
Multi-unit	20 ft
Single-unit	10 ft
Any other situation	16 ft
¹ Front yard setback shall be measured from the outside edge of curb or back of sidewalk, where required, but under no circumstances within the right-of-way of any dedicated street. ² May include common area.	

§5.9. R-8 Townhouse Residential District

This district is intended to accommodate detached single-family dwellings and townhouses, together with other uses, as may be permitted on appeal, which are compatible with such residential uses.

5.9.1. Use Regulations: See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Only low intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.9.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.9 shall be observed (See also [Article 4 General Regulations](#)):

1. That portion of the façade containing a front-loaded garage shall be set back twenty (20) feet from the back of sidewalk. Driveways in front yards shall not take up more than fifty (50) percent of the front yard, as provided. Narrow lots may require rear access.
2. Customary accessory buildings or structures are permitted provided such use is located in rear yard.

5.9.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements, see [Article 9](#).
4. For sign regulations, see [Article 11](#).
5. Procedures for creating an R-8 District. See [§13.4 Amendments](#).

Table 5.9 R-8 District Area and Dimensional Regulations ^(Notes)	
Min. Floor Area	
One story	1,000 sq. ft.
Two story first floor total	800 sq. ft. 1,200 sq. ft.
Min. Yard Setbacks	
Front	12 ft ⁽¹⁾
Rear	20 ft
Side	none
Min. Lot Area	1,250 sq. ft.
Min. Average Lot Area	4,360 sq. ft.
Min. Lot Width	18 ft
Max. Building Height	35 ft or 2 ½ stories, whichever is less
Min. Building Group Spacing	
Front-to-front	40 ft
Front-to-side	30 ft
Front-to-back	50 ft
Back-to-back	40 ft
Side-to-back	30 ft
Side-to-side	20 ft
Any other situation	16 ft
¹ Front yard setback shall be measured from the back of curb or back of sidewalk, where required, but under no circumstances within the right-of-way of any dedicated street.	

§5.10. R-9 Planned Residential District

This district is intended to accommodate a range of residential uses, which may be selected from, combined and distributed within a site as is most appropriate to the location, access, context and natural character of the area. The R-9 District also provides for a limited number of non-residential uses, as may be permitted in appeal, which are compatible with residential uses.

- 5.10.1. Use Regulations. See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations:
 1. Only low and medium intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.
- 5.10.2. Area and Dimensional Regulations. For the following uses, the area and dimensional regulations set forth for the corresponding district shall be observed (See also [Article 4 General Regulations](#)).
 1. Single-family dwellings (E-2, R-1, R-2, R-3, R-4 and R-6)
 2. Townhouse dwellings (R-8)
 3. Duplexes and triplexes (R-7)
- 5.10.3. Development Standards.
 1. For parking requirements, see [Article 8](#).
 2. For landscaping requirements, see [Article 9](#).
 3. For sign regulations, see [Article 11](#).
- 5.10.4. Procedures for creating an R-9 District. See [§13.4 Amendments](#).

§5.11. RC-1 Residential District

5.11.1. Use Regulations See [Table 5](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations:

1. Only low and medium intensity institutional uses shall be permitted and only by Special Exception per [§12.3](#) or as Conditional Uses per [§13.3](#), as indicated in Table 5.

5.11.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 5.11 shall be observed (See also [Article 4 General Regulations](#)):

1. For the purposes of this §5.11, stories shall mean levels of livable floor space, which are all above ground.

5.11.3. Development Standards.

1. For parking requirements, see [Article 8](#).
2. For landscaping requirements, see [Article 9](#).
3. For sign regulations, see [Article 11](#).

Table 5.11 RC-1 District Area and Dimensional Regulations ^(Notes)	
Min. Floor Area	
Average	1,200 sq. ft.
1-BR unit	800 sq. ft.
2-BR unit	1,250 sq. ft.
3-BR unit	1,500 sq. ft.
Min. Yard Setbacks	
Front	30 ft
Rear	30 ft
Side	20 ft
Min. Land Size	20,000 sq. ft.
Min. Average Lot Area	4,000 sq. ft. ⁽¹⁾
Max. Building Height	35 ft or 2 ½ stories, whichever is less
Max. Building Area	
On percent of lot	35%
¹ Calculation includes common area.	

Table 5 Use Regulations for Residential Districts											
USES / DISTRICTS:	E-2	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-9	RC-1
RESIDENTIAL											
Accessory Dwelling, §7.8	Y										
Assisted Living Facility						C				C	
Duplex								Y		Y	Y
Conservation Subdivision, §7.3	Y	Y	Y	Y	Y					Y	
Family Day Care Home, §7.7	Y	Y	Y	Y	Y		Y				
Group Home						C				C	
Home Occupation, §7.1	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Independent Living Facility						Y				C	
Multi-family dwelling						Y				Y	C
Single-family dwelling, detached	Y	Y	Y	Y	Y		Y			Y	
Townhouse									Y	Y	Y
Triplex								Y		C	
LODGING											
Bed and Breakfast	C	C	C	C	C					C	C
INSTITUTIONAL											
Day Care Center, §7.7										C	
Nursing Home						C					
Place of Assembly	C	C	C	C	C	C	C	C	C	C	
Public Facility	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Public Utility Facility	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
School, Not-for-Profit	C	C	C	C	C	C	C	C	C	C	C
School, Public or Private	C	C	C	C	C	C	C	C	C	C	C
OTHER											
Country Club	C	C	C	C	C					C	
Parks, Gardens, Playgrounds	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Telecommunications Facilities, §7.9	C	C	C	C	C	C	C	C	C	C	C

Y – The use is permitted by right.
L – Permitted by right as limited by district regulations
SE – Special Exception Use, requires approval by BZA (see [§12.3](#)). May also be subject to district limitations.
C – Conditional Use, requires approval by the Council (see [§13.3](#)). May also be subject to district limitations.
 A use followed by a numeric cross-reference is subject to Use-Specific Regulations in Article 7.
 A blank cell indicates that the use is not permitted.

Article 6 NON-RESIDENTIAL DISTRICTS

§6.1. A-Agriculture District

This district is intended to promote the continued use of open, unsubdivided lands for agriculture and low-density residential use as well as non-residential uses, as may be permitted on appeal, which are compatible with the conservation of such semi-rural uses and land areas.

6.1.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations.

1. Stables and Farms shall only be permitted on lots of one (1) acre or larger.
2. Only low and medium intensity institutional uses may be approved and only as Special Exceptions per [§12.3](#) or as Conditional Uses per [§13.3](#) as indicated in Table 6.

6.1.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 6.1 shall be observed (See also [Article 4 General Regulations](#)):

1. Only one main structure and its accessory buildings may be built on any lot of record, which at the time of enactment of this ordinance, is separately owned.
2. Livestock and fowl shall not be housed, fed or watered within 150 feet from the boundary of another district nor 300 feet of the nearest existing residence on any abutting or adjacent property.
3. Piles of feed or bedding shall be located no closer than 100 feet from a right-of-way line, property line to minimize odor and nuisance problems.
4. Manure shall be stored for removal and disposed of in accordance with all

applicable county, state and federal regulations. No manure piles shall be located closer than 100 feet from a right-of-way line, property line, zoning district boundary, wetland, watercourse or other water body.

Table 6.1 A District Area and Dimensional Regulations	
Min. Floor Area	1,400 sq. ft.
Min. Yard Setbacks	
Front	40 ft
Rear	30 ft
Side	15 ft
Min. Lot Area	20,000 sq. ft.
Min. Lot Width	100 ft
Max. Building Height	40 ft or 3 stories, whichever is less
Max. Building Area	
On percent of lot	25%
Rear yard percentage	30%
¹ Calculation includes common area.	

6.1.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

§6.2. B-1 Neighborhood Business District

This district is intended to accommodate non-residential uses of a scale and in such locations as to be compatible with and conveniently serve the day-to-day needs of adjacent neighborhoods.

6.2.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.

1. Retail, service and office uses shall be limited to a maximum gross floor area of 10,000 sq. ft. per establishment. However, additional floor area up to 25,000 sq. ft. may be approved as a Conditional Use per [§13.3](#).
2. Only low and medium intensity institutional uses may be approved and only as Special Exceptions per [§12.3](#) or as Conditional Uses per [§13.3](#) as indicated in Table 6.

6.2.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 6.2 shall be observed (See also [Article 4 General Regulations](#)):

1. Side yard setbacks shall not be required; however, wherever a building is set back from the side lot line, such setback shall be as required by the Building Code and landscaping as required by [§9.2](#) shall be provided.

6.2.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 6.2 B-1 District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	20 ft
Rear	30 ft
Side	0-10 ft, see §6.2.2.1
Max. Building Height	35 ft or 3 stories, whichever is less

§6.3. B-1.2 Planned Neighborhood Mixed Use District

This district is intended to accommodate a range of mutually supportive residential and neighborhood-scale non-residential and mixed uses developed in a pedestrian-friendly pattern. Such development is further intended to be located and designed so as to be convenient to and compatible with adjacent neighborhoods.

Council approval of the application for B-1.2 zoning will include approval of the development plan, including, site plan and setbacks, renderings, and other public improvements. The Zoning Official, Building Official, and City Engineer may approve incidental changes, however, substantial changes to the approved plan (i.e. increased density, amended layout, change of use, etc.) may only be approved by Council following recommendation of the Planning and Zoning Commission.

6.3.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations.

1. Retail, service and office uses shall be limited to a maximum gross floor area of 10,000 sq. ft. per establishment. However, additional floor area up to 25,000 sq. ft. may be approved as a Conditional Use per [§13.3](#).
2. Only low and medium intensity institutional uses may be approved and only as Special Exceptions per [§12.3](#) or as Conditional Uses per [§13.3](#) as indicated in Table 6.

6.3.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 6.3 shall be observed (See also [Article 4 General Regulations](#)):

1. Front Yards.

- a. When separated from the nearest boundary of any single-family residential district by more than 200 feet or by a street right-of-way, no front yard setback shall be required. Otherwise, the minimum front yard setback shall be twenty (20) feet.
 - b. Buildings may be required to be set back as needed to provide a sidewalk as required in §6.3.3.1.
2. Side yard setbacks shall not be required; however, wherever a building is set back from the side lot line, such setback shall be as required by the Building Code and landscaping as required by [§9.2](#) shall be provided.

Table 6.3 B-1.2 District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	see §6.3.2.1
Rear	0-15 (depending on buffer if required) ft
Side	see §6.3.2.2
Max. Building Height	35 ft

6.3.3. Development Standards.

1. All buildings shall have a sidewalk a minimum five (5) to eight (8) feet width along the lot frontage as determined and approved by the City Engineer. Additional right-of-way or a sidewalk easement shall be provided along the lot frontage, if necessary, to accommodate the required sidewalk width.
2. Residential uses, if located within fifteen (15) feet or less of a front lot line, shall be raised at least two (2) feet above grade level.
3. Residential and non-residential uses shall not be located on the same floor of the same building.
4. No vehicular use area, other than a driveway, shall be permitted forward of

any front building line without
Conditional Use approval per [§13.3](#).

5. For accessory structures, see [§4.4](#).
6. For parking requirements, see [Article 8](#).
Abutting on-street parking spaces may be counted toward these requirements.
7. Landscaping shall be provided as required in [Article 9](#) except as follows;
 - a. Landscaping shall not be required at the building front when the building is built up to the public sidewalk. If the building is set back, the front yard shall be (1) designed and improved as an extension of the sidewalk; (2) designed and improved as a plaza; (3) landscaped as required in [§9.2](#) Site Landscaping; or (4) a combination of these.
 - b. Buffers shall not be required between developments within the B-1.2 District but shall required between B-1.2 District developments and uses located outside of the district, as applicable.
8. For sign regulations, see [Article 11](#).

§6.4. B-2 General Business District

This district is intended to accommodate a wide range of non-residential uses in locations convenient to large sections of the community.

6.4.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following.

- 1. Manufacturing incidental to a retail business where articles are sold at retail on the premises may be permitted as a Special Exception per [§12.3](#).

6.4.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 6.4 shall be observed (See also [Article 4 General Regulations](#)):

- 1. Side yard setbacks shall not be required; however, wherever a building is set back from the side lot line, such setback shall be as required by the Building Code and landscaping as required by [§9.2](#) shall be provided.

6.4.3. Development Standards.

- 1. For accessory structures, see [§4.4](#).
- 2. For parking requirements, see [Article 8](#).
- 3. For landscaping requirements, see [Article 9](#).
- 4. For sign regulations, see [Article 11](#).

Table 6.4 B-2 District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	30 ft
Rear	30 ft
Side	0-10 ft, see §6.4.2.1
Max. Building Height	45 ft or 4 stories, whichever is less

§6.5. B-3 Conditional Business District

This district is intended to accommodate a wide range of business uses as well as certain non-residential uses that are generally incompatible with the other districts within this Ordinance. Thus the District provides a mechanism through which such uses may be reviewed by the Commission and Council, who may impose conditions upon such development to mitigate incompatibilities with surrounding development.

- 6.5.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses.
- 6.5.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in Table 6.5 shall be observed (See also [Article 4 General Regulations](#)):
 1. Side yard setbacks shall not be required; however, wherever a building is set back from the side lot line, such setback shall be as required by the Building Code and landscaping as required by [§9.2](#) shall be provided.
- 6.5.3. Development Standards.
 1. For accessory structures, see [§4.4](#).
 2. For parking requirements, see [Article 8](#).
 3. For landscaping requirements, see [Article 9](#).
 4. For sign regulations, see [Article 11](#).

Table 6.5 B-3 District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	30 ft
Rear	30 ft
Side	0-10 ft, See §6.5.2.1
Max. Building Height	5 stories

§6.6. O-1 Office Park District

This district is intended to accommodate office buildings of limited scale and intensity in locations easily accessible to the overall community.

6.6.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following limitations.

1. No storage (except of samples for display purposes), manufacture, repair or delivery of merchandise thereon or therefrom shall be permitted. This shall not apply to said activities when they are incidental to a permitted use and completely contained within the interior of the building or tenant space housing the principal use.

6.6.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in [Table 6.6](#) shall be observed (See also [Article 4 General Regulations](#)):

6.6.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 6.6 O-1 District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	30 ft
Rear	30 ft
Side	20 ft
Min. Lot Area	10,000 sq. ft.
Min. Lot Width	100 ft
Max. Building Height	35 ft or 2 stories, whichever is less
Max. Building Area	
With basement parking	30%
Without basement parking	25%

§6.7. O-2 Office Park District

This district is intended to accommodate large-scale, intensive office development in locations easily accessible to the overall region.

6.7.1. Use Regulations: See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following use limitations.

1. No Storage (except of samples for display purposes), manufacture, repair or delivery of merchandise thereon or therefrom shall be permitted. This shall not apply to said activities when they are incidental to a permitted use and completely contained within the interior of the building or tenant space housing the principal use.

6.7.2. Area and Dimensional Regulations. The area and dimensional regulations set forth following and in [Table 6.7](#) shall be observed (See also [Article 4 General Regulations](#)):

1. The maximum building height shall be four (4) stories. However, additional building height up to ten (10) stories may be approved by the Council through Conditional Use review per [§13.3](#). Additional building height shall only be permitted in accordance with the following findings:
 - a. The location of the building is a sufficient distance from any single-family residential districts to mitigate incompatibility.
 - b. The capacity of the existing street network and any proposed improvements will be sufficient to serve the additional traffic without undue disruption of current traffic.
 - c. The location and available fire protection services are sufficient to

effectively serve the proposed development.

6.7.3. Development Standards.

1. For accessory structures, see [§4.4](#).
2. For parking requirements, see [Article 8](#).
3. For landscaping requirements, see [Article 9](#).
4. For sign regulations, see [Article 11](#).

Table 6.7 O-2 District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	40 ft
Rear	30 ft
Side	20 ft
Min. Lot Area	25,000 sq. ft.
Min. Lot Width	100 ft
Max. Building Height	4 - 10 stories, see §6.7.2.1
Maximum Building Area	
With basement parking	30%
Without basement parking	25%

§6.8. INST Institutional District

This district is intended to accommodate institutional uses that, due to their scale and related impacts, are not compatible with residential use and are therefore generally to be developed in highly accessible locations and/or outside of established neighborhoods.

6.8.1. Use Regulations. See [Table 6](#) (at the end of this Article) for Permitted Uses, Special Exception Uses, and Conditional Uses and the following use limitations:

- 1. No party may alter, expand or extend existing buildings nor construct new ones for the purpose of establishing a use not permitted within the INST District.

6.8.2. Area and Dimensional Regulations. The area and dimensional regulations set forth in Table 6.8 shall be observed (See also [Article 4 General Regulations](#)):

6.8.3. Development Standards.

- 1. For accessory structures, see [§4.4](#).
- 2. For parking requirements, see [Article 8](#).
- 3. For landscaping requirements, see [Article 9](#).
- 4. For sign regulations, see [Article 11](#).

6.8.4. Exemptions.

- 1. Any and all real property located within the corporate City Limits, which was developed as a place of worship, municipal building or facility, school or hospital on or before October 16, 1978, is exempt from these regulations.
- 2. The purpose of this provision is to establish that any and all places of worship, municipal buildings or facilities, school or hospitals which had developed in the City prior to the adoption of Ordinance Number 445 and were at said time rezoned to the INST District, may continue to use said property, either in whole or in part, and

have the right to continue its operations on said property without further proceedings. Said places of worship, municipal buildings and facilities, schools and hospitals may continue the lawful use of said land and structures located thereon, existing on and prior to October 16, 1978. As such, any structure may be built, enlarged, extended, reconstructed or structurally altered on said land for any lawful purpose permitted on said land under the Zoning Ordinance in force and effect on and prior to October 16, 1978.

- 3. The regulations herein shall apply only to that real estate within the INST District developed subsequent to October 16, 1978.

Table 6.8 INST District Area and Dimensional Regulations	
Min. Yard Setbacks	
Front	50 ft
Rear	50 ft
Side	35 ft
Max. Building Height	45 ft or 3 stories, whichever is less

§6.9. Planned Unit Development (PUD)

6.9.1. Intent.

Planned unit development (“PUD”) is a method of development which permits more than one use to be developed on a tract of land, in part or whole, in accordance with an approved Master Development Plan, the intent of which is to:

1. Promote a sense of community, permit flexibility and consequently more creative and imaginative design to accommodate planned associations of uses developed as integral land use units such as office parks or complexes, commercial uses, service centers, residential developments of multiple or mixed housing, including multi-family dwellings, attached and detached single-family dwellings, or any appropriate combination of uses which may be planned, developed or operated as integral land use units;
2. Permit higher than typical densities of land in areas within the PUD in conjunction with provisions for more expansive functional open space and community services;
3. Promote the efficient use of land to facilitate a more economic arrangement of uses, buildings, traffic circulation systems and utilities;
4. Combine and coordinate uses, building forms, building relationships, and architectural styles within the PUD;
5. Promote the preservation and enhancement of existing natural landscape features, their scenic qualities and amenities to the greatest extent possible, and utilize such features in a harmonious fashion;
6. Exempt a development from the conventional zoning regulations

regarding setbacks, minimum yard size, minimum greenbelts, off-street parking regulations, minimum floor areas, and other regulations to achieve the intent described herein;

7. Give the developer reasonable assurance of ultimate approval before beginning final engineering work while providing City officials with reasonable assurance that the development will retain the character envisioned at the time of concurrence; and
8. Promote privacy by permitting the use of gates to control access on private streets, subject to approval by the City as part of the PUD and subdivision review process.

6.9.2. Application and Requirements for PUD.

1. Submission of Application. The property owner (or his/her/its duly appointed representative) of a tract of land shall submit to the City Clerk, a minimum of twenty-five (25) working days prior to a regularly scheduled Commission meeting, an application for approval of a PUD, which shall meet the requirements of this §6.9.
2. Area Requirements. Except when the Master Development Plan of an existing approved PUD is amended by the original applicant, or his/her/its successors or assigns, to include additional area as provided in §6.9.9.3 hereof, any tract of land to be zoned PUD shall have a minimum of seventy-five (75) acres.
3. Contents of Application. The application submitted in accordance with this §6.9 shall contain the following:
 - a. Application Fee. A fee to defray the cost of processing the application, as set from time to time by the Council. Applicant shall be responsible for all

- costs of notification and advertisement incurred.
- b. Owners. List of owners of the property. Any material change in the owners of the property shall be submitted to the City Clerk within sixty (60) days after such change.
 - c. Plan. A Master Development Plan of the PUD and any maps necessary to show the following information:
 - (1) The direction of north, appropriate scale and topography (in no greater than ten (10) feet contour intervals), waterways, flood plains, wetlands, forest cover and known areas of subsurface mining or environmental hazards;
 - (2) The location of the various land uses by PUD land use districts as listed in §6.9.5 hereof;
 - (3) The location of any existing and proposed public or private streets, greenbelts, buffers, natural or man-made open spaces, schools, parks and community service areas within and adjacent to the project area; and
 - (4) The location of any proposed gates for control of access on public and private streets.
 - 4. Planning Criteria. The application shall also include the following written statements and other matters:
 - a. A legal description of the total site proposed for the PUD;
 - b. A general description of the surrounding area, including current zoning and/or land uses;
 - c. A statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. The statement should include a description of the character of the proposed development and the rationale behind the assumptions and projections made by the applicant in relation to the over-all community growth;
 - d. Of the development is to be in phases or stages, a general discussion of how the phases or staging is to proceed and an estimated date when the PUD will begin;
 - e. General delineation of the various land use districts within the PUD, indicating for each such district its general size in terms of estimated total number of acres, with the exact boundaries of each such area to be determined by plat approved by the Commission;
 - f. A calculation of the residential density in dwelling units per gross acre including interior roadways, and including maximum density in units per acre, and densities for all other land use districts within the PUD;
 - g. Development criteria which shall include:
 - (1) setbacks or other location methods, minimum finished floor areas, sign criteria, building heights, off-street parking requirements for each proposed land use district, and/or any other development criteria which the applicant may proposed, and
 - (2) a general discussion of loading areas, greenbelts and buffers;
 - h. Proposed plans for open space;
 - i. Availability and accessibility if transportation, water supply and sewage disposal to the property;
 - j. General statement regarding the ownership and maintenance of common areas and/or common open space;
 - k. Documentation of any protective and/or restrictive covenants, homeowner or business associations

and architectural review committees, if any, and a discussion of their functions;

- l. A general statement concerning any planned street/subdivision sign designs, including street, traffic and informational signs or other standards;
- m. Any planned interim uses of any portion of the property;
- n. A traffic study, if required by the City Engineer;
- o. Landscaping criteria; and
- p. Any proposed modification of existing subdivision regulations as applicable to the PUD.

6.9.3. Other Regulations Not Applicable.

It is the intent of this §6.9 that the PUD application shall set forth development criteria applicable to the property and that flexibility shall be allowed in the construction of improvements thereon. Accordingly, for the purposes of this §6.9, [Articles 5 and 6, §4.4 Accessory Structures](#) (except as set forth in §6.9.6) of this Zoning Ordinance, shall not apply to this §6.9. The applicability of the City Subdivision Regulations shall be subject to any modifications approved pursuant to §6.9.2.4.p above.

6.9.4. Review Procedure.

1. General. The application shall be reviewed as provided in [§13.4](#) of this Zoning Ordinance.
2. Approval. Approval of the application for the PUD by the Council shall be an approval of (a) the Master Development Plan and (b) the planning criteria of the application (collectively, the “Plan”). The developer of the PUD may proceed with the development of the property in accordance with the Plan, and no further approvals shall be required except as set forth in §6.9.9 hereof.

6.9.5. PUD Land Use Districts

The following PUD land use districts shall apply to all or part of a PUD.

1. Planned Single-Family Residential (PR-1).
 - a. Permitted Uses. Attached or detached single-family residential dwellings (including, without limitation, cluster residential, garden homes, duplexes, and townhouses); open spaces; parks; tot lots; swimming pools; picnic areas; tennis courts; community buildings; public playgrounds; municipal fire and/or police stations; golf courses and/or country clubs (if shown on the Plan); home occupations (as defined in §7.1); non-residential child and/or adult day-care centers; residential information offices; wastewater effluent spray irrigation fields (if shown on the Plan); and accessory structures and uses customarily incidental to such permitted uses.
 - b. Conditional Uses. Public, private or parochial schools, but not providing residential accommodations; places of worship; museums; libraries; art galleries; recreational facilities operated on a nonprofit basis; golf courses and country clubs (if not shown on the Plan); convenience commercial uses; wastewater effluent spray irrigation fields (if not shown on the Plan); and other uses not listed in this §6.9.5.1 as may be approved by the Council following the recommendation of the Commission.
 - c. Maximum Building Height. Buildings in the PR-I District shall not exceed three (3) stories in height and shall conform to the City Building Code, Fire Code and Fire Prevention Code, as adopted and amended by the City.
 - d. Special Setback Requirement. Unless otherwise approved by the

Commission, any single-family residential dwelling constructed in a PR-1 land use district must be, at the time of initial construction, located or situated:

- (1) Not less than three hundred (300) feet from any then existing building in any other land use district in the Plan, which exceeds three (3) stories in height but does not exceed six (6) stories in height; and
- (2) Not less than five hundred (500) feet from any then existing building in any other land use district in the Plan, which exceeds six (6) stories in height.

This requirement shall apply only to the initial construction of a single-family residential dwelling in a PR-1 land use district, and specifically shall not apply to subsequent additions to or modifications of such single-family residential dwelling, nor to any reconstruction in the event of partial or total destruction to such single-family dwelling due to a fire or other casualty.

- 2. Planned Multi-family Residential (PR-2).
 - a. Permitted Uses. Multi-family dwellings and accessory structures; those permitted and conditional uses allowed by PR-1; municipal fire and/or police stations and uses customarily incidental to such permitted uses.
 - b. Conditional Uses. Nursing homes; independent living facilities; assisted living facilities; professional offices; and other uses not listed in this §6.9.5.2 as may be approved by the Council following recommendation by the Commission.
 - c. Maximum Building Height. Unless approved as a conditional use:

- (1) When a building is to be constructed within three hundred (300) feet of a single-family residential dwelling in a PR-1 land use district existing at the time of the issuance of a Building Permit for said building, said building shall not exceed three (3) stories in height.
- (2) When a building is more than three hundred (300) feet but less than five (500) feet from a single-family residential dwelling in a PR-1 land use district existing at the time of the issuance of a Building Permit for said building, said building shall not exceed six (6) stories in height.
- (3) No building shall exceed ten (10) stories in height.

In the event a building is destroyed by fire or other casualty, such building may be rebuilt or reconstructed up to its original height without regard to the distance between such building and any single-family residential dwelling built after the commencement of the initial construction of such building.

All buildings shall conform to the City Building Code, Fire Code and Fire Prevention Code as adopted by the City.

- 3. Planned Office (PO).
 - a. Permitted Uses. Public buildings, places of worship, banks and other lending institutions; municipal fire and/or police stations; professional offices ; and offices used exclusively for office purposes, wherein retail or wholesale trade or business is not conducted or wherein no merchandise or products are manufactured, stored, handled, conveyed, sold or otherwise disposed of, together with usual related support businesses (such as, but not limited to, restaurants and food

- service restaurants, drug stores, barber shops, beauty parlors, travel agencies, hotel/motel accommodations; office supply and/or quick print and copy establishments, and like uses), provided that such related support uses are physically located inside the structures devoted to the permitted uses set forth above, and accessory structures and uses customarily incidental to such permitted uses.
- b. Conditional Uses. Those conditional uses allowed by PR-2, except detached single-family dwellings; helistops, and other uses not listed in this §6.9.5.3 as may be approved by the Council following recommendation by the Commission.
- c. Maximum Building Height. Unless approved as a conditional use:
- (1) When a building is to be constructed within three hundred (300) feet of a single-family residential dwelling in a PR-1 land use district existing at the time of the issuance of a building permit for said building, said building shall not exceed three (3) stories in height.
 - (2) When a building is to be constructed more than three hundred (300) feet but less than five hundred (500) feet from a single-family residential dwelling in a PR-1 land use district existing at the time of the issuance of a building permit for said building, said building shall not exceed six (6) stories in height.
 - (3) No building shall exceed ten (10) stories in height.

In the event a building is destroyed by fire or other casualty, such building may be rebuilt or reconstructed up to its original height without regard to the distance between such building and any single-family residential

dwelling built after the commencement of the initial construction of such building.

All buildings shall conform to the City Building Code, Fire Code and Fire Prevention Code as adopted by the City.

4. Planned Neighborhood Commercial (PNC).
- a. Permitted Uses. Those permitted uses allowed by PO; those permitted uses and conditional uses allowed by PR-2; retail establishments consistent with a neighborhood environment, including, but not limited to barber or beauty shops; restaurants; private clubs; drug stores; laundry and dry cleaning pick up stations and plants using non-flammable solvents only, if otherwise free of obnoxious fumes, odors and smoke; grocery stores; convenience stores; automotive gasoline service stations; florist shops; bakeries; child and/or adult day-care or nurseries; neighborhood service facilities; copy centers; travel agencies; car rental agencies; and with accessory structures and uses customarily incidental to such permitted uses.
 - b. Conditional Uses. Those permitted uses allowed by PR-2; helistops; amphitheaters; in-door motion picture theaters and/or auditoriums; and such other uses not listed in this §6.9.5.4 as may be approved by the Council following recommendation by the Commission.

5. Planned Business (PB).

a. Permitted Uses. Those permitted uses allowed by PR-1 and PNC; schools; retail establishments, including but not limited to, shopping centers; veterinary clinics (no outside kennels); auto dealerships; auto parts stores; building material sales; department stores; radio and TV stations; domestic equipment rental, furniture stores; motels or hotels; in-door motion picture theatres and/or auditoriums; hospitals; automotive gasoline service establishments which may also serve auto functions such as muffler, tire, battery, brake and transmission shops; establishments for the design and distribution of printed material, coin-operated laundromats; car washes; card/gift shops; cosmetic studios; craft or hobby shops; dance studios; photographic studios; duplicating or copying service; health food stores; interior decorating stores; opticians, medical clinics; shoe repair, audio video; tanning salons; assisted living care facilities; hardware stores; jewelry stores; sporting goods stores; sales showrooms for appliances, furniture, carpet, lighting fixtures, medical and office equipment; toy stores; indoor sports facilities (bowling, health club or spa, racquet club, skating rink); and factory outlet stores, and accessory structures and uses customarily incidental to such permitted uses.

b. Conditional Uses. Those conditional uses allowed by PNC; commercial recreation and amusement facilities; self-service storage facilities; telecommunications facilities; and other uses not listed in this §6.9.5.5 as may be approved by the Council following recommendation by the Commission.

6. Planned Light Industrial (PI).

a. Permitted Uses. Those permitted uses allowed by PB; major auto repair or renovation facilities not housed in the same structure or accessory structure to an auto sales establishment; bottling plants; construction yards; distribution yards for gasoline and fuel or tanks; domestic animal kennels; farm machinery and farm supply sales; heavy equipment sales and service; highway maintenance yards and buildings; janitorial and maintenance service; laundry and dry cleaning plants; printing establishments; light industrial, fabricating, processing, assembling and manufacturing uses; sanitary sewage and/or waste water treatment facilities; research and development laboratory facilities; warehouses; water or liquid storage tanks; wood working shops; and self-service storage facilities and accessory structures and uses customarily incidental to such permitted uses.

b. Conditional Uses. Those conditional uses allowed by PB, except multi-family; live entertainment; telecommunications facilities; and other uses not listed in this §6.9.5.6, all as may be approved by the Council following recommendation by the Commission.

6.9.6. Requirements for Accessory Structures, Fences, Signs, Off-street Parking, Loading Areas, Landscaping, and Buffer Strips

It is intended that the development criteria submitted with the application for the PUD will set forth requirements for accessory structures, fences, landscaping, buffer strips, signs, off-street parking, and loading areas. If the application does not contain such information, then the provisions of §4.4 Accessory Structures,

§4.5 Fences, [Article 8](#) Parking Regulations, [Article 9](#) Landscaping and [Article 11](#) Sign Regulations shall apply, but not otherwise.

6.9.7. Mixed Use.

It is intended that the flexibility of the PUD will allow in appropriate circumstances mixed uses on any particular parcel within the PUD, taking into consideration the compatibility of the intended uses with the surrounding use(s). "Mixed use," as used herein, shall be defined as a combination of permitted use(s) and conditional use(s) for more than one land use district and shall be considered as a "conditional use" under each land use district.

6.9.8. Building Permit

1. General. The developer of the PUD shall proceed with the development of the property in accordance with the Plan and no further approvals shall be required except as set forth in this §6.9.8. If plans are submitted for the construction of improvements on any particular parcel within the PUD, a Building Permit shall be approved or disapproved according to the procedure set forth in this §6.9.8.
2. Issuance of Building Permits for Permitted Uses. Upon application for a Building Permit for the construction of improvements on any parcel within the PUD, if the Zoning Official shall determine that the intended use of the improvements is a "permitted use" within the applicable land use district of the PUD, then a Building Permit shall be issued in accordance with the provisions of [Article 13](#).
3. Other Uses. Upon application for a building permit for the construction of improvements on any parcel within the PUD, if the Zoning Official shall determine that the intended use of the

improvements is a "conditional use" or "mixed use" within the applicable land use district of the PUD, the Zoning Official shall defer said applicant and application to the Commission for application review in accordance with §6.9.8.4 below.

4. Conditional uses. Requests for conditional uses as stipulated within the land use district regulations of the PUD are permitted only after review and a recommendation for approval, denial or other report by the Commission and approval by the City Council, in accordance with [§13.3](#), subject to the following procedure:
 - a. The applicant shall submit to the Commission a site development plan which shall include:
 - (1) Existing and proposed topography;
 - (2) Property lines;
 - (3) Scale;
 - (4) Storm drainage facilities and other utility easements;
 - (5) Existing and proposed structures and their uses;
 - (6) Schematic exterior lighting;
 - (7) General landscaping and fences;
 - (8) Location of outside storage areas;
 - (9) Location of parking and loading areas;
 - (10) Points of ingress and egress; and
 - (11) Signs, unless the protective covenants for the PUD establishes an architectural review committee or other entity that is responsible for, among other things, review and approval of signage.
 - b. Any review and/or determination made by the Commission pursuant to this §6.9.8.4 shall be governed by, and performed in accordance with [§13.3](#) of the Zoning Ordinance.

5. Subdivision plats and roads. Nothing in this §6.9.8 shall be construed to require a Building Permit for approval of subdivision plats or road designs or the construction of roads within the PUD.

6.9.9. Deviation from the Plan.

1. Incidental Change. To facilitate insignificant adjustments of the approved Plan as may be required by engineering or other circumstances unforeseen at the time of zoning approval, Zoning Official and City Engineer, as applicable or appropriate under the circumstances, may approve alterations to the plan which are considered incidental in scope, which approval shall be in writing. Approval of plans by official rubber stamp, initials and/or signature of the appropriate official shall be deemed approval “in writing”.

2. Minor Change. Changes to the plan, which are minor but more significant in scope than an incidental change, are subject to the review, approval and authorization of the Commission through the typical plat approval process. “Minor changes” shall be defined as increases in density, reductions in open space, and land use district boundary changes, provided no such minor change exceeds 5% of the original specification for such respective matter under the plan.

3. Major Change. A “major change” in the plan shall be defined as any increase in density, reduction in open space, or land use district boundary change, in excess of 5% of the original specification for such respective matter under the plan. (NOTE: Such 5% is a cumulative total, which includes all requests since the plan was approved by the Council).

4. Approval of Major Changes. Whenever the developer of a PUD shall request a major change as defined in §6.9.9.3, the

developer shall file an application for change, which shall be reviewed in accordance with the provision of §6.9.2 of the Zoning Ordinance.

5. Approval of Plat Changes. Once any plat has been approved by the Commission, any changes to such approved plat will be subject to review and approval by the Commission through the typical process for such changes. Any approved changes to a plat will not constitute a change to the Plan.

6.9.10. Time Limit for Development of Plan.

If no construction has begun within twelve (12) months from the estimated and approved start up date of the PUD, as indicated by §6.9.2.4.d. above, said approval shall lapse and be of no further effect. The Commission, upon showing of good cause by the developer, may extend for period(s) of six (6) months for the beginning of construction and development shall commence each year on the lesser of ten (10) percent of the total PUD or twenty (20) acres (whichever is less) and said construction should continue and be completed within a reasonable time.

6.9.11. Definitions.

1. Intent. For purposes of this §6.9, certain terms used herein are herewith defined, and if any terms defined herewith in this §6.9.11 shall contradict or conflict with any terms defined in any other section of this Zoning Ordinance, those terms as defined in this §6.9.11 shall control.

2. Definitions.

a. *Attached single-family dwelling* shall refer to those buildings so designed and arranged to provide separate sleeping, cooking, and kitchen accommodations and toilet facilities for occupancy of two (2) families or

- more whereby the living units are built for sale, in fee simple, and not for lease and including condominiums and townhouses.
- b. *Cluster residential* shall refer to detached single-family residential dwellings, typified by a building separation of a minimum of ten (10) feet or as allowable by applicable fire code.
 - c. *Detached single-family dwelling* shall refer to a detached building so designed and arranged to provide sleeping, cooking, and kitchen accommodations and toilet facilities for occupancy by one family only.
 - d. *Interim use* shall refer to any temporary use of land in any area of a PUD, which has been approved as a part of the Master Development Plan and criteria. An interim use can be any use and may or may not be a permitted use or a conditional use of the land use district in which it is located.
 - e. *Multi-family dwellings* shall refer to a structure designed or used for residential occupancy by more than two (2) families, with or without common or separate kitchen facilities or dining facilities, and which is leased in part or whole, including apartment houses, apartment hotels, rooming houses, boarding houses, fraternities, sororities, dormitories, or similar housing types, but not including hotels, motels, hospitals, or nursing homes.
 - f. *Open space* shall refer to any greenbelt, buffer, park, lake, river, or recreational development or area which is owned by or dedicated to the public, or owned in common or private, devoid of any habitable buildings, except where accessory to the provision of recreation opportunities, landscaping, drainage, spray irrigation or soil conservation, including, without limitation, conservation or green space easements, parks, such open spaces as may be located within a school site, golf courses, and such spaces as may be restricted to homeowner or business association membership. NOTE: No more than twenty-five (25) percent of the open space specified in the approved Plan shall be included in building setbacks. Furthermore, no areas may be included as part of the open space specified in the approved Plan unless such area is a contiguous area of at least 1,000 square feet, which exceeds 15 feet in width at its narrowest point.
 - g. *Plat* shall refer to any drawing or drawings and related written material indicating the manner or layout of a road, parcel, and/or subdivision to be submitted to the City for approvals and/or recording purposes.
 - h. *Story* shall refer to any portion of a building that is (1) constructed wholly above ground and (2) included between the surface of any floor and the surface of the floor next above it, or, if there is no floor next above it, then the space between the floor and the ceiling next above it. Attic space shall not be included as a story.
- 6.9.12. Changes to Zoning Ordinance
- No amendment or modification of this Zoning Ordinance shall be effective as to any PUD approval issued prior to such amendment or modification, it being intended that the PUD shall continue to be developed in accordance with the Zoning Ordinance in effect at the time of such prior approval without specific approval of the governing body in ratification of an amendment.

§6.10. MXD Planned Community Mixed Use District

6.10.1. Intent. The MXD District is intended to direct and encourage development of mixed uses in a pedestrian and/or transit-supportive pattern in locations indicated as “Village Centers” in the Comprehensive Plan. An MXD District may also coincide with an area surrounding a transit station or within designated centers along a transit line as designated in the Comprehensive Plan. Also considered shall be the use of the land and its improvements with adjacent land and the benefits or detriments to the property, adjacent land and to the City, which would result from the development in accordance with the proposed plan; thus promoting the public health, safety and welfare.

Furthermore the MXD District is intended to encourage redevelopment and infill development laid out, developed and used according to a Master Development Plan to improve mobility by providing pedestrian and transit-friendly development with a mix of residential, commercial and employment opportunities in accord with the following:

1. Encourage investment in areas so designated by the Comprehensive Plan while adding to the quality of life in neighborhoods;
2. Encourage safe, attractive and convenient access for transit users, pedestrians and bicyclists through appropriate design;
3. Allow densities supportive of mixed use development;
4. Reduce vehicular trip generation by allowing for combining of trips and locating destinations within walking and biking distances of neighborhoods and transit stops;

5. Reduce congestion and increase safety on major roadways by providing from local streets, shared drives and alleys;
6. Reduce conflicts between pedestrians, bicycles and vehicles;
7. Reinforce the use of public transit by locating employment-oriented business and higher density residential uses, adjacent to transit stops.

6.10.2. Area Requirements. Except when the Master Development Plan of an existing approved MXD is amended to include additional area, any tract of land to be zoned MXD shall have a minimum of two (2) acres.

6.10.3. Review Procedure.

1. Prior to submission of the Master Development Plan, the applicant shall submit and review a conceptual plan with City Planning Staff for a preliminary indication of the consistency of the plan with the basic intents and requirements of the District. The applicant shall then prepare and submit the required materials of the Master Development Plan to the City Clerk.
2. Applications shall be submitted a minimum of twenty-five (25) working days prior to the next regularly scheduled Commission meeting.
3. Rezoning to an MXD District shall proceed as provided in [§13.4 Amendments](#) and as described herein.
4. Council approval of the application for the MXD shall be an approval of (a) the Master Development Plan and (b) the planning criteria of the application (collectively, the “Plan”). The developer may proceed with the development in accordance with the Plan, and no further approvals shall be required except for Building Permits, subject to [§13.2](#).

6.10.4. Application. The application shall contain the following:

1. An application fee to defray the cost of processing the application, as set from time to time by the Council. Applicant shall be responsible for all costs of notification and advertisement incurred.
2. A list of property owners. Any material change in the owners of the property shall be submitted to the City Clerk within sixty (60) days after such change.
3. A Master Development Plan and any maps necessary to show the following information:
 - a. A legal description;
 - b. North arrow and scale
 - c. Planning objectives to be achieved. The statement should include a description of the character of the proposed development and the rationale behind the assumptions made by the applicant in relation to the overall community growth;
 - d. Topography (in no greater than two (2) foot contour intervals), waterways, flood plains, wetlands, forest cover and known areas of subsurface mining or environmental hazards;
 - e. A general description of the surrounding area, including current zoning and/or land uses,
 - f. Existing and proposed streets, greenbelts, buffers, open spaces, schools, parks and community service areas within and adjacent to the project area
 - g. A description of how any phases or staging will proceed and an estimated date when the development will begin;
 - h. The gross floor area of non-residential uses, area of proposed open spaces, and the number and gross density

(including streets and open spaces) of all dwelling units;

- i. Development criteria, in accordance with §6.10.8 through §6.10.10, including but not limited to: setbacks and build-to lines, building heights, street and sidewalk design, signage, off-street parking, lighting, and/or any other development criteria which the applicant may propose;
- j. The location of proposed structures and uses;
- k. Landscape design criteria and plans for open space;
 - l. Availability of transportation, water supply, storm sewer and sewage disposal;
- m. Plans for the ownership and maintenance of common areas;
- n. Documentation of any protective and/or restrictive covenants, property owner associations and architectural review committees, if any, and a discussion of their functions;
- o. A traffic study, if required by the City Engineer;
- p. Any proposed modification of the subdivision regulations.

6.10.5. Other Regulations Not Applicable.

Where the provisions of this Section are in conflict with other provisions of this Ordinance, the provisions of this Section shall take precedence.

It is the intent of this Section that the application shall set forth criteria applicable to the property and that flexibility shall be allowed in the construction of improvements thereon. Accordingly, for the purposes of this district, the strict conformity to provisions of [Articles 4, 7, 8 and 9](#), shall not apply, except as otherwise stated herein. The applicability of the City Subdivision Regulations shall be subject

to any modifications accepted by the Commission.

6.10.6. Deviation from the Plan.

1. Incidental Change. The Zoning Official, Building Official and City Engineer, as applicable, may approve alterations to the plan that are considered incidental in scope, which acceptance shall be in writing. Acceptance of plans by official stamp or seal, initials and/or signature of the appropriate official shall be deemed acceptance “in writing”.
2. Minor Change. Changes that are minor but more significant in scope than an incidental change are subject to review, acceptance by the Commission through the typical plat acceptance process. “Minor changes” include increases in density, reductions in open space, and changes to the accepted proportion of mixed uses, provided no such minor change exceeds five (5) percent of the original specification under the Plan.
3. Major Change. A “major change” includes any increase in density, reduction in open space, or change to the accepted proportion of mixed uses over five (5) percent of the original specification for such respective matter. (NOTE: Such percentage is cumulative, which includes all requests since final acceptance). The developer shall file an application for any major change, which shall be reviewed in accordance with the provision of §6.10.3.
4. Acceptance of Plat Changes. Once the Commission has accepted any plat, any changes shall require acceptance by the Commission through the typical process for such changes. Any accepted changes to a plat will not constitute a change to the plan.

6.10.7. Time Limit for Development of Plan. If no construction has begun within twelve

(12) months from the start up date, as accepted in the Plan, said acceptance shall lapse and be of no further effect. The Commission, upon showing of good cause by the developer, may extend for period(s) of six (6) months for the beginning of construction, the intent being that construction should be completed within a reasonable time.

6.10.8. Uses. It is intended that flexibility be provided to allow mixed uses within the development, taking into consideration compatibility with surrounding use(s). Therefore, the development shall contain and provide an appropriate mix of complementary uses, which shall include those that offer goods and services at different times of day and those in which people may choose to live, work, shop and play in close proximity to one another.

1. Prohibited uses. Uses or structures prohibited shall be the following, including uses and structures deemed by the Commission to be substantially similar in use and impact to those listed following:
 - a. Drive-through facilities, except those located to the rear or interior of the development.
 - b. Sales, service and rental of commercial equipment and construction materials.
 - c. Vehicle sales, service and rental, except in an enclosed structure.
 - d. Distribution, storage and warehousing facilities.
 - e. Heavy commercial services.
 - f. General manufacturing and other industrial uses.
 - g. Salvage, recycling and outdoor storage.
 - h. Towing services.

- i. Wholesale trade.
2. Notwithstanding provisions to the contrary that may be found elsewhere in this Ordinance:
 - a. Uses prohibited in a mixed use development that were lawfully in existence at the time of district designation but that are to remain as a part of the overall Plan, shall not be expanded, because such uses are not considered to be compatible with the intent of the district.
 - b. All other uses and structures that were lawfully in existence at the time of district designation may be expanded, upon findings by the Commission that the proposed expansion complies with the intents of the MXD District and the Plan. Total such expansion shall be limited to a maximum of twenty (20) percent of the gross floor area present at the time of district designation, and only upon acceptance by the Commission of a Plan that commits the applicant, through covenant or other appropriate means, to development that will achieve, through phases if necessary, full compliance with all applicable standards of the district.
- 6.10.9. Parking Requirements. It is intended that the provision of shared and on-street parking, mixed uses and optimized pedestrian access allows reductions in parking requirements as provided in [§8.1.2](#).
 1. Parking shall not exceed 120% of the cumulative spaces required by [§8.1.2](#) unless such additional parking is provided in a parking structure.
 2. Only new on-street parking, created as a result of the development, may be counted toward the parking requirement.
3. Surface parking lots shall be landscaped in accordance with the applicable requirements of [§9.2 Site Landscaping](#).
4. Vehicular access to parking and loading areas shall be limited to mid-block alleys and shared driveways.
- 6.10.10. Review Criteria and Standards. The Commission shall employ the following checklist during the review process.
 1. Uses.
 - a. A project shall include a residential component in combination with one or more of the following: commercial, lodging, institutional or recreational uses. The ratio of mixed uses shall be acceptable to the Commission.
 - b. A variety of uses shall be placed close together to optimize pedestrian convenience.
 - c. Buildings may include more than one use. However, residential uses may not be located on the same floor of the same building as a different use.
 - d. Residential uses shall not exceed a net density of ten (10) dwelling units per acre.
 2. Site Planning. Site plans should establish legible circulation paths, human-scaled public spaces and clear transitions between public and private space through the location of buildings, parking areas, access points, and walkways.
 - a. Blocks larger than 400 feet x 400 feet should be avoided within the center of a mixed use development. Blocks may be larger along the periphery to provide an appropriate transition to surrounding neighborhoods.
 3. Building Height.
 - a. The maximum building height, for lots adjacent to any single-family residential district, shall be three (3)

- stories or forty-eight (48) feet, whichever is less.
- b. The maximum building height for all other cases shall be five (5) stories or sixty (60) feet, whichever is less.
4. Streetscape Design.
- a. All streets shall be designed to promote connectivity while calming traffic.
- b. New streets may include on-street parking as approved by the City Engineer.
- c. Sidewalks shall be installed along all street frontages as needed, and shall:
- (1) Be completely interconnected within the site and from the site to adjacent public sidewalks;
- (2) Be at least five (5) feet wide in primarily residential areas;
- (3) Be at least eight (8) feet wide in primarily commercial areas; and
- (4) Be separated from the street by a vertical curb.
- d. A tree lawn, regularly spaced tree wells, planter boxes, and/or on-street parking shall be provided as a buffer between the roadway and sidewalk.
- e. Planting strips and street trees shall be provided as required in the City Public Works Manual.
5. Building Design. Buildings shall be oriented to maximize the building frontage along the street. Building frontage may be less and a modest setback incorporated where necessary to provide an appropriate transition to adjacent neighborhoods.
- a. Mixed-use buildings with street level commercial space shall be set back no more than five (5) feet from the sidewalk unless the proposed setback is to be a courtyard, plaza or similar public space.
- b. Any residential units located within fifteen (15) feet of a public sidewalk shall be raised at least two (2) feet above the grade level of the sidewalk.
- c. Buildings shall provide and maintain a public entrance along the street. Buildings shall be oriented toward the pedestrian by providing a direct link between the building and the existing and/or proposed pedestrian system.
- d. Shading and protection from inclement weather, through awnings or canopies, shall be provided over public sidewalks to optimize pedestrian comfort.
- e. Building service areas should be placed away from street view.
6. Open Space.
- a. In primarily non-residential areas at least fifteen (15) percent of the total site area shall be dedicated to open space. Where feasible, this should be fulfilled with a plaza, courtyard or similar public space in a central location adjacent to multiple buildings on the site.
- b. In primarily residential areas at least twenty (20) percent of the total site area shall be dedicated to usable open space.
7. Vehicle and Bicycle Parking.
- a. Parking should be placed away from street view, to the rear or side of buildings and never at corners.
- b. Parking areas within a block should be shared. Reserved spaces shall be excluded from shared parking reductions per [§8.1.2](#).
- c. Parking facilities shall be designed with connections to the sidewalk system and through-pedestrian paths, clearly identifiable through changes in material or elevation.

- d. Along street frontages, parking structures should contain ground-level business uses.
 - e. Bicycle parking facilities should be provided as follows:
 - (1) Multi-family: 1 space per dwelling
 - (2) Retail: 1 space per 2000 sq. ft. GLA
 - (3) Office: 1.0 space per 4,000 sq. ft. GLA
 - (4) Park and Ride Facilities: 10 spaces per acre
8. Lighting. Lighting should be carefully integrated with building, landscape and streetscape design. Scale, intensity, and fixture design should vary between areas of different densities and uses. Lighting should increase pedestrian comfort and safety. Well-lit streetscapes provide a sense of security and encourage nighttime activity. Ornamental light posts and fixtures help to create an attractive streetscape and should be consistent with the architectural character of the area.
- Light fixtures should be shielded to keep light focused downward and avoid glare and excess lighting.
- a. Lighting may be used to showcase building and landscape features, emphasize important spaces and promote nighttime vitality and safety. All light sources should be shielded to eliminate nighttime glare. Building-mounted lights may be used in place of light posts to safely illuminate pedestrian and minor vehicular ways.
 - b. Streetscape lighting should be compatible with the scale and character of surrounding buildings and open spaces. A larger number of lower scale, low-intensity lights is preferred to fewer, taller high-intensity lights. In the center of mixed use developments, light posts should be eight (8) to twelve (12) feet in height along sidewalks and spaced no more than thirty (30) feet apart. For natural quality, lighting elements should provide full-spectrum light to prevent color distortion. Ornamental fixtures are recommended.
- c. Roadway lighting should be designed to enhance the safety of vehicular and pedestrian flows. Light posts may be located at both edges of the roadway or within a landscaped median. Lighting should be concentrated at intersection crosswalks for pedestrian safety. Roadway lighting should not adversely affect the streetscape lighting.
9. Stormwater management. Off-site treatment (including curb and gutter, conduits, catch basins, and related appurtenances) shall be the preferable management technique; however, where such technique is inadequate or impractical, it should be combined or substituted with on-site retention and/or detention facilities integrated into the open space and landscape design of the site.
10. Transit. Development sites that include an existing or planned transit stop shall:
- a. Be directly served by a sidewalk.
 - b. Include a concrete loading pad from sidewalk to curb.
 - c. Include a transit shelter integrated with the development.
 - d. Provide bicycle parking as accepted by the Commission.
 - e. Include bus turnout lanes along the transit route.
 - f. Provide park-and-ride facilities (if in area designated by the MPO as a park-and-ride service area)

Table 6 Use Regulations for Non-Residential Districts								
USES / DISTRICTS:	A	B-1	B-1.2	B-2	B-3	O-1	O-2	INST
AGRICULTURAL								
Farm, Raising of Crops only	Y							
Farm, Raising of Livestock	L							
Farm Support Business	SE				C			
Forestry	Y							
Stable	Y							
RESIDENTIAL								
Assisted Living Facility			C					Y
Independent Living Facility			Y					
Multi-family dwelling			Y					
Townhouse			Y					
LODGING								
Bed and Breakfast, §7.4	C							
Hotel				Y	Y			
Motel					Y			
INSTITUTIONAL								
Animal Shelter, §7.6	Y			C	C			C
Private Club		Y	Y	Y	Y	Y	Y	Y
Day Care Center, §7.7		L	L	Y	Y	C	C	C
Hospital					C		C	Y
Nursing Home					C			Y
Place of Assembly	C	L	L	Y	Y	L	Y	Y
Public Facility	L	L	L	Y	Y	L	Y	Y
Public Utility Facility	SE	SE	SE	SE	SE	SE	SE	SE
School, Commercial	C	L	L	Y	Y	L	Y	Y
School, Not-for-Profit	C	L	L	Y	Y	L	Y	Y
School, Public	C	L	L	Y	Y	L	Y	Y
BUSINESS								
Automotive Repair Service, Major				C	C			
Automotive Repair Service, Minor				Y	Y			
Automotive Sales				C	C			
Bank or Financial Service		L	L	Y	Y	Y	Y	
Broadcast Studio				Y	Y	Y	Y	
Business or Professional Office		L	L	Y	Y	Y	Y	
Business Support Service		L	L	Y	Y	Y	Y	
Car Wash, Freestanding (non-accessory)				C	C			
Convenience Store		Y	Y	Y	Y			
Entertainment, Indoor				Y	Y			
Entertainment, Outdoor			C	C	C			
Funeral Home				C	Y			
Garden Center/ Nursery		L	L	Y	Y			
<p>Y – The use is permitted by right. L – Permitted to limits set by district regulations SE – Special Exception Use, requires approval by BZA (see §12.3). May also be subject to district limitations. C – Conditional Use, requires approval by the Council (see §13.3). May also be subject to district limitations. A use not listed may be requested for approval as a Conditional Use per §13.3. A use followed by a numeric cross-reference is subject to Use-Specific Regulations in Article 7. A blank cell indicates that the use is not permitted.</p>								

Table 6 Use Regulations for Non-Residential Districts								
USES / DISTRICTS:	A	B-1	B-1.2	B-2	B-3	O-1	O-2	INST
Gas Station, §7.2			C	Y	Y			
Hardware Store		L	L	Y	Y			
Home Improvement Center				Y	Y			
Kennel, §7.6	Y				C			
Laundromat			Y	Y	Y			
Laundry and Dry Cleaning, Retail		Y	Y	Y	Y	Y	Y	
Laundry, Industrial				C	C			
Liquor Lounge		C	C	C	C			
Maintenance Service				C	C			
Medical Clinic			L	Y	Y	Y	Y	Y
Medical Support Service			L	Y	Y	Y	Y	Y
Personal Service		L	L	Y	Y			
Produce Market	Y	Y	Y	Y	Y			
Restaurant, Fast Food		L	L	Y	Y			
Restaurant, Standard		L	L	Y	Y			
Retail, General, Enclosed				Y	Y			
Retail, General, Unenclosed				C	Y			
Retail, Neighborhood		L	L	L	L			
Services, Neighborhood		L	L	L	L			
Service Station, §7.2			C	Y	Y			
Studio, Artist		Y	Y	Y	Y			
Veterinary Hospital, §7.6				C	C			
OTHER								
Airport					C			
Cemetery	C							C
Construction Service					C			
Country Club	C							
Heliport					C		C	C
Landfill					C			
Manufacturing, Light					C			
Mixed Use, General			L					
Mixed Use, Live-Work			L					
Parks, Gardens, Playgrounds	Y	Y	Y	Y	Y			Y
Recreation, Indoor				Y	Y			
Recreation, Outdoor				C	C			Y
Rehabilitation Facility					C			Y
Research Laboratory					C		C	
Salvage Yard					C		C	
Storage, Mini-warehouse, §7.5				C	C			
Storage, Outdoor					C			
Telecommunications Facilities, §7.9	C	C	C	C	C	C	C	C
Warehousing, Wholesale, Distribution				C	C			
<p>Y – The use is permitted by right. L – Permitted to limits set by district regulations SE – Special Exception Use, requires approval by BZA (see §12.3). May also be subject to district limitations. C – Conditional Use, requires approval by the Council (see §13.3). May also be subject to district limitations. A use not listed may be requested for approval as a Conditional Use per §13.3. A use followed by a numeric cross-reference is subject to Use-Specific Regulations in Article 7. A blank cell indicates that the use is not permitted.</p>								

Article 7 USE-SPECIFIC REGULATIONS

§7.1. Home Occupations

Home occupations are permitted uses in any estate or residential zoning classification under the following limitations. For home occupations in a planned unit development, refer to [§6.9.5.1](#).

7.1.1. Limitations

1. Home occupations shall be conducted only in the principal dwelling. No more than twenty-five (25) percent, up to 500 sq. ft., of the dwelling may be used for a home occupation.
2. There shall be no outdoor display or storage associated with the home occupation and no commodities shall be sold on the premises other than by phone, mail or internet. No goods shall be delivered to a purchaser on the premises.
3. No sign may be attached to the dwelling or any part of the real estate advertising any home occupation.
4. No home occupation shall be permitted if it creates noise, odors, vibrations or traffic congestion, which interferes with the residential qualities of the neighborhood insofar as health, safety, morals, convenience and general welfare are concerned.
5. In order to be a permitted home occupation, the use must be one which is habitually, customarily, and commonly established as a reasonable incidental, accessory, subordinate and secondary use. The existing dwelling shall not be enlarged to accommodate the home occupation; nor shall any accessory structure be built for the purpose of operating the home occupation.
6. No home occupation shall be permitted that requires the operation or keeping on premises of a commercial vehicle.

7. No persons other than members of the family residing on the premises shall be employed by the home occupation.
 8. Home occupations shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- 7.1.2. Provided full conformance with the above limitations, the types of home occupations that may be permitted shall include, but not be limited to, the following:
1. Offices provided no customers or clients shall be allowed on premises
 2. Phone, mail order and similar sales provided no inventory is stored on the premises and no goods are delivered on the premises by the home owner to any customers.
 3. Music and art lessons, provided there shall be no more than two students receiving instruction at any one time and no students shall be received after 7:00 p.m.
 4. Instruction by a private tutor who offers academic instruction in the several branches of study required to be taught in the public schools of the State of Alabama provided there are no more than five (5) individuals participating in the tutorial instruction at any one time. When complying with this limitation, the home occupation shall not be considered an “Educational Group E” or “Educational Occupancy” for the purposes of the City Building and Fire Codes or City Life Safety Code, respectively. The requirement of “no more than five (5) individuals participating in the tutorial instruction at any one time” shall not mean or include parents that reside in the home or their children, stepchildren or wards.
 5. Crafts, dress making, sewing, tailoring and similar occupations with limited

equipment and provided no clients or customers shall be allowed on premises.

The Board of Zoning Adjustment may approve other home occupations per [§12.3 Special Exceptions](#) so long as they present no greater impact on the neighborhood than those listed above and provided conditions required by the BZA will be met to limit noise, traffic or other impacts that might otherwise disrupt the residential character of the neighborhood.

§7.2. Gas and Service Stations

7.2.1. Use Limitations

1. The following uses shall be prohibited: painting, body work, major repair, dismantling for recovery of parts, and sales or rental of motor vehicles or trailers.
2. Service stations shall not include more than three (3) service bays.

7.2.2. Area and Dimensional Regulations

1. All oil drainage pits and hydraulic lifts shall be located within an enclosed Structure and shall be located no closer than fifty (50) feet to an abutting residential lot line and no closer than twenty-five (25) feet to any other lot line.
2. All permitted mechanical repair work shall be conducted within an enclosed structure and shall be located no closer than fifty (50) feet to any abutting residential lot line and no closer than twenty-five (25) feet to any other lot line.
3. Fuel pumps, pump islands and other service facilities may occupy required yards; however, such shall be set back at least fifteen (15) feet from any lot line. Canopies shall not extend closer than five (5) feet to any lot line.

- 7.2.3. No storage of vehicles shall be permitted for periods in excess of thirty (30) days. Vehicles shall not be permitted to remain

on the property longer than forty-eight (48) hours unless such vehicles are stored within an enclosed building or within a rear or side yard screened in accordance with [§9.4 Screening](#).

§7.3. Conservation Subdivisions

7.3.1. Intent

1. To provide the flexibility to achieve the most effective development on lands that are constrained by natural hazards, environmentally sensitive areas or environmental regulations, which may limit the amount or type of development on such properties;
2. To enhance quality of life by promoting the creation of accessible greenspace throughout the community;
3. To protect sensitive, environmental land features to protect the health and safety of residents and neighboring property owners;
4. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation;
5. To encourage interaction within the community by allowing clustering of homes and orienting them closer to the street, thereby providing gathering places and encouraging the use of parks as focal points within the community;
6. To encourage street systems that tend to reduce traffic speeds and reliance on main arteries.
7. To promote construction of convenient walking trails, bike paths, and greenways within new developments that are connected to Adjacent neighborhoods and activity centers to increase accessibility for pedestrians and bicyclists; and

8. To reduce perceived density by providing a maximum number of lots with direct access to and views of open space.

7.3.2. Applicability. The Conservation Subdivision option is available as a use by right in any zoning district in which single-family detached dwellings may be permitted. The applicant shall comply with all other provisions of this Ordinance and all other applicable regulations, except those which may be modified as specified within this Section.

7.3.3. Ownership of Development Site. The tract of land to be subdivided and/or developed may be held in single, separate, and multiple ownership. If held in multiple ownership, the site shall be developed according to a single plan with common authority and common maintenance responsibility as approved by the City Attorney.

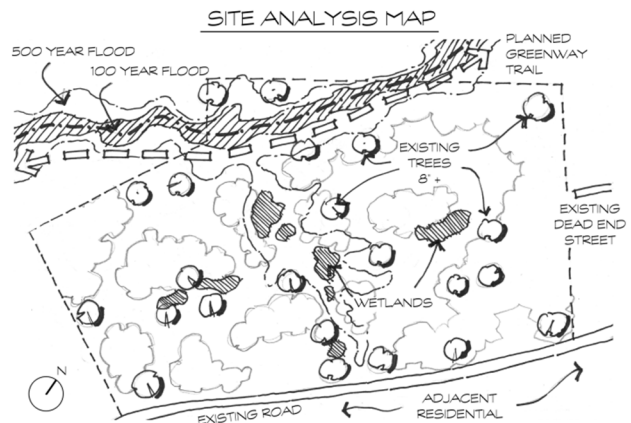
7.3.4. Density Determination. The maximum number of lots shall be determined by the minimum lot size of the Applicable District, the minimum lot size as required by City or County Health Department standards for septic tank use (or similar density limitation where applicable), or the maximum density of the applicable district, whichever is most restrictive. Furthermore, density determination shall also take into account the amount of land necessary for internal streets and other subdivision requirements. In making this calculation, the following shall not be included in the total acreage of the Parcel:

1. Bodies of open water over 5,000 sq. ft. of contiguous area; and
2. Wetlands, as defined by the City or by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act.

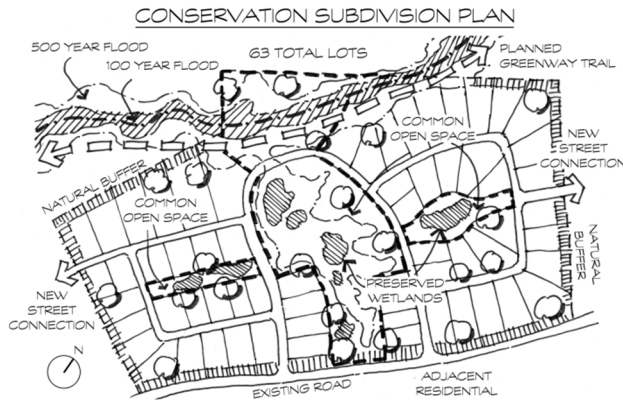
7.3.5. Application Requirements

1. Site Analysis Map Required. Concurrent with the submission of a subdivision plat, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that important site features have been adequately identified prior to the creation of the site design, and that the proposed open space will meet the requirements of this Section. The site analysis map shall include the following:

- a. Property boundaries;
- b. All streams, rivers, lakes, wetlands, flood hazard boundaries, and other hydrologic features;
- c. All boundaries of applicable regulated buffer areas, easements, and rights-of-way;
- d. Topography at 5-foot or smaller intervals;
- e. All Primary and Secondary Conservation Areas labeled by type, as described in §7.3.6;
- f. General vegetation characteristics;
- g. General soil types;
- h. Planned location of protected Open Space;
- i. Existing roads and structures; and
- j. Potential connections with existing greenspace and trails.



2. Conservation Subdivision Plan. The developer shall prepare a conservation subdivision plan which yields no more lots than identified under §7.3.4. The conservation subdivision plan shall identify open spaces to be protected in accord with §7.3.6 and may include lots which do not meet the size and setback requirements of the applicable district. The Conservation Subdivision Plan shall include an Open Space Management Plan, as described in §7.3.6 and shall be prepared and submitted prior to the issuance of a land disturbance permit.



3. Instrument of Permanent Protection Required. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in §7.3.6.5, shall be placed on the open space concurrent with the issuance of a land disturbance permit.
4. Other Requirements. The applicant shall adhere to all other applicable requirements of the applicable district and the Subdivision Regulations.

7.3.6. Open Space Management Plan. For the purposes of conservation subdivisions, open space is defined as the portion of the conservation development or subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity

through the use of a legal instrument approved by the City Attorney.

1. Standards to Determine Open Space
 - a. The minimum restricted open space shall comprise at least twenty-five (25) percent of the gross tract area.
 - b. The following are considered Primary Conservation Areas and are required to be included within the open space, unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of the Conservation Subdivision:
 - (1) The 100-year floodplain;
 - (2) Riparian zones of at least 75 feet width along perennial and intermittent stream shown on the United States Geological Survey (USGS) quadrangle topographic maps.
 - (3) Slopes above twenty-five (25) percent of at least 10,000 sq. ft. contiguous area;
 - (4) Wetlands determined to be jurisdictional by the Corps pursuant to the Clean Water Act;
 - (5) Existing and planned trails that connect the site to neighboring areas; and
 - (6) Archaeological sites, cemeteries and burial grounds.
 - c. The following are considered Secondary Conservation Areas and should be included within the open space to the maximum extent feasible:
 - (1) Important historic sites
 - (2) Existing healthy, native forests of at least one (1) acre contiguous area;
 - (3) Individual existing healthy trees greater than eight (8) inches caliper; and

- (4) Other significant natural features and scenic viewsheds, particularly those that can be seen from public streets.
 - d. Utility rights-of-way and small areas of impervious surface may be included within the protected open space but cannot be counted towards the twenty-five (25) percent minimum area requirement (exception: historic Structures and existing trails may be counted). Large areas of impervious surface, such as streets and parking lots shall be excluded from the open space.
 - e. At least thirty-three (33) percent of the open space shall be suitable for passive recreational use.
 - f. At least seventy-five (75) percent of the open space shall be in a contiguous tract, which may be divided by a local Street whose area shall be excluded from the open space. The open space shall adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.
 - g. The open space shall be directly accessible to the largest practicable number of lots and/or Buildings within the site. Non-abutting lots shall be provided with safe, convenient access to the open space.
2. The following uses shall be permitted within the open space:
- a. Conservation of natural, archeological or historical resources;
 - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
 - c. Boardwalks or walking /bicycle trails constructed of porous paving materials;
 - d. Passive recreation areas, such as open fields;
 - e. Active recreation areas, provided that they are limited to no more than ten (10) percent of the total open space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space.
 - f. Landscaped Stormwater Management facilities, community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses. Such facilities shall be located outside of Primary Conservation Areas;
 - g. Easements for drainage, access, and underground utility lines;
 - h. Other conservation-oriented uses compatible with the purposes of this Ordinance.
3. The following uses shall be prohibited within the open space:
- a. Golf courses;
 - b. Roads, parking lots and similar impervious surfaces, except as specifically authorized in the previous sections;
 - c. Agricultural and forestry activities not conducted according to accepted best management practices;
 - d. Impoundments; and
 - e. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.
4. Ownership and Management of Open Space. Ownership and maintenance of the common open space and any facilities thereon shall be as provided for

in §4.6 Ownership and Management of Common Open Spaces.

5. Legal Instrument for Protection of Open Space. The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the applicant chooses to place on the use of the open space. The instrument shall be one of the following:
 - a. A permanent conservation easement in favor of either:
 - (1) a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; *or*
 - (2) a governmental entity with an interest in pursuing goals compatible with the purposes of this Ordinance, and if the entity accepting the easement is not the City, then a third right of enforcement favoring the City shall be included in the easement.
 - b. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
 - c. An equivalent legal tool that provides permanent protection, as approved by the City Attorney.
6. Tax Assessment of Open Space. Once a legal instrument for permanent protection has been placed upon the open space, the applicant may request the County Tax Assessor to reassess the open space at a

lower value to reflect its more limited use.

§7.4. Bed and Breakfast

7.4.1. Use Limitations

1. Bed and Breakfasts are permitted only in detached single-family dwellings. Lodging located in a non-residential building is considered either a “hotel” or “motel” and is not subject to the requirements of this §7.4.
2. The maximum number of allowable guest rooms shall be determined by dividing the gross interior floor area of the principal building (excluding garages) by 500 sq. ft. And, no more than fifty (50) percent of the GFA (excluding garages) of the principal building shall be utilized for guest accommodations. All guest rooms shall be located within the principal building.

7.4.2. Parking. For each approved guest room, there shall be provided one (1) parking space, in addition to those required for the dwelling use. Such additional required parking spaces shall be properly situated on site and screened from adjacent properties. Such parking areas should not detract from the residential character of the neighborhood. Recreational vehicle parking shall be prohibited.

7.4.3. Modifications to Dwelling. Aside from any alterations necessary to ensure the safety of the dwelling, no exterior modifications shall be allowed unless approved by the BZA as a part of the Special Exception approval process. Approved exterior modifications should not detract from the residential character of the dwelling or the neighborhood.

§7.5. Mini-warehouses

- 7.5.1. No storage space shall exceed 400 sq. ft. in area nor be used for other than storage purposes.
- 7.5.2. For single-story facilities all storage units shall open onto a paved driveway with a minimum width of ten (10) feet for each direction of travel or fourteen (14) feet for one-way travel.
- 7.5.3. Outdoor storage of goods and materials, other than vehicles, shall be prohibited. Any types of vehicles, including recreational vehicles, if stored on site, shall be fully screened in accordance with [§9.4 Screening](#).

§7.6. Veterinary Hospitals, Animal Shelters and Kennels

- 7.6.1. No indoor or outdoor pens or runs shall be located within 100 feet of a residential district boundary. Outdoor runs shall be set back no less than fifty (50) ft from all lot lines.
- 7.6.2. Outdoor runs shall be located to the rear of the building and all such areas visible from a public right-of-way shall be enclosed with a wooden privacy fence or similar weather-resistant, durable, and opaque material. Fences (or walls) shall be no less than four (4) ft nor greater than eight (8) ft in height and shall be subject to the applicable regulations of [§9.4 Screening](#).
- 7.6.3. All waste material shall be stored in closed containers and screened as required in [§9.4 Screening](#).
- 7.6.4. Emission of any offensive odors, beyond the lot line, shall not be permitted at any time.

§7.7. Day Care Facilities

Day care facilities, operated within a dwelling, shall comply with the following

requirements and all applicable requirements of [§7.1 Home Occupations](#), as applicable

- 7.7.1. Application of Regulations. The provisions of this Section shall apply to day care facilities providing service for part of a twenty-four (24)-hour day for children under sixteen (16) years of age; for the aged; or for persons who are disabled, by persons giving care (excluding care provided by relatives). Day care facilities shall include family day care homes and day care centers. This Section does not apply to baby-sitting or child day care service furnished in places of worship during worship services.
- 7.7.2. General Provisions. The following general provisions apply to all day care facilities.
 - 1. All day care facilities shall comply with all applicable State regulations.
 - 2. Hours of outside play shall be limited to between the hours of 7:00 a.m. and sunset, as defined by the National Weather Service
 - 3. An outdoor play area shall be provided for child day care facilities in other than the front yard. Play equipment shall be located at least ten (10) feet from an abutting lot line.
 - 4. Fencing, where permitted by this Ordinance, shall be provided to restrict children from hazardous areas and principal arterial and minor arterial roads. Natural or physical barriers may be used as required fencing so long as such barriers functionally restrict children from these areas.
 - 5. The expansion of a family day care home to a day care center shall require rezoning to a district in which a day care center is permitted. When applying for rezoning, the applicant shall submit a

plan showing any existing or proposed outdoor play areas, outdoor play equipment, fencing, access drives, adjacent streets, adjacent hazardous uses, on-site hazards, merchandise delivery areas, on-site sewage disposal facilities, parking spaces, and the drop-off circulation pattern.

7.7.3. Family Day Care Homes. In addition to the other provisions of this Section, family day care homes shall comply with the following:

1. The facility must have a current State registration certificate. Proof of registration renewal must be supplied to the Fire Marshal every two (2) years.
2. There shall be no external evidence of such use. No signs indicating such use may be erected on site.
3. Family day care homes shall be limited to the care of no more than two (2) non-occupant children at any one time.
4. Family day care homes shall only be permitted in detached single-family dwellings.

7.7.4. Day Care Centers. In addition to the other provisions of this Section, day care centers shall comply with the following:

1. A fence with a minimum height of four (4) feet shall physically contain the children within the outdoor play area. Natural or physical barriers may be used in place of fencing so long as such barriers functionally contain children.
2. If the facility fronts on streets of different classifications, access shall be along the thoroughfare of lesser functional classification.
3. All pedestrian pathways shall be adequately lit for safety if utilized during non-daylight hours. Specific areas for lighting are entranceways, pedestrian access to the outdoor play areas,

sidewalks, drop-off areas, merchandise delivery areas, and all parking areas. Such lighting shall not produce objectionable glare on adjacent properties.

7.7.5. Inspections. The Building Official and/or Fire Marshal shall have the right to enter and inspect the dwelling, building and premises for compliance purposes following advance notice to the owner.

§7.8. Accessory Dwellings

7.8.1. Use Limitations.

1. No more than one Accessory Dwelling shall be permitted for each principal dwelling.
2. The gross floor area of the Accessory Dwelling shall not exceed twenty-five (25) percent of that of the principal dwelling. If housed within a structure also containing parking for the principal dwelling, such parking area may be excluded from the calculation. However, if any parking is provided for the Accessory Dwelling, it shall be included in the calculation.

7.8.2. Location and Setbacks. Accessory Dwellings shall be located to the side or rear of the principal dwelling and shall be set back from side and rear lot lines as required of the principal dwelling.

7.8.3. Access. The Accessory Dwelling shall not have access to abutting streets in addition to that permitted for the principal dwelling.

7.8.4. Design Standards. If visible from the public right-of-way, the design of the Accessory Dwelling shall be consistent with that of the principal dwelling, including colors, materials, roof pitch, etc.

§7.9. Telecommunications Facilities

7.9.1. Purpose. The purpose of these standards is to establish minimum considerations and criteria for the review of telecommunications facilities. It is the City of Vestavia Hill’s express intent that the construction of new towers be an option of last resort; to the greatest extent feasible, location of antennae on existing towers and other suitable structures should first be sought. These standards are designed to ensure the compatibility of towers with and avoid adverse impacts to nearby properties and discourage the proliferation of towers throughout the City.

7.9.2. Applicability. All telecommunication facilities are subject to these standards and to statutory review by the Commission and Council in accordance with Section 11-52-11 of the Code of Alabama, 1975, as amended. Anything contained in this Ordinance to the contrary notwithstanding, telecommunications facilities are conditional uses, which require approval by the Council.

7.9.3. Objectives. The proposed locations and design of all telecommunication facilities shall duly consider the following public health, safety and general welfare objectives:

1. Structural Safety. The proposed facility will comply with wind loading and other structural standards contained in applicable building and technical codes so as not to endanger the health and safety of residents, employees or travelers in the event of structural failure of the tower due to extreme weather conditions or other acts of God.
2. View Protection. The proposed facility will be designed to minimize adverse visual impacts to surrounding properties

and the public right-of-way, given the topography of the proposed site and surrounding area.

3. Land Use Compatibility. The proposed facility will be compatible with the surrounding land uses, given the character of the use and development of the location.
 4. Design Harmony. The proposed facility will be designed in harmony with the natural setting and the surrounding development pattern as well as to the highest industry standards.
 5. Existing Communication Services. The proposed facility will comply with FCC and other applicable standards so as not to interfere with existing communication services in the area.
 6. Health Effects. The proposed tower will comply with all applicable federal, state, county and City health standards so as not to cause detrimental health effects to persons in the surrounding area.
- 7.9.4. Development Criteria. The Building Official and City Engineer shall review all applications for telecommunications facilities for compliance with the applicable standards and criteria listed below. These criteria are considered the minimum necessary to protect the public health, safety and general welfare. The Commission may also impose higher standards if it deems them to be necessary to further the objectives of this Section.
1. Co-Location. No new tower shall be established if space is structurally, technically and economically available on an existing tower, which would serve the area that, the new tower would serve. Documentation that reasonable efforts have been made by the applicant to achieve co-location shall be submitted in accordance with §7.9.4.2 below. Towers

shall be designed to maximize shared use to the greatest extent possible, given the structural and technical limitations of the type of tower proposed. In any event, co-location shall be encouraged. If feasible, each tower shall, at a minimum, be designed for double its intended use for all transmitting and receiving antennae other than microwave dish antennae.

2. Removal of Obsolete Towers. Any tower that is no longer in use for its original communications purpose shall be removed at the owners' expense. The owner shall provide the Building Official with a copy of the notice of the FCC of intent to cease operations, which shall be given ninety (90) days from the date of ceasing operations to remove the obsolete tower and accessory structures. In the case of multiple operators sharing use of single tower, this provision shall not become effective until all users cease operations.
3. Setbacks.
 - a. Where permitted, the distance between the base of the tower, including guys, accessory facilities and property lines abutting residential districts, public parks and roads must equal twenty (20) percent of the tower height. Property lines adjacent to other uses (e.g. agricultural, industrial) shall require a setback equal to the rear yard setback established for the underlying zone.
 - b. Notwithstanding Item a above, when located within or adjacent to a residential district or dwelling, the minimum standard setback from all adjoining residential property boundaries shall be fifty (50) feet.
 - c. Site plan review by the Commission may result in reduction of the standard setbacks in exceptional cases where a hardship would result due to unusual

conditions on the site or other impracticalities. However, the Commission shall not reduce the setbacks to the detriment of affected residential properties.

4. Appearance.
 - a. Towers shall be of a monopole type and shall maintain an exterior finish so as to reduce the visibility of the structure, unless other standards are required by the FAA.
 - b. The design of the tower shall be of a type that has the least visual impact on the surrounding area as determined by the Commission.
 - c. The design of the tower compound shall, to the greatest extent possible, maximize use of building materials, colors, textures, screening and landscaping that effectively blend the tower facilities within the surrounding natural setting and built environment.
5. Lighting. Towers shall not be artificially lighted unless required by FAA or other authority for safety purposes. Where required, the Commission shall review the available lighting alternatives to assure that lighting proposed would cause the least disturbance to the surrounding views. "Dual lighting" (red at night/strobe during the day) shall be preferred unless restricted by the FAA. Security lighting may be permitted in accordance with Item e: Security Devices, below.
6. Landscaping.
 - a. A landscaped buffer shall effectively screen the view of the tower compound from adjacent public ways and residential properties.
 - b. The standard buffer shall consist of a minimum eight (8) feet wide landscaped strip outside the dark vinyl coated steel security fencing of the

- perimeter of the compound. The buffer strip shall be planted with an attractive combination of trees, shrubs, vines and/or ground covers that can achieve the full height of the fence at maturity and enhances the outward appearance of the security fence. For sites within 1,000 feet of a residence, site review by the Commission may impose increased buffer standards to include a decay-resistant, solid wood fence, earth berms and brick or masonry walls in addition to the security fencing. All fencing and landscaping shall be maintained by the lessor/owner.
- c. In isolated non-residential areas, alternative landscaping methods may be accepted, such as the use of earth toned colored, vinyl-coated steel security fencing in combination with four feet of evergreen trees, shrubs, vines and/or other plantings.
 - d. In certain locations where the visual impact of the tower would be minimal, such as remote, agricultural or rural locations, or developed heavy industrial areas, the landscaping requirements may be reduced or waived by the Commission.
 - e. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers located on large, wooded lots, preservation of substantial natural growth around the property perimeter may be a sufficient buffer.
 - f. Cellular facilities utilizing underground vaults in lieu of above ground switching gear buildings shall be exempted from any buffer requirements.
7. Security Devices. The facility shall be fully secured. A minimum eight (8) feet high, dark vinyl coated steel fence shall be installed around the entire perimeter of the compound (measured to the top of the fence or barbed wired, if applicable). Security fencing shall require screening in accordance with landscaping requirements, as defined above. Other security measures shall include locks and alarms. Approved barbed or razor wire and lighting of the compound shall be permitted, if deemed necessary to fully secure the tower compound.
8. Access. Driveways and onsite parking shall be provided to assure the operator's access to the facility for maintenance or emergency services.
- 7.9.5. Application. Any application submitted for approval shall submit the following items, in addition to any other required items, to show compliance with these review standards.
1. Statement of Impact on Health, Safety and Welfare. A brief written statement shall address conformance with the health, safety and welfare objectives of this guideline.
 2. Site Plan. A scaled site plan shall show the location and dimensions of all improvements, including setbacks, drives, parking, fencing, landscaping, and other information necessary to determine compliance with the development criteria of these guidelines.
 3. Rendering. A rendering of the tower, accessory facilities and compound shall depict colors, materials and treatment. If lighting or other FAA requirements for tower color is proposed, evidence of such requirement shall be submitted.
 4. Justification for a New Tower. The applicant shall document a proposal for a new tower that the planned equipment for a proposed tower cannot be accommodated on an existing tower

within the proposed service area. The applicant shall submit a written affidavit showing what attempts have been made to share an existing tower or that no such tower exists.

5. Certification of Shared Use Design. A qualified, registered engineer shall certify that the proposed tower's structural design can accommodate a minimum of two (2) shared users, in accordance with §7.9.4 Development Criteria.
 6. As Built Survey. A qualified, registered engineer shall certify that the proposed tower is to be constructed and installed in accordance with the submitted site plan including the installation of any required buffer yard.
 7. Total anticipated capacity of the structure, including the number and types of antennae that can be accommodated.
 8. Mitigation measures for ice and other hazardous falling debris, including setbacks and de-icing equipment.
- 7.9.6. Exceptions. Towers camouflaged to resemble woody trees or indigenous vegetation to blend in with the native landscape, and other types of concealment, shall be reviewed by the Design Review Board. Concealment techniques are design methods used to blend a wireless telecommunications facility, including any antennas thereon, unobtrusively into the existing surroundings so as to not have the appearance of a wireless telecommunications facility. Such structures shall be considered wireless telecommunications facilities and not spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level for purposes of applying height limitations. Due to their height, such structures must be designed with sensitivity to elements

such as building bulk, massing and architectural treatment of both the wireless telecommunications facility and surrounding development. Concealed towers on developed property must be disguised to appear as either a part of the structure housing, a principal uses, or an accessory structure that is normally associated with the principal use occupying the property. Concealed towers developed on unimproved property must be disguised to blend in with existing vegetation.

Article 8 PARKING REGULATIONS

§8.1. Off Street Parking

There shall be provided, at the time of the erection of any building or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one type of use or occupancy to another, permanent off-street parking in the amount specified in [Table 8.1](#). Required parking shall be provided for each use on the site. In calculating required parking, fractions are rounded up to the next whole number; however, when multiple uses are proposed on the same site, the fractional requirement for each use is added together prior to rounding. For the purpose of calculation in non-residential uses, "storage areas, including merchandise storage areas" shall not be a part of the NFA or GFA calculation. For uses not specified, the Building Official shall determine required parking based on the most similar use in [Table 8.1](#).

- 8.1.1. Certification of Minimum Parking Requirements. Each application for zoning approval shall include the location, number and dimensions of off-street parking spaces, if required, and the means of access. This information shall be in sufficient detail to enable the Zoning Official to determine whether or not the requirements of this Article are met. The Building Permit for the use of any building, structure or land where off-street parking space is required shall be withheld by the Building Official until the provisions of this Article are fully met.
- 8.1.2. Joint Use Parking Lots. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use on the same or separate lots, except as provided herein:

1. Under circumstances wherein a combination of uses or other factors might require total parking facilities in excess of actual need, if so determined and certified by the Zoning Official, a commensurate reduction in parking may be approved by the Commission. Two uses, for example, may share one parking facility and the spaces provided therein when the parking demand for the uses occur at wholly separate times. Furthermore, such uses need not be located on the same lot, so long as the requirements of [§8.1.3 Remote Parking](#) are met.
2. Shared parking for mixed-use developments. Subject to approval by the Commission, minimum parking requirements for a mixed-use development may be reduced by calculation of shared parking requirements for the development utilizing the shared parking demand information in [Table 8.1.1](#) and the Worksheet shown in Figure 8.1.1. These parking reductions shall not be available to lodging or residential uses unless such uses are part of a development also including non-lodging, non-residential uses.

Parking reductions may be allowed as part of site plan approval only if it is demonstrated to the satisfaction of the Commission that a combination of the following factors or measures are proposed by the development plan, including but not limited to:
 - a. There are no material adverse impacts on parking conditions in the immediate vicinity.
 - b. The development plan mitigates vehicular traffic impacts by proposing limited access to and from public streets.

- c. The development plan proposes the creation of new or upgraded sidewalks to help foster non-vehicular accessibility.

Table 8.1 Minimum Required Off-street Parking Spaces		
Residential Uses		
a.	Single-family dwellings (attached or detached), duplexes and triplexes	2 spaces per dwelling unit
b.	Multi-family dwellings <ul style="list-style-type: none"> • 1-BR of efficiency unit • 2-BR unit • 3+ BR unit 	<ul style="list-style-type: none"> • 1.25 spaces • 1.75 spaces • 2.0 spaces
Lodging Uses		
c.	Hotels and Motels	1 space per sleeping unit
d.	Lodging/conference rooms. The Lodging-Conference Parking Factor (LCRP) = the total conference room square footage divided by the total number of sleeping units.	<ul style="list-style-type: none"> • 0-20 LCP = 0 • 20-40 LCP = 1 space/400 sq. ft. • 40-60 LCP = 1 space/200 sq. ft. • 60+ LCP = 1 space/150 sq. ft.
e.	Lodging/restaurants and lounges. The Lodging-Restaurant Parking Factor (LRP) = total restaurant or lounge square footage divided by the total number of sleeping units (SU's)	<ul style="list-style-type: none"> • 0-10 LRP = 20% of normal requirement • 10-30 LRP = 40% of normal requirement • 30-50 LRP = 60% of normal requirement • 50+ LRP = 80% of normal requirement
Institutional Uses		
f.	Places of assembly, Funeral homes	1 space per 4 fixed seats in the largest assembly area or per 40 sq. ft. of floor area available for the accommodation of moveable seats in the largest assembly room
g.	Libraries, art museums and similar cultural facilities	1 space per 400 sq. ft. of GFA
h.	Private clubs, country clubs, and lodges	1 space per 250 sq. ft. of GFA
i.	Day care and residential care facilities <ul style="list-style-type: none"> • Day care or nursery • Assisted living facility • Independent living facility 	<ul style="list-style-type: none"> • 1 space per employee on the greatest shift plus 1 space per 10 children based on maximum design capacity • 1 space per 3 residents at max. capacity plus 1 space per 2 employees on largest shift • 1 space per 2 residents at max. capacity plus 1 space per 2 employees on largest shift
j.	Schools <ul style="list-style-type: none"> • Elementary and middle schools • High school 	<ul style="list-style-type: none"> • 2 spaces per classroom, or 1 space per 5 seats in the primary assembly area, whichever is greater • 5 spaces per classroom, or 1 space per 4 seats in the primary assembly area, whichever is greater

Table 8.1 Minimum Required Off-street Parking Spaces		
Retail, Service, Office and other Commercial Uses		
k.	Retail stores <ul style="list-style-type: none"> • up to 50,000 sq. ft. GFA • 50,000 – 90,000 sq. ft. GFA • more than 90,000 sq. ft. GFA 	<ul style="list-style-type: none"> • 1 space per 200 sq. ft. NFA • 1 spacer per 225 sq. ft. NFA • 1 space per 250 sq. ft. NFA
l.	Retail, Bulk merchandise or wholesale establishment	1 space per 300 sq. ft. NFA
m.	Retail automobile, boat, manufactured home, recreational vehicle, and similar sales establishments	1 space per 300 sq. ft. of floor area dedicated to showroom and office use, plus 1 space per service bay, plus 1 space per 5,000 sq. ft. of display area; or 10 spaces, whichever is greater
n.	Service stations, car wash	5 spaces per bay and 2 spaces per wash rack
o.	Restaurants and Lounges. Public floor area = GFA (including outdoor dining area not excluded from parking requirements) less all non-customer areas <ul style="list-style-type: none"> • Fast food restaurant 	1 space per 3 seats, plus 1 space per 2 employees on shift of greatest employment; OR 1 space per 40 sq. ft. of public floor area, whichever is greater <ul style="list-style-type: none"> • 1 space per 100 sq. ft. GFA plus 4 stacking spaces per window
p.	Bank, savings and loan or other financial institution <ul style="list-style-type: none"> • with drive-thru • without drive-thru 	<ul style="list-style-type: none"> • 1 space per 400 sq. ft. GFA plus 3 stacking spaces per drive-thru lane • 1 space per 300 sq. ft. GFA
q.	Offices <ul style="list-style-type: none"> • Professional and business offices • Medical and dental offices, clinics 	<ul style="list-style-type: none"> • 1 space per 250 sq. ft. GFA • 4 spaces per doctor plus 1.0 spaces per employee
r.	Commercial recreational and entertainment establishments <ul style="list-style-type: none"> • bowling alley or pool room • mini-golf course • golf course • stadium 	<ul style="list-style-type: none"> • 1 space per 200 sq. ft. GFA • 2 spaces per bowling lane or pool table • 1 space per hole plus 2 spaces per 9 holes plus 1 space per 2 employees • 45 spaces per 9 holes • 1 space per 5 seats (one seat is equal to two ft of bench length)
s.	Personal services	1 space per 250 sq. ft. GFA
t.	General service or repair, printing, publishing, plumbing, heating, broadcasting	1 space per 500 sq. ft. GFA
u.	Laundromat	1 space per 250 sq. ft. GFA
Light Industrial Uses		
v.	Self-storage facilities	5 spaces for office plus 1 space per 20 rental units (rows between storage buildings shall be designed for simultaneous vehicle parking and passage)

Table 8.1.1: Typical Shared Parking Demand by Use and Time of Day						
Parking Demand by Use*	Weekday 8am-5pm	Weekday 6pm-12am	Weekday 12am-6am	Weekend 8am-5pm	Weekend 6pm-12am	Weekend 12am-6am
Residential	60%	100%	100%	80%	100%	100%
Office	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Lodging	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Entertainment	40%	100%	10%	80%	100%	50%
Movie Theater	40%	80%	10%	80%	100%	10%
Institutional (non-church)	100%	20%	5%	10%	10%	5%
Institutional (church)	10%	5%	5%	100%	50%	5%

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

Figure 8.1.1: Shared Parking Reduction Worksheet Example 1*							
Shared vs. Conventional Demand	Conventional parking demand	A	B	C	D	E	F
		Weekday 8am-5pm	Weekday 6pm-12am	Weekday 12am-6am	Weekend 8am-5pm	Weekend 6pm-12am	Weekend 12am-6am
1- Residential	<i>100</i>	<i>60</i>	<i>100</i>	<i>100</i>	<i>80</i>	<i>100</i>	<i>100</i>
2 - Office	<i>100</i>	<i>100</i>	<i>20</i>	<i>5</i>	<i>5</i>	<i>5</i>	<i>5</i>
3 - Commercial	<i>100</i>	<i>90</i>	<i>80</i>	<i>5</i>	<i>100</i>	<i>70</i>	<i>5</i>
4 - Lodging	<i>100</i>	<i>70</i>	<i>100</i>	<i>100</i>	<i>70</i>	<i>100</i>	<i>100</i>
5 - Restaurant	<i>100</i>	<i>70</i>	<i>100</i>	<i>10</i>	<i>70</i>	<i>100</i>	<i>20</i>
6 - Total Parking Needed	<i>500</i>	<i>390</i>	<i>400</i>	<i>220</i>	<i>325</i>	<i>375</i>	<i>230</i>
Conventional Demand = <u>500 spaces</u>							
Shared Parking Demand (greatest value from Line 6 Columns A-F) = <u>400 Spaces</u>							
Shared Parking Reduction = <u>100 Spaces</u>							
* Figures in italics are sample calculations only.							

8.1.3. Remote Parking. All residential and lodging uses shall have the required parking spaces provided on the lot(s) on which such use is located. For all other uses, if the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on land within 400 feet of the main entrance to such principal use. Said land shall not be used for other purposes unless adequate provisions for parking have been made for such other use. However, remote parking areas must be zoned the same as the principal use or as may be permitted upon appeal to the BZA.

8.1.4. Maintenance of Parking Capacity. No off-street parking facility shall be reduced to less than the amount required for the use involved.

§8.2. Design Standards

Off-street parking areas shall be improved and maintained as required herein.

8.2.1. General Requirements.

1. Ingress and egress for parking facilities shall be in accordance with access spacing standards adopted by the City Engineer. Wherever stacking space is deemed necessary by the City Engineer to prevent blocking of traffic, such space shall be required. No parking space shall block designated emergency access. Fire lanes may be required by the Fire Department.
2. No portion of any parking or stacking space shall be located within the street right-of-way or an easement not intended for such purposes, nor cross a public sidewalk.
3. Except for detached single-family dwellings and duplexes, no off-street parking space shall be permitted which

requires a vehicle to back out into a public street.

4. Except for single-family dwellings and duplexes, access drives and parking aisles shall not be used to meet minimum parking requirements.

8.2.2. Dimensions. The design and dimensions of the parking area and spaces shall be in accordance with [Table 8.2.2](#), as shown in Figure 8.2.2, and as follows:

1. Compact car spaces may be provided but shall not exceed a ratio of one (1) compact car space: three (3) standard spaces. Compact Parking Stalls, if used pursuant to this section, may be 8' stall width and 16' stall depth.
2. Handicapped spaces shall be provided as required by the Building Code.
3. Up to two (2) ft of vehicle overhang over a wheel stop may count toward the required length of a parking space. However, in such cases, the City Engineer may require additional aisle width. Vehicle overhang shall not project over a lot line, right-of-way, or required sidewalk or landscaped area.

Parking Angle	0°	30°	45°	60°	90°
Stall Width (A)	8	8.5	8.5	9	9
Stall Length (B)	22	20	20	19	19
Stall Depth (C)	8	17.4	20.2	21	19
Curb Length (D)	22	17	12	10.4	9
Aisle Width (E)					
One Way	12	15	15	20	20
Two Way	20	20	20	24	24
Interlock (F)	n/a	3.9	3.2	2.3	n/a

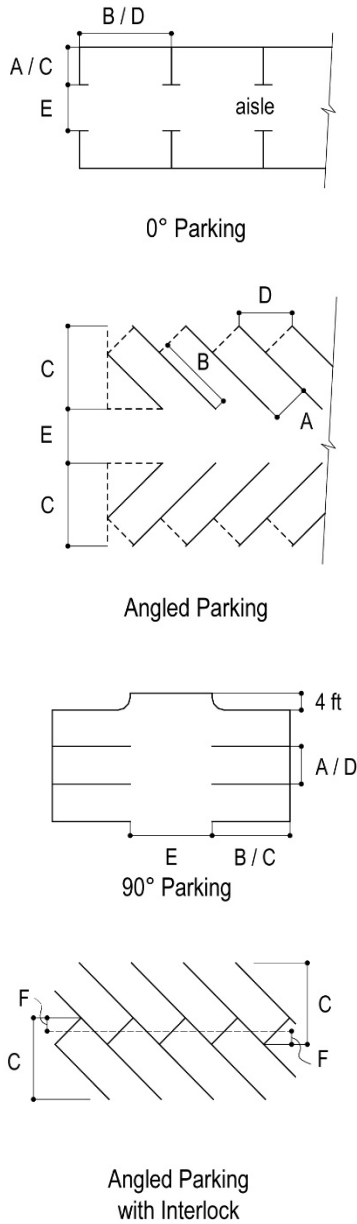


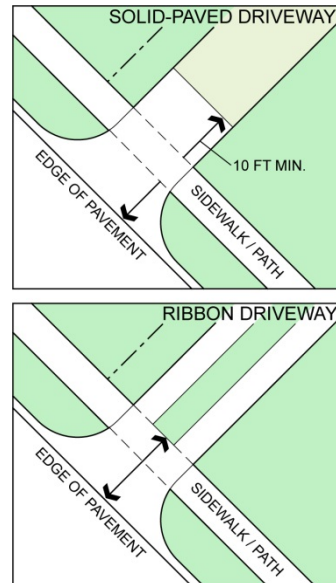
Figure 8.2.2 Parking Lot Dimensions

8.2.3. Paving Standards. All parking and vehicular use areas shall be paved with asphaltic concrete, concrete, paving stone or masonry in accord with standards adopted by the City Engineer. However, the City Engineer may approve pervious parking surfaces in areas susceptible to flooding and/or in zoning districts with restrictive impervious coverage standards. Required parking spaces shall be permanently marked and maintained and shall be accessible from a driveway

or aisle such that all vehicles approach the street in a forward motion.

Restrictions and exceptions include:

1. Detached single-family dwellings and duplexes may substitute a ribbon-type driveway or an unpaved all-weather surface, in accord with standards adopted by the City Engineer, in place of a solid-paved surface. Vehicles may approach a street in either a forward or backing motion. This shall not apply to shared driveways serving multiple residences unless approved in writing by the City Engineer.
2. All driveways that cross an existing sidewalk shall be paved from the edge of street pavement to at least ten (10) ft from the back of the sidewalk, regardless of whether the parking on-site is required to be paved or not. See illustration at right. Ribbon-type driveways shall be solid-paved from the back of sidewalk to the edge-of-pavement.



3. In addition to Paragraph 2, above, all uses, whether required to provide paved parking or an unpaved all-weather surface, driveways shall be required to pave all turn-outs and portions of

driveways located within any rights-of-way.

- 8.2.4. Pavement Markings. The City Engineer may prescribe such traffic markers and or signs as deemed necessary to safely and efficiently manage traffic flow. Parking spaces, except those serving single-family dwellings and duplexes, shall be demarcated with painted lines and/or signs or other markings accepted by the City Engineer. Stacking spaces shall not be individually marked but instead shall be clearly demarcated to direct traffic, as necessary.
- 8.2.5. Drainage. Off-street Parking facilities shall be drained to prevent damage to abutting property and streets. Landscaping areas shall be graded and designed to receive a reasonable portion of the rainfall from surrounding pavement. Openings for the flow of water shall be provided around any landscaped areas lined with protective curbing.
- 8.2.6. Dead End Parking. Vehicular use areas shall be designed to provide for safe and convenient circulation within the site. Dead end parking is discouraged. When all other design options have been exhausted, the City may approve a striped area measuring a minimum of fifteen (15) ft by the full width of the parking aisle to be used as a vehicular turnaround area. “No Parking” and “Tow Away Zone” signage must be provided in vehicular turnaround areas in order to discourage vehicular parking. Ten (10) or less consecutive parking spaces shall not be considered dead end parking.
- 8.2.7. Landscaping. Off-street parking areas extending to within twenty-five (25) feet or less of a lot line, shall be landscaped in accordance with [§9.2.2 Frontage and Perimeter Landscaping](#). Off-street parking areas of twenty-five (25) or more

parking spaces shall be landscaped in accordance with [§9.2.3 Interior Landscaping](#).

§8.3. Off-Street Loading

For all uses involving the receipt or distribution of goods by trucks, there shall be provided off-street loading berths as indicated in Table 8.3 unless modified or waived by the City Engineer. Loading berth(s) shall:

- 8.3.1. Be a minimum of twelve (12) feet in width, thirty (30) feet in length, and fourteen (14) feet in clear height.
- 8.3.2. Be screened as required in [§9.4 Screening](#).
- 8.3.3. Not occupy any part of a required buffer, rear yard or front yard.
- 8.3.4. Not be located or oriented on site so as to require trucks to back onto the property from a public street.

4,000 – 25,000 sq. ft. GFA	1 berth
25,001 – 40,000 sq. ft. GFA	2 berths
40,001 – 60,000 sq. ft. GFA	3 berths
For each additional 50,000 sq. ft. GFA	1 berth

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Article 9 LANDSCAPING REGULATIONS

The City of Vestavia Hills, Alabama, in accordance with Title 11-52-70, Code of Alabama, 1975, has determined that some regulation of landscaping property will promote the beauty and aesthetics of the City. Furthermore, the intent of these standards are: to facilitate a harmonious and attractive environment; to prevent erosion; to capture and treat drainage and stormwater runoff; to reduce glare, wind turbulence, carbon monoxide, heat, and noise; to stabilize property values; and to generally preserve and promote the establishment of a healthful and pleasant community.

§9.1. General

A landscape plan for any development subject to design review pursuant to [§13.2.2](#) shall be submitted to the Design Review Board prior to issuance of a Building Permit. If the development includes a request for rezoning or conditional use, then such landscaping plan shall also be presented to the Commission, together with the application for rezoning or conditional use, as applicable.

- 9.1.1. The landscape plan shall include the following information:
 - 1. Proposed planting schedule including the type, quantity, spacing, size, installation instructions and common name of all plantings.
 - 2. Plant materials labeled and shown in relation to lot lines, adjacent streets, buildings and parking areas.
 - 3. All Buffers required under [§9.3](#), if any.
 - 4. All Screening required under [§9.4](#), if any.
 - 5. Approaches to building entrances.
 - 6. Proposed parking areas and means of vehicular egress and ingress.
 - 7. Location, size, function and furnishings for proposed open spaces shown in

relation to lot lines, adjacent streets, sidewalks, buildings and parking areas.

- 8. All utilities and fire connections.
- 9. Proposed landscape vehicles, equipment, and materials to be stored on the property.
- 10. Soil preparation methods, bedding and mulching, and planting details
- 9.1.2. Landscaping shall be provided in accordance with the following:
 - 1. Where existing topographic patterns contribute to beauty and utility of a development, they shall be preserved whenever at all possible, practical and feasible.
 - 2. Landscape treatment shall be provided to enhance architectural features and to strengthen vistas.
 - 3. All landscaping shall be installed in accordance with accepted good planting procedures as prescribed by the American Society of Landscape Architects.
 - 4. This Article establishes requirements for site landscaping, as well as landscaping for Buffers and Screening. Landscaping provided to fulfill Buffer or Screening requirements, may also be counted, in whole or in part, toward site landscaping requirements and vice versa.
 - 5. Existing trees, plantings and other vegetation, which meet these standards, in whole or in part, may be accepted by the approving authority, to count toward landscaping requirements.

§9.2. Site Landscaping

- 9.2.1. Applicability. Site landscaping shall be provided with all new multi-family, non-residential and mixed-use developments in accordance with the following standards. Existing premises must

conform with these standards as provided in [Article 10 Nonconformities](#). Required site landscape areas include: frontage landscaping, building landscaping, parking lot interior landscaping and parking lot perimeter landscaping as shown in Figure 9.2.

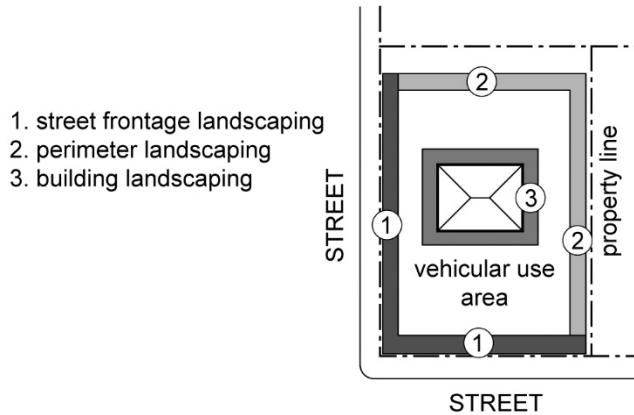


Figure 9.2 Site Landscaping Areas

9.2.2. Frontage and Perimeter Landscaping

1. Frontage landscaping shall be provided along lot frontages to reduce the visual impact of and glare from vehicular use areas, enhance the public streetscape, and to control access between private and public space where appropriate. Frontage landscaping is required for the length of parking and vehicular circulation areas that extend within twenty-five feet of the front lot line(s). Frontage landscaping shall be provided as shown in Table 9.2.2 and as follows:
 - a. For the purposes of this Subsection, corner lots shall be considered to have two frontages.
 - b. The planting strip shall be located along the outside edge of the vehicular use area
2. Perimeter Landscaping shall be provided to reduce the visual impact of and glare from vehicular use areas on adjacent property, capture and treat stormwater and to control access between

developments where appropriate. Perimeter landscaping is required for the length of parking and vehicular circulation areas that extend within twenty-five (25) of side and rear lot lines. Perimeter landscaping shall be provided as shown in Table 9.2.2 and as follows:

- a. The planting strip shall be located along the outside edge of the vehicular use area.
- b. Perimeter landscaping requirements may be modified by the Zoning Official in writing where natural conditions make such landscaping unnecessary and/or impractical.
- c. Perimeter landscaping may be waived or reduced between two vehicular use areas on abutting lots, which are connected by a cross access agreement and are of integrated design.
- d. A solid fence of a height of at least thirty (30) inches shall suffice for perimeter landscaping along an alley.

	Frontage Landscaping	Perimeter Landscaping
Min. Depth of Planting Strip	8 ft OR 4 ft and fence/wall	5 ft
Height (at maturity)	2.5–3.5 ft ⁽¹⁾	2.5 ft min.
Min. Density of Shrubs (size at time of planting)	1 3-gal shrub per 3 ft OR 1 5-gal shrub per 5 ft	
Min. Density of Trees	1 canopy tree per 50 ft OR 1 understory tree per 40 ft	
¹ Shall not exceed 2.5 ft within Clear Sight Triangle (§4.3.8 Intersection Sight Distance)		

9.2.3. Interior Landscaping shall be provided within off-street parking areas of twenty-five (25) or more spaces to capture and treat stormwater, create human scale and minimize heat islands by providing shade

and reducing reflective surfaces, as follows:

1. There shall be at least twenty (20) sq. ft. of interior landscaping per parking space.
2. Every planting area (peninsula, median or island) containing a required tree shall be at least seventy-five (75) sq. ft. and seven (7) feet in width. Each planting area shall be suitably landscaped with a variety of plant materials including but not limited to ground covers, shrubs, flowering plants, pine straw and mulch.
3. There shall be a canopy tree within eighty (80) feet or an understory tree within sixty (60) feet of every parking space, which may include trees planted to meet other landscaping requirements.
4. Landscape islands shall be provided at the end of any parking bay containing twenty (20) or more parking spaces. Trees shall be provided within said islands in accordance with §9.2.3.3 above.

9.2.4. Building Landscaping shall be incorporated along building elevations, which are thirty-five (35) feet or greater in length and are set back from property lines, to accentuate entrances, reinforce pedestrian accessways to and from parking areas, and to enhance secondary facade areas, as shown in Table 9.2.4 and as follows:

1. Building landscaping areas shall be located along or shall begin within fifteen (15) feet of each building elevation to accommodate a walkway between the building and landscaping. Other required landscaping may be counted toward Building Landscaping requirements if meeting this location requirement.
2. Required building landscaping may be aggregated into one or more locations

along the elevation to allow for pedestrian/vehicular access and loading areas along the building elevation.

Min. Depth of Planting Strip	6 ft
Shrubs per Elevation Length	10 hedge plants or shrubs per 50 ft
Trees per Elevation Length	1 canopy tree per 50 ft OR 1 understory tree per 35 ft

§9.3. Buffers

Buffers shall be provided in accord with the requirements of [Tables 8.3A](#) and [8.3B](#) and as described in this §9.3. In cases where Buffers are required or deemed necessary for the protection and/or separation of uses on abutting lots, the following provisions shall be the minimum requirements unless otherwise specified by the reviewing authority in individual cases. For the purposes of this Section, “fences” and “walls” shall have the same meaning.

9.3.1. General Requirements. Except as otherwise provided herein, buffers shall be required based on the developing use and the existing, abutting use, regardless of the zoning districts in which they are located.

1. Required yards, where corresponding with the buffer area, may overlap and may be counted toward a buffer width requirement.
2. 100 percent of the applicable buffer requirements shall be the responsibility of the developing land use, except when the developing use will abut an existing more intensive use established prior to the adoption of these standards and for which no buffer is in place. In this case, the approving authority may require up to fifty (50) percent of the required buffer width on the developing site. In such

case, the applicant shall only be required to preserve existing vegetation within the buffer width or replace such vegetation with equivalent landscaping.

3. Any required buffer abutting a park or greenway may be reduced, if the property owner dedicates land to be set aside, for all or part of the required buffer width, to the City for incorporation into the park or greenway if approved by the Council.
4. Buffer requirements may be modified by the approving authority for certain cases as follows:
 - a. When the proposed use will abut an existing, nonconforming use on a property that is designated for another use in the Comprehensive Plan *and* is zoned accordingly with said plan, the Buffer may be modified to be consistent with the projected use of the neighboring land.
 - b. If the land use relationships between two (2) abutting lots changes so that a lesser Buffer would be required, the width of the previously provided Buffer may be reduced accordingly.
 - c. If the required Buffer abuts a public alley, up to one-half (1/2) of the alley width may be counted toward the buffer width requirement but the landscaping density requirements shall not be reduced.
 - d. Whenever the proposed use abuts vacant land, buffer requirements shall be based on the zoning of the abutting property or the use projected by the Comprehensive Plan, whichever requires a lesser buffer. When determining buffer requirements based on the zoning or projected use of abutting vacant land, the Zoning Official shall consider the range of possible future uses and base the requirement on the use(s) that require a lesser buffer.

5. Golf courses, playfields, stables, swimming pools, tennis courts, and other recreational facilities; parking and other vehicular use areas; Buildings, dumpsters, and Outdoor Storage are prohibited in required Buffers. The approving authority may permit a pedestrian access way through a required Buffer, to allow access between the abutting uses, if desired.

9.3.2. Design Requirements.

1. Trees and shrubs shall be provided in accordance with [Table 9.3B](#).
2. Stormwater management and drainage controls required by the City Engineer shall be coordinated with the buffer design and integrated into the overall site design.
3. The required Buffer width and planting density may be reduced as provided in Table 9.3B when a buffer fence is provided that meets the following standards:
 - a. Buffer fences shall be of masonry, ornamental metal, durable wood, or a combination thereof as approved by the reviewing authority. Untreated wood, chain-link, plastic or wire shall not be permitted. No more than twenty-five (25) percent of the fence surface, required as a part of a buffer, shall be left open. The finished side of the fence shall face abutting property.
 - b. Buffer fences shall be a minimum of six (6) feet high and no taller than eight (8) feet. Buffer landscaping shall be placed along the exterior side. If longer than 100 feet in one direction, the fence shall have columns of wood or masonry, spaced no greater than fifty (50) feet on center and which project outward from the fence surface.

Table 9.3A Buffer Requirements By Use									
Proposed Use	Existing Abutting Uses or Zoning								
	Single-family		Multi-family	Lodging	Institutional			Business	Parks & greenways
	detached	attached			low/medium/high				
Residential and Lodging	Type of Buffer Required								
Detached, single-family	n/a	n/a	n/a	n/a	n/a			n/a	n/a
Attached, single-family	A	n/a	n/a	n/a	n/a			n/a	n/a
Multi-family	B	A	n/a	n/a	n/a			n/a	n/a
Lodging	B	B	A	n/a	n/a			n/a	n/a
Institutional									
Low intensity	A	A	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Medium intensity	A	A	A	n/a	n/a	n/a	n/a	n/a	A
High intensity	B	B	B	A	A	n/a	n/a	n/a	A
Business/Commercial									
Offices up to 50,000 sq. ft.	A	A	A	n/a	A	n/a	n/a	n/a	A
Offices greater than 50,000 sq. ft.	B	B	B	n/a	B	A	n/a	n/a	A
Amusement; outdoor entertainment	B	B	B	A	B	A	n/a	n/a	A
Retail, shopping centers, and restaurants up to 50,000 sq. ft.	B	B	A	n/a	A	A	n/a	n/a	A
Retail, shopping centers, and restaurants greater than 50,000 sq. ft.	B	B	B	n/a	B	A	n/a	n/a	A
Heavy commercial, including repair, contractor and automotive uses	B	B	B	A	B	A	n/a	n/a	A
Industry									
Warehousing, storage, telecommunications towers and public utility facilities	C	C	C	C	C	B	B	A	B
Other industrial uses	C	C	C	C	C	C	C	B	B

Table 9.3B Requirements by Buffer Class					
Buffer Class	Width		Required trees per 100 lf	Required Shrubs per 100 lf	
	With fence/wall	Without fence/wall	Understory Trees	With fence/wall	Without fence/wall
A	10 ft	15 ft	9 in single row	15 in single row	20 in single row
B	15 ft	20 ft	10 in single row	20 in single row	30 in alternating or double rows
C	22 ft	30 ft	12 in single row	25 in alternating or double rows	40 in double rows

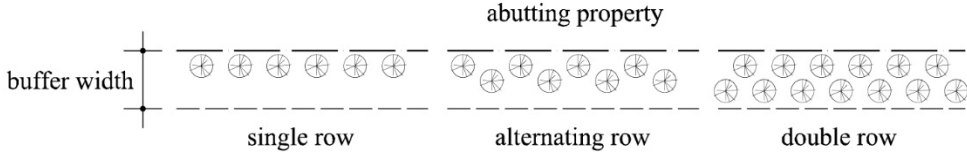


Figure 9.3: Buffer Landscaping Rows

9.3.3. Planting Requirements. The required Buffer shall be installed before a Certificate of Occupancy may be approved. Except as herein provided, plantings installed toward buffer requirements shall be in accord with the general requirements and minimum planting specifications set forth in [§9.5 Planting, Installation and Maintenance](#).

1. Existing natural vegetation, which meets, in whole or in part, buffer planting requirements, may be applied toward the requirements of this Section.
2. Trees shall be evergreen.
3. Shrubs shall be evergreen and be thirty (30) inches tall at planting. However, up to twenty-five (25) percent of the required shrubs: 1) may be deciduous, b) may be two (2) feet tall when planted, provided an average height of three (3) to four (4) feet within four (4) years; and c) when planted on a berm, may be of a lesser height, provided that the combined height of the Berms and planting is at least six (6) feet after four (4) years.

§9.4. Screening

Screening is intended to provide both visual separation of conflicting uses on-site and between adjacent properties and shall be designed to be compatible with the surrounding environment and shall not dominate the view. For the purposes of this section, “fences” and “walls” shall have the same meaning.

9.4.1. Applicability. For all multi-family, non-residential and mixed use developments, the following shall require Screening:

1. Garbage collection, recycling and refuse handling areas
2. Maintenance areas or utility structures associated with a building or development
3. Water meters, gas meters, electric meters and air conditioners/mechanical units
4. Loading docks or spaces
5. Outside runs for veterinary clinics, animal shelters, and kennels
6. Outdoor storage of materials, stock, equipment, and vehicles (such as those stored for repair)
7. Any other uses for which screening may be required by the reviewing authority

9.4.2. Safety Provisions.

1. Screening shall not conflict with §4.3.8 Sight Distance Requirements.
2. Screening shall not block access to any above-ground, pad-mounted transformer and shall provide the minimum clear distance required by the utility company.
3. Screening shall not impede or divert the flow of water in any drainage way.

9.4.3. Design Requirements. The method of screening, including height and materials, shall be that which is sufficient to visually screen the use. The minimum height needed is preferred. Fences, berms, or landscaping used for other purposes, but that are proposed as part of

a required screen and that meet the requirements of this Section, may count toward screening requirements. The design of screening shall be in accord with the following and as approved by the reviewing authority:

1. Location of uses. Location on site should be the first consideration in screening the uses listed in §9.4.1 above. The reviewing authority may lessen screening requirements when the location of the use to be screened reduces its visibility or other impact to the public and neighboring properties.
 - a. Uses requiring screening, when co-located, may be screened together.
 - b. Uses that produce objectionable noise or odors shall be located so as to minimize such impacts to the public and abutting properties.
2. Screening Fences. All screening fences shall comply with the following:
 - a. Screening fences shall be of masonry, ornamental metal, vinyl, durable wood, or a combination thereof. Untreated wood, chain-link, plastic or wire shall not be permitted. No more than twenty-five (25) percent of the fence surface, required as part of a Screen, shall be left open. The finished side of the fence shall face abutting property.
 - b. Where screening fences are longer than fifty (50) feet in one direction, evergreen landscaping shall be placed along the exterior side. Where such fences are longer than 100 feet in one direction, required landscaping shall include both trees and shrubs and the fence shall have columns of wood or masonry which project outward from the fence surface. Such columns shall be spaced no greater than fifty (50) feet on center.
 - c. Fences located forward of the front building line shall not exceed six (6) feet. Fences located in a required rear or side yard shall not exceed eight (8) feet in height.
3. Berms. Berms shall be landscaped and stabilized to prevent erosion and shall be a minimum height of four (4) feet. Slopes shall be approved by the City Engineer.
4. Shrubs and trees. Except as herein provided, plantings installed for screening requirements shall conform to [§9.5](#) following.
 - a. Shrubs shall be evergreen and spaced no more than five (5) feet on center.
 - b. Trees shall be evergreen and, when used in the absence of a fence, should have a low understory and/or be used together with shrubs to provide an opaque visual Screen.
5. Screening requirements for specific uses.
 - a. Dumpsters, trash refuse, and recycling containers shall not be located forward of the front building line. Enclosures, while allowed within the property setback lines, cannot be included within the required buffer areas or within 5' of a property line. Such containers shall be screened by a combination of opaque fence or masonry wall and plant material on three (3) sides. Opaque gates, designed to complement the screen, shall be installed for access. The fence or wall shall be at least two (2) feet taller than the container.
 - b. For restaurants, enclosures shall be sized, as needed, to accommodate the storage of grease containers.
 - c. Mechanical equipment on roofs or on site shall be screened so as to not be visible from public streets or adjacent properties. The screening of building-mounted mechanical equipment shall

be an integral component of the building design. Mechanical equipment installed on site shall be adequately screened by plant materials and/or fences and shall blend in with site landscaping.

- d. Outdoor storage, where permitted, shall be screened to a height of six (6) feet or two (2) feet taller than the material or equipment to be screened, whichever is greater.
- e. Service areas, loading docks, work yards, and similar uses should be located to minimize their visibility to the public and to any abutting properties to which such functions would be objectionable. Where their location is insufficient to effectively screen the use, required screening shall be at least six (6) feet in height. Loading berths shall be within the building or concealed by means of a screening wall of material similar to and compatible with that of the Building.

§9.5. Planting, Installation and Maintenance

9.5.1. Planting.

- 1. All plants shall be suitable for local planting conditions and the intended landscaping purpose. All required landscaping areas shall be maintained with mulch (two inches deep at installation), sod or other approved ground cover.
- 2. Native, drought-tolerant vegetation shall be used where practicable to avoid excess water consumption for irrigation. Plans submitted for review shall identify such native species.
- 3. Required plantings shall be spaced to allow for adequate growth and coverage.
- 4. Canopy trees shall have a minimum two-and-one-half (2.5) inch caliper measured

six (6) inches above ground and be a minimum twelve (12) feet in height at time of planting. At time of planting, evergreen trees shall be a minimum seven (7) feet in height and multi-stemmed trees shall be eight (8) feet in height.

- 5. Shrubs shall have a minimum height of one (1) foot measured from grade level at the time of planting.

9.5.2. Installation and Inspection.

- 1. Required plantings shall be installed at the next seasonal planting opportunity unless a written waiver has been issued by the Zoning Official.
- 2. Required landscaping materials shall be installed before a Certificate of Occupancy may be approved.
- 3. At the time of installation and upon inspection, minor changes may be approved in writing by the Zoning Official, provided the changes meet the minimum requirements of this Article. Any change, which said Official determines to be a major change, shall require a revised Landscaping Plan be resubmitted for approval.

- 9.5.3. Maintenance. The Owner shall be responsible for providing, protecting, and maintaining required plantings in a healthy and growing condition. Any dead, missing, or unhealthy plants shall be replanted at the next seasonal planting opportunity, and broken or deteriorated non-living materials shall be replaced. Planted areas shall be maintained in a healthy condition. Screening fences/walls, pavers, irrigation or other improvements shall be maintained in good condition, and any such improvement shall be replaced or repaired within thirty (30) days of its demise. Failure to comply with these maintenance requirements shall

constitute a violation of this Ordinance and shall be subject to the remedies and penalties provided in [§13.7](#).

§9.6. Tree Preservation Regulations

9.6.1. These provisions are intended to regulate the removal and/or destruction of trees within the community for the purpose of:

1. Preserving the existing character of the city, part of which is derived from existing groves of mature pine, oak and other species of trees;
2. Reducing the effects of noise and air pollution;
3. Preventing soil erosion and the siltation of drainage improvements and waterway;
4. Protection and enhancing the aesthetic qualities of the community; and
5. Adding an element of landscape maturity to new developments in the city thereby enhancing buffering, privacy and increasing the value of property.

9.6.2. Applicability and Exceptions. These regulations shall apply to each Protected Tree within the corporate limits of the City, except a Protected Tree on any lot zoned or used exclusively for single family (attached and/or detached) [*except new residential subdivisions as defined in §9.6.5.2*] and any property zoned as PUD (planned unit development).

9.6.3. General Regulations. No Protected Tree as defined in this Section shall be removed, relocated, destroyed or otherwise directly or indirectly damaged unless and until a tree permit under this Section has first been issued. The City is authorized to issue an annual permit to public utility companies exempting them from this requirement with respect to the trimming of Protected Trees that may interfere with utility lines located within public right-of-way, upon such terms and

conditions as may be determined by the City. No tree permit shall be required for the incidental trimming or pruning of a Protected Tree located on private property by the owner of the property or the owner's agent.

9.6.4. Definitions

1. Caliper: The measurement of the diameter of a tree trunk four (4) feet above existing grade.
2. Protected Tree: Any tree that has a caliper of at least six (6) inches.

9.6.5. Tree Permit

1. Any person wishing to remove, relocate, destroy, or otherwise damage a Protected Tree shall, under the provisions of this subsection, make written application to the DRB, which application shall include a landscape plan as provided before in said application or other information that adequately explains the request.
2. As part of any request for a land disturbance permit for a new subdivision with a minimum of five (5) lots, the applicant shall include, as a part of the application, a tree save plan that will preserve as many trees in the development as practical. The plan shall be approved by the Commission as part of the preliminary plat process (or final plat process if no preliminary is required) with input and recommendations from the City Engineer, the Department of Building Safety and the Vestavia Hills Tree Commission. Once approval of the tree save plan has been secured along with all other requirements concerning a land disturbance permit, the City Engineer may issue a land disturbance permit for said subdivision; or
3. Application fees for the filing of tree permit requests shall be in accordance with City of Vestavia Hills Schedule of

Fees unless it can be demonstrated to the Department of Building Safety that said tree is/has been damaged, diseased, or in danger of falling close to existing or proposed structures.

- 4. In the case of tree removal or relocation activities that will be required on a continuing or repetitive basis, the City may issue a blanket tree permit on such terms and for such duration as are determined to be appropriate under the circumstances. Completed applications shall be filed with the Committee a minimum of 15 days prior to the regular scheduled meeting and shall contain the signature of the property owner or a notarized letter assigning an agent to represent signed by the owner.
- 5. The DRB will consider approval or denial of the application at the next regularly scheduled meeting following proper filing of the completed application. If approved, a tree permit shall be issued by the Department of Building Safety authorizing the proposed activity.
- 6. The Mayor may declare an emergency and impose a temporary moratorium on the enforcement of this requirement, following severe storm events within the city.

9.6.6. Criteria for Issuance of a Tree Permit

- 1. A Tree Permit for the requested activity shall be issued if:
 - a. The tree is located in an area where a structure or improvement is to be placed according to a site plan or building permit approved by the City; or
 - b. The tree is diseased, damaged, in danger of falling close to existing or proposed structures (approved in A. above), interferes with existing or proposed essential utility services,

creates unsafe vision clearance or conflicts with other ordinances or regulations of the City; or

- c. Removal of the tree will not result in any adverse material affect to the appearance of the site, since other Protected Trees of similar age, height, and species are present on the site and/or a sufficient number of replacement trees are proposed to be planted on the site in appropriate locations and of sufficient size to prevent such adverse affect.
- d. The tree is to be removed and relocated as part of (1) the bona fide harvesting or thinning of timber from land currently assessed and managed as forest property; (2) the bona fide thinning of growth from undeveloped property for the purpose of the maintenance of the overall health of the trees and growth on such property; (3) the release from nursery inventory of trees commercially cultivated for the purpose of resale; or (4) the preservation of such tree in connection with the expansion of agricultural operations in the vicinity of such tree.

- 2. If, in the determination of the DRB that the application does not meet the above criteria, it will be denied and the reasons communicated to the applicant who may appeal the decision to the Commission within ten (10) working days by filing a written request with the City Clerk in a format or on a form as specified by the department.

9.6.7. Enforcement and Penalties. Whenever the Building Official shall determine that a violation of this Section has occurred, any of the following actions may be initiated singly or in combination:

- 1. On any new construction site, a stop work order may be immediately issued to the contractor or property owner. Upon

receipt of such order, construction may not be resumed until an approved plan authorizing the removal of the subject trees is presented to the DRB or a remediation proposal is presented to the Chairman and approved by the DRB as provided in subsection (3) below.

2. On an existing developed site, depending upon the circumstances of the violation, a formal citation may be issued to the violator as determined by the Building Official. A stop work order shall specify the nature of the violation and require that any work not permitted under this Article immediately cease and desist. The property owner shall, within, two (2) weeks, present a remediation proposal to the City for correcting the violation.
3. Each remediation proposal shall be reviewed by the Building Official, who shall present the proposal to the DRB along with a recommendation for acceptance or rejection, or modification thereof.
4. Any person violating any of the provisions of this Section shall be guilty of an offense against the City and shall, upon conviction, be punished for each violation as provided in [§13.7 Remedies and Penalties for Violation](#). Each Protected Tree removed, relocated, destroyed, or otherwise damaged without a Tree Permit shall constitute a separate violation.
5. These regulations shall not be construed to impair: (1) the right of eminent domain granted by State laws to utilities, whether public or private, or (2) their right to design, locate, erect, construct, re-construct, alter, protect or maintain utility poles, towers, lines, conduits, pipes or mains reasonably required in the public service or (3) their right to exercise authority conferred by statute, franchise, certificate of convenience and

necessity, license or easement. Maintenance, repair, and extension of any public and private utility lines or related infrastructure are expressly allowed. The preceding will apply to work done by the utility's employees, agents and contractors doing work for the utility.

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Article 10 NONCONFORMITIES

designed for such use at the effective date of nonconformity.

§10.1. General

Any use or structure existing at the time of enactment or of subsequent amendment to this Ordinance, but not in conformity with its provisions, may be continued with the following limitations. Any use or structure, which does not conform to the provisions of this Ordinance, shall not be:

- 10.1.1. Changed to another non-conforming use
- 10.1.2. Re-established after discontinuance for one year
- 10.1.3. Extended except in conformity to this Ordinance
- 10.1.4. Rebuilt after fire or damage exceeding fifty (50) percent of its fair market value immediately prior to said damage.

§10.2. Continuance

The lawful use of a structure or the lawful use of land existing at the time of the effective date of this Ordinance may be continued although such use does not conform to the provisions hereof.

- 10.2.1. If no structural alterations are made, a non-conforming use may be changed to another non-conforming use of the same or a more restrictive classification or to a conforming use, but such use shall not thereafter be changed to a less restrictive classification.
- 10.2.2. Whenever a non-conforming use has been changed to a more restrictive classification or to a conforming use, such use shall not thereafter be changed to a less restrictive classification or nonconforming use, respectively.
- 10.2.3. The Nonconforming Use of a Structure or of a premises may be hereafter extended throughout those parts of a building or premises, which were lawfully and manifestly arranged or

§10.3. Abandonment or Discontinuation

- 10.3.1. In the event that a structure or premises occupied by a non-conforming use becomes and remains abandoned for a continuous period of one (1) year, the use of the same shall thereafter conform to the use regulation of the applicable district.
- 10.3.2. In the event the use of a property, on which nonconforming improvements exist, including but not limited to, parking areas, driveways, lighting, sidewalks, buffers and screening, and other landscaping, becomes discontinued for a continuous period of one (1) year, such nonconforming improvements shall be brought into conformity with the applicable provisions of this Ordinance.

§10.4. Structural Extensions and Alterations

No structure or premises occupied by a non-conforming use shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use which conforms to the use regulations of the applicable district, provided, however, that a structure or premises may be physically enlarged, extended, reconstructed or structurally altered to the extent necessary for compliance with any existing and applicable law or ordinance specifying minimum standards of health and safety.

§10.5. Use Extensions

No non-conforming use shall be enlarged, extended or expanded unless such use is changed to a use, which conforms to the use regulations of the applicable district.

§10.6. New Construction Conforming

A structure or building conforming to the use regulations of the applicable district but not

conforming to any other provision of these regulations may be enlarged, extended or expanded provided that such enlargement, extension or expansion conforms to all regulations required in the district.

§10.7. Destruction

Any building or structure damaged by explosion, fire, act of God or the public enemy to the extent of more than fifty (50) percent of its fair market value immediately prior to said damage, shall not be restored except in conformity with this Section.

Article 11 SIGN REGULATIONS

§11.1. Purpose.

The purpose of these Sign Regulations is to provide specific regulations for the control of all signs designed or intended to be seen by, or attract the attention of, the public, which may be erected, displayed, maintained, or altered in the City, for the public health, safety, and welfare of the residents. Further, it is the intent of this Ordinance to:

1. Support implementation of the City of Vestavia Hills Comprehensive Plan 2004 – 2025 and any subsequent adopted amendments;
2. Encourage the effective use of signs as a means of communication in the City;
3. Acknowledge the public need of commercial and non-commercial individuality and expression balanced with the public need for an aesthetically pleasing community;
4. Provide a pleasing overall environmental setting and community appearance deemed vital to the continued economic viability of the City;
5. Protect and enhance the value of properties and to have signage appropriate to the planned character and development of each area in the City;
6. Promote quality and consistent signage within the community;
7. Provide signage standards by which all properties are to adhere;
8. Assist the applicant in understanding how to apply for signage plan approval as required; and
9. Promote the public health, safety and welfare of the City by preventing signs from becoming hazards or nuisances.

§11.2. Definitions

For the purposes of this Article, certain words and terms are defined as herein indicated and shall apply to all parts of this Article unless otherwise specified.

Unless specifically defined herein, words or phrases used in this Article shall have the meaning otherwise ascribed to them in this Zoning Ordinance. Otherwise they shall have the same meaning as they have in their common usage.

- 11.2.1. *Abandoned Sign.* A sign that no longer correctly directs or exhorts any person, advertises a bona fide business, leaser, owner, product or activity conducted or product available on the premises where such sign is displayed.
- 11.2.2. *Arterial.* For the purposes of this Article, a thoroughfare or the applicable segment thereof with four (4) or more lanes or having a posted speed limit of forty (40) or more miles per hour.
- 11.2.3. *Attached Sign.* A sign other than a freestanding sign, including wall signs, projecting signs and awning and canopy signs.
- 11.2.4. *Awning Sign.* A sign directly painted or otherwise directly affixed to an awning.
- 11.2.5. *Banner.* A flexible substrate on which copy or graphics may be displayed.
- 11.2.6. *Banner Sign.* A sign utilizing a banner as its display surface.
- 11.2.7. *Canopy.* A multisided overhead structure or architectural projection that is supported: 1) by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points, or 2) supported by columns, but not enclosed by walls. The surface(s) and/or soffit of an a canopy may be illuminated by means of internal or external sources of light.

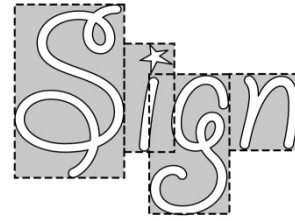
11.2.8. *Canopy Sign.* A sign directly painted or otherwise directly affixed to a canopy. When the sign appears on a canopy detached from the building, it is considered a “detached canopy sign”.

11.2.9. *Collector.* For the purposes of this Article, a thoroughfare or the applicable segment thereof, excluding an “arterial,” with three (3) or more lanes or having a posted speed limit of thirty (30) miles or more per hour. A thoroughfare with a continuous two-way left turn lane, shall be considered to have three (3) lanes.

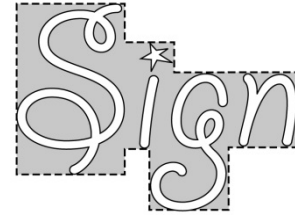
11.2.10. *Commercial Message.* Words, symbols, logos, pictures or any combination thereof that identify or which direct attention to a business, commodity, service or entertainment sold or offered for sale or a fee.

11.2.11. *Copy Area, Sign Copy Area.* The area in square feet that can be enclosed by the smallest rectangle or combination thereof that will encompass the actual copy of a sign. Signs that are of a regular geometric shape may be calculated based upon that shape, such as circles and triangles. Spacing between letters or between letters and graphics is counted. Where different height letters are used, the sign copy area is the area of the composite shape formed by circumscribing each letter with the smallest possible rectangle. Logos shall be considered part of the copy area. For attached signs, copy area refers to the message, not to the background.

Calculating copy area



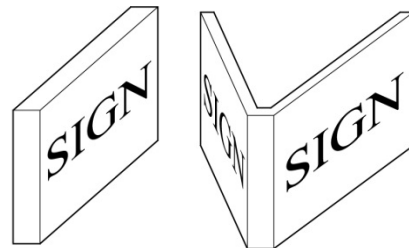
Circumscribe each letter, symbol, or graphic (including spacing between each) with the smallest possible rectangle



Copy area equals the area of the composite shape formed by the individual rectangles

11.2.12. *Department.* The City of Vestavia Hills Department of Building Safety.

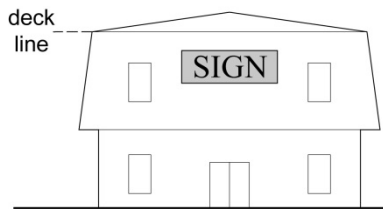
11.2.13. *Double-Faced Sign.* A sign constructed to display its message on the outer surfaces of two opposite planes. When only one face may be viewed from any vantage point along the thoroughfare, the area of one side (the larger, if applicable) is counted toward allowable sign area. If both faces may be viewed from the same vantage point, the area of both sides is counted.



Double-faced signs: For the sign above left, copy area on only one face is counted. For the sign above right, copy area of both faces is counted.

11.2.14. *Electrical Sign.* Any sign containing electrical wiring attached or equipped to be attached to an electrical energy source.

- 11.2.15. *Freestanding Sign*. Any sign erected on a freestanding frame, foundation, mast or pole and not attached in any way to any building.
- 11.2.16. *Holiday Decorations*. Decorative elements of a temporary nature intended for the acknowledgement of a holiday or holiday season, exclusive of decorations that contain business, product sales, or service advertising content. Holiday decorations shall not be considered “signs.”
- 11.2.17. *Incidental Sign*. A non-commercial sign, other than an official sign, providing information or direction for the convenience and necessity of the public.
- 11.2.18. *Integrated Business Center*. A group of commercial establishments on one or more parcels of land having shared access and/or shared parking.
- 11.2.19. *Legible*. Able to be read by a person of ordinary eyesight standing at ground level at a location on the public right-of-way or on another private property.
- 11.2.20. *Local Street*. For the purposes of this Article, a thoroughfare or applicable segment thereof with no more than two (2) lanes and having a posted speed limit less than thirty (30) miles per hour.
- 11.2.21. *Mansard Sign*. A sign integrated into a portion of a mansard roof or a mansard roof-like structure at the top of a wall and that does not extend more than two feet above the top of the wall or deck line, whichever is lower.



Mansard Sign

- 11.2.22. *Marquee Sign*. A changeable message sign mounted on a marquee or canopy.
- 11.2.23. *Message Board*. A sign that is designed to allow changing the message through the replacement of individual characters, or through electronic or other means.
- 11.2.24. *Neighborhood*. For the purposes of this Article, 1) A building or group of buildings containing ten or more multi-family dwelling units (regardless of ownership); or 2) Any area of twenty (20) or more dwelling units on individual lots located within the same subdivision plat and sharing access to city streets through the same collector or local streets or any combination thereof.
- 11.2.25. *Neighborhood Sign*. A freestanding sign located at the principal entrance or entrances to a neighborhood.
- 11.2.26. *Non-commercial Message*. Any wording or other displays other than a commercial message. Non-commercial messages are considered to be on-premises messages.
- 11.2.27. *Nonconforming Sign*. A sign which is not in conformance with the provisions of this ordinance or amendment heretofore or hereafter enacted, where such sign lawfully existed prior to the enactment of this ordinance or amendment or prior to the application of this ordinance or amendment to its location by reason of annexation.
- 11.2.28. *Off-Premise Sign*. A sign that at any time bears a message related to a commercial establishment, activity, product, or service which is sold, produced, manufactured, available or furnished at a place other than the premises on which the sign is located.
- 11.2.29. *Portable Sign*. Any sign that is designed to be transported, including, but not limited to, such signs:
 - 1. With wheels removed;

2. With chassis or support constructed without wheels;
3. Designed to be transported by trailer or wheels;
4. Converted to an A- or T-frame sign;
5. Attached temporarily to the ground, structure, or other signs; or
6. Mounted on a vehicle for advertising purposes, parked, and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day-to-day operations of that business.

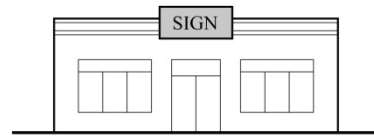
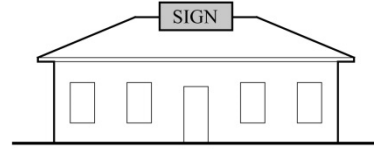
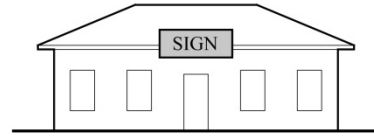
11.2.30. *Projecting Sign*. An attached sign, other than a wall sign, permanently affixed at more or less a right angle to the exterior façade of the building to which it is attached.



Projecting Sign

11.2.31. *Real Estate Sign*. Any sign pertaining to the sale, lease, or rental of land or buildings. Includes “Property for Sale,” “For Rent,” and “For Lease” signs.

11.2.32. *Roof Sign*. A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the highest point of a building with a flat roof or the eave line of a building with a gambrel, gable or hip roof; or the deck line of a building with a mansard roof. A sign integrated into a mansard roof and that does not project above the deck line of such roof shall be considered a “mansard sign” and not a “roof sign.”



Roof Signs

11.2.33. *Sign*. Any identification, description, illustration or device illuminated or non-illuminated that directs attention to a product, services, place, activity, person, institution, business, idea, issue or solicitation, including any permanently installed or situated merchandise or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information.

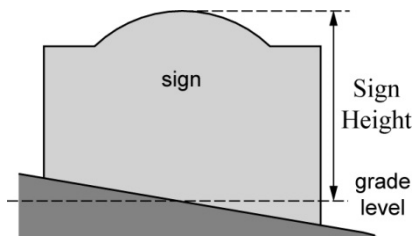
11.2.34. *Sign Area*. The entire area of a sign within a single, continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure or character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed.

11.2.35. *Sign Copy Area*. See “Copy Area”.

11.2.36. *Sign Face*. The entire area of a sign on which copy could be placed.

11.2.37. *Sign Height*. The vertical distance measured from the adjacent thoroughfare, grade level at the sign or upper surface of the nearest curb other than an elevated roadway, whichever

permits the greatest height, to the highest point of said sign.



Sign Height (from grade level)

11.2.38. *Sign Permit.* A permit for the installation of a sign issued by the Building Official once such a sign complies with the regulations of this ordinance and/or any variance granted by the Board of Zoning Adjustment.

11.2.39. *Sign Structure.* Any structure that supports, has supported, or is capable of supporting a sign, including decorative cover.

11.2.40. *Snipe Sign.* A sign made of any material when tacked, nailed, posted, pasted, glued, or otherwise attached to: trees, poles, stakes, rocks, fences or other object visible from but not in the public right-of-way; trees, light or utility poles, park benches, bus shelters, waste receptacles, street markers, traffic control devices, guard rails, or similar objects located on public property or right-of-way. Historical markers and official signs identifying a natural feature are not considered “Snipe Signs”.

11.2.41. *Temporary Sign.* A sign intended to display commercial messages of a transitory or temporary nature. Any such sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, is considered a temporary sign.

11.2.42. *Unlawful Sign.* A sign erected after the effective date of this ordinance and which is not in conformance with the

provisions of said ordinance; a sign which the Building Official may declare as unlawful where it poses a danger to public safety by reason of dilapidation or abandonment; or, a nonconforming sign for which a permit required under a previous sign ordinance was not obtained.

11.2.43. *Wall Sign.* A sign attached, painted or erected against or on a building wall with the face in a parallel plane to the plane of the building wall.



Wall Sign

11.2.44. *Window Sign.* Any sign attached, affixed, painted or otherwise imprinted on a window, whether applied to the interior or exterior surface of the glass. This shall also include signage attached, affixed, painted or imprinted on glass doors.

11.2.45. *Wind Sign.* A sign consisting of one or more flags, pennants, ribbons, spinners, streamers or captive balloons or other objects or material fastened in such a manner as to move freely upon being subjected to pressure by wind, whether the sign contains a commercial message or not. Wind signs exclude holiday or community decorations.

§11.3. General Provisions

11.3.1. License Required. Sign contractors must be licensed by the City. No person shall perform any work or service for any person or for any government entity for compensation, in or in connection with the erection, construction, enlargement, alteration, repair, moving, improvement, maintenance, conversion or manufacture of any sign, or any work or service in connection with causing any such work to be done unless such person shall first have obtained a sign contractor's license from the City and paid the license fees provided for by the City License Code, or shall be represented by a duly licensed agent or subcontractor.

11.3.2. Permit Fees. A sign permit fee, as may be set from time to time by the Council, shall accompany each application for a sign permit. Additional building and electrical permit and inspection fees as established by Chapter 5 of the City Code of Ordinances and shall be applied as applicable.

Specific sign permit procedures can be obtained by contacting the Department of Building Safety, hereinafter referred to as "the Department".

11.3.3. Building and Electrical Permits. Building permits and electrical permits for all signs shall be obtained as required by the International Building Code and National Electrical Code, respectively. Compliance with the requirements of the building code and electrical code in effect at the time of any installation, modification or repair of a sign is required, in addition to conformance with this Article and all other applicable codes and ordinances of the City. Applications for required sign permits and related electrical and building permits may be submitted simultaneously and will be

processed together, within the time limits established in this Ordinance.

11.3.4. Sign Permit.

1. Any person, organization, or corporation desiring to erect, construct, enlarge, move, alter, or convert any sign in the City must obtain a "Sign Permit" for each sign as required by [§11.3.2](#), except for those actions that do not require a permit under the provisions of [§11.3.5](#). Application instructions are available from the Department. Application shall be made to the Department. Every sign permit shall become null and void if work has not commenced within 120 days of the issuance date of the permit. If the work permitted by a sign permit is suspended or abandoned for 120 days anytime after commencement, a new permit shall be obtained. Temporary sign permits shall be obtained as required in [§11.8](#). Additionally, any sign permit shall become null and void if the sign varies in any respect from the approved design or location.

2. All nonconforming signs on a premises shall be removed or shall be made to conform with these regulations as part of the work under any (permanent) sign permit being applied for.

11.3.5. Actions Not Requiring a Permit. The following signs and actions related to signs shall be exempt from the permit requirements of this Ordinance but shall be subject to all other standards of this Ordinance. Certain temporary signs are subject to temporary permits, see [§11.8](#).

1. Changing of the commercial message on an existing painted or printed sign, marquee, changeable copy sign or a similar conforming sign, whether electrical, illuminated, electronic message center or non-illuminated painted message, provided that the copy

on an electronic message board shall not change more frequently than allowed under [§11.5.1](#).

2. Painting, repainting, cleaning, or other normal maintenance and repair of a sign not involving structural changes. Any maintenance or repair to improve the structural integrity of the sign shall require a Sign Permit and design drawings submitted, if applicable. Repainting the entire sign face shall also require a Sign Permit.
 3. Installation of permanent signs smaller than four sq. ft. where such signs are permitted by this ordinance, contain no commercial message and involve no electrical installation.
 4. Installation of signs exempt from these regulations as defined in [§11.4.2](#).
 5. Installation of signs subject to other standards as defined in [§11.4.3](#).
 6. Installation of signs permitted in all districts as defined in [§11.4.4](#).
 7. Temporary Signs announcing the sale or rent of property. One (1) on-premises sign, not exceeding an area of six and one-half (6.5) sq. ft. on a residential lot nor thirty-two (32) sq. ft. on a non-residential lot shall be permitted per lot but shall not interfere with traffic visibility at intersections of public streets and/or private drives; and shall be removed within four (4) days after a sale, lease or rental.
- 11.3.6. Sign Contractor's Requirements. As a condition to issuance of a business license as required in [§11.3.1](#), all persons engaged in the business of installing or maintaining signs which involves in whole or in part, the erection, alteration, relocation, or maintenance of a sign or other sign work in or immediately adjacent to a public right-of-way shall agree to hold harmless and indemnify the City, its officials, agents, and employees from any and all claims of personal injury or property damage resulting from the erection, alteration, relocation or maintenance of a sign or other sign work.
 - 11.3.7. Permission to Install. No person shall erect, construct, alter, or maintain any sign upon any property or building without the consent of the owner or person entitled to possession of the property or building if any, or their authorized representatives.
 - 11.3.8. Denial. The Department may, in writing, suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued on the basis of a misstatement of fact or fraud. When a sign permit is denied by the Department, a written statement shall be provided to the applicant with the reason for the denial. The applicant may appeal the decision to the BZA.
 - 11.3.9. Time Limits. The Department shall, within five days of receipt of an application for a sign permit: approve the application; deny the application, stating the specific reasons for denial, with reference to specific sections of this ordinance; or return the application to the applicant as incomplete, specifying exactly what additional submittals are required to make the application complete.
 - 11.3.10. Prior Variances. All prior variances on permanent signs not in compliance with this Ordinance shall come in compliance in the time frame specified in this Ordinance. Temporary signs which are inconsistent with the provisions of this ordinance shall be removed or brought into conformance within five (5) days after the passage of this ordinance, regardless of whether such a sign may be subject to a variance allowing such

inconsistency. The BZA may grant a subsequent variance in accordance with [§12.4](#).

11.3.11. Administrative Enforcement

1. Procedure. If at any time the Department, after an inspection, determines that a sign has been erected, maintained, modified, or abandoned, or any combination thereof, in violation of any provision of this Article, the Department shall proceed in accordance with this subsection. Upon such determination, the Department shall prepare a notice which shall describe the sign and its location and which shall state, if the violation or violations are not corrected within ten (10) working days after receipt for permanent signs or within 24 hours after receipt when violations pertain to temporary, portable, or other non-permanent types of signs, the sign, including the sign face, supports, and all structural members pertaining to said sign, shall be removed and the cost of said removal billed to the property owner and/or sign owner. All notices mailed by the Department shall be sent by certified mail, return receipt requested, or personally served by an employee or agent of the City. Any time periods provided for in this Article relative to compliance shall be deemed to commence on the date of receipt noted on the certified mail return receipt. All notices shall be mailed to the owner of the property on which said sign is located as shown on the latest available tax maps and/or the owner of the sign itself.
2. Removal of Signs on Private Property. If, after the notice required by §11.3.11.1, the sign owner does not correct the matter identified within thirty (30) working days, the Department may cause to be removed, any sign that endangers the public safety, such as an abandoned,

dangerous, or materially, electrically, or structurally defective sign, or a sign for which no sign permit has been issued.

3. Signs in the Public Right-of-Way. Except where specifically permitted in [§11.4.5](#), any sign erected in the public right-of-way or on public property shall be deemed abandoned and may be removed by the Department without notice or compensation to the owner. Removal by the Department shall not affect penalties applicable for the unlawful erection or placement of the sign in the public right-of-way or on public property.

11.3.12. Substitution of Message. Any sign allowed under this Article, may contain, in lieu of any other message or copy, any lawful noncommercial message.

11.3.13. Maintenance and Other Requirements

1. Maintenance of Signs. Every sign, including but not limited to those signs for which permit fees are required, shall be maintained in good structural condition at all times. The Building Official or his authorized agent shall inspect and have the authority to order the painting, repair, alteration, or removal of any sign which has become dilapidated, abandoned, unlawful or which constitutes a physical hazard to public safety after fifteen (15) days has lapsed from the Notice of Violation or Certified Letter to the property owner, last known owner, manager or employee of the business. Any repair, painting, alteration or removal will be at the expense of the property owner or business owner, as applicable.
2. Obsolete Sign Copy. Any sign copy that advertises or identifies a use no longer conducted on the property on which said sign is erected must have the sign copy covered or removed within 30 days after written notification from the Department.

However, obsolete sign copy may only be covered for six months, at which time such copy shall have been removed. The Department shall send written notice to that effect. Upon failure to comply with such notice, the Building Official is authorized to cause removal of such sign copy and any expense incident thereto shall be paid by the owner of the building, structure, or land on which the sign is located.

3. Nonconforming Signs associated with spaces or property remaining unoccupied for a period in excess of 270 consecutive days, shall be removed.

§11.4. General Sign Regulations

11.4.1. Prohibited Signs. It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from these regulations. The following signs are expressly prohibited in all zoning districts:

1. Banner Signs and their temporary support posts except as allowed for temporary signs in [§11.8](#).
2. Signs that are in violation of the Building Code or Electrical Code adopted by the City of Vestavia Hills.
3. Portable signs.
4. Off-premise signs.
5. Beacons and searchlights.
6. Inflatable signs, figures, and tethered balloons.
7. Roof signs.
8. Wind signs.
9. Any sign that simulates or imitates in size, color, lettering or design any traffic sign or signal, or that makes use of words, symbols, or characters in such a

manner to interfere with, mislead or confuse pedestrian or vehicular traffic.

10. Any sign consisting of any moving, rotating, flashing, or otherwise animated light or component, except for permitted message boards.
11. Strips or strings of lights outlining lot lines or sales areas. This prohibition does not include neon and LED lighting on buildings. If neon or LED is used to depict wording or logos, it will be calculated as part of the overall allowable signage. Outlining or other specialized lighting that does not include a commercial message or logo but that is used as an element of building design may be allowed with approval by the Design Review Board.
12. Signs that emit audible sound, odor, visible matter such as smoke or steam, or involve the use of live animals.
13. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, or standpipes, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of the Zoning Regulations or any other ordinance of the City;
14. Signs that are of such intensity or brilliance, including LED and electronic message boards, as to cause glare or impair the vision of motorists, cyclists, or pedestrians, including flashing light signs on parked vehicles; see also [§11.5.1 Regulations for Message Boards](#).
15. Snipe signs, excluding those specifically permitted under [§11.4.5 Signs allowed in Rights-of-Way](#).
16. Signs legible from a public right-of-way that use the word "stop" or "danger" or otherwise present or imply the need or requirement of stopping, caution, the

existence of danger, or which for any reason are likely to be confused with a traffic control sign specified by the Alabama Manual of Uniform Traffic Control Devices.

17. Signs with a commercial message on any broadcasting or telecommunications tower or any antenna, except call letters of a broadcasting station.
18. Vehicles or trailers, which contain commercial messages, where such a vehicle or trailer is parked so that the advertising is legible from the public right-of-way and such vehicle or trailer is not used in the regular conduct of the business which it advertises, to include delivery vehicles.

Nothing in this ordinance shall prohibit or limit the outdoor display of products where such displays are allowed under the zoning ordinance. This ordinance shall, however, apply to any sign, banner, pennant, or other attention-attracting device affixed to a product displayed outdoors.

- 11.4.2. Exempt Signs. Signs listed in this subsection are entirely exempt from this Ordinance, except that such signs shall conform to the requirements of the City of Vestavia Hills Building and Electrical Codes, including the application for a building and electrical permits, and any other applicable ordinance or regulation within this jurisdiction.

1. Any sign installed in a building or enclosed space and not legible from the public right-of-way or from private or public property other than the property on which it is located.
2. Any sign with a sign area of less than four sq. ft. and less than four (4) feet in height (if freestanding), that is not separately lighted and that is not legible from the public right-of-way or from

private or public property other than the property on which it is located.

3. Official signs.
4. Stadium signs. Scoreboards and incidental advertising signs intended to be viewed from within a stadium.
5. Any sign erected within a Planned Unit Development (PUD) established and approved pursuant to the provisions of [§6.9](#) of the Zoning Ordinance as amended.

- 11.4.3. Signs Subject to Other Standards. Signs listed in this Section shall be exempt from the permit requirements of this Ordinance; but, shall, to the maximum extent allowed by law, be subject to the other standards of this ordinance. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this ordinance or otherwise deviate from the standards set forth in this ordinance to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this ordinance. This sub-section shall apply to the following types of signs:

1. Signs conforming to the Manual of Uniform Traffic Control Devices and bearing no commercial message;
2. Signs bearing no commercial message and installed by employees or officials of the City, a state or federal agency in the course of their governmental duties;
3. Signs required by a state or federal statute;
4. Signs required by an order of a court of competent jurisdiction;
5. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other

than such messages necessary to identify the use;

6. Signs installed by a transit company with a franchise or other right to operate in the City, where such signs are installed along its routes and relate to schedules or other information about the transit route;

11.4.4. Signs Permitted in All Districts. The following signs are allowed without a sign permit and are not to be included in determination of the allowable numbers, type and area of a sign that requires a sign permit. If a sign otherwise falling under this section is electrified, it will require an electrical permit. Signs subject to this Section shall conform to the requirements specified:

1. Address Numbers. Signs used for the purpose of identifying the E-911 address of any building shall not be counted toward sign area provided such signs are not larger than two (2) square foot in area.
2. Incidental signs, whether freestanding or attached, that are smaller than four (4) sq. ft. in area and less than four (4) feet in height;
3. Memorial Signs. Signs or tablets, names of buildings and date of erection, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other incombustible material, provided that no such sign shall exceed six sq. ft. in area nor shall any such sign be separately illuminated.
4. Non Commercial Flags. Flags that do not contain a commercial message must be displayed in accordance with the applicable protocol. No premise shall contain more than four flags.
5. Window Signs. Window signs that total no more than thirty-three (33) percent of

the window area per window. A window sign may be made of paper or other material and will not be considered a banner if affixed to the inside of a window. A lighted window sign is subject to requirements of the City Electrical Code.

6. Non-commercial Signs. In addition to any other permanent or temporary signage otherwise provided for in this Article, each occupied lot shall be permitted an aggregate sign area of fifteen (15) sq. ft. for non-commercial speech, which shall not be illuminated, shall not exceed six and one-half (6.5) sq. ft. in area per sign and shall not exceed five (5) feet in height. In addition, the following provisions shall apply to non-commercial signage during an election, which shall include 180 days preceding and including the day of a governmental election; and, whenever a run-off election is scheduled, the 180 day period shall be extended through the date of the run-off election:
 - a. Signs may be placed on private property, buildings, or motor vehicles. With permission of the owner, signs may be placed on the property and portions of the street right-of-way maintained by the owner, provided that no sign shall be placed in any state right-of-way nor protrude into or over paved or improved streets, sidewalks, or gutters. All signs shall be removed within forty-eight (48) hours after the election has been determined. For municipal elections, the locational allowances herein shall not apply until the final day of filing of statements for candidacy.
 - b. The aggregate non-commercial sign area for non-residentially-zoned, occupied lots shall be increased to thirty-two (32) sq. ft. Non-commercial

- signs shall be subject to a maximum sign area of thirty-two (32) sq. ft. and a maximum height of eight (8) ft.
- c. Motor vehicles displaying signage may not be parked, except in the normal course of business, in a parking lot, on a public street, or similar public location
 - d. Notwithstanding the above, any signs deemed a hazard to safety are prohibited and subject to removal by the City.
7. Property Management Signs. Signage that identifies the entity responsible for the management or leasing of property is permitted in all districts provided it is: 1) incorporated into a permitted freestanding, wall, or projecting sign or 2) is incorporated into or meets the criteria for an exempt sign pursuant to [§11.4.2](#). In no case, shall additional freestanding, wall or projecting sign area or an additional freestanding, wall or projecting sign be permitted for conveying property management information.
- 11.4.5. Signs allowed in Rights-of-Way. The following signs, and no other signs, are allowed in the public right-of-way:
- 1. Signs conforming to the Alabama Manual of Uniform Traffic Control Devices and bearing no commercial message;
 - 2. Signs bearing no commercial message and installed by employees or officials of the City, a state or federal agency in the course of their governmental duties;
 - 3. Signs required by a state or federal statute;
 - 4. Signs required by an order of a court of competent jurisdiction;
 - 5. Election or campaign signs installed pursuant to [§11.4.4.6.a](#);

- 6. Signs installed by public utilities in their rights-of-way or on their facilities and bearing no commercial message other than such messages necessary to identify the user; and
- 7. Signs installed by a transit company with a franchise or other right to operate in the City, where such signs are installed along its routes and relate to schedules or other information about the transit route.

§11.5. Regulations for Certain Sign Types

11.5.1. Message Boards. Message boards on which the message is changed electronically shall be permitted only in those districts in which “message board” is listed as a permitted sign type and shall be subject to the following additional restrictions.

- 1. Sign display technology shall be programmed so that the message or image on the sign changes no more often than every eight seconds.
- 2. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.
- 3. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, dissolving or similar effects as part of the change.
- 4. Message boards shall use automatic level controls to reduce light levels at night and under cloudy or other darkened conditions, in accordance with the following standards. All electronic or digital display unit message boards shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the electronic message board based on ambient light conditions. Maximum brightness levels shall not exceed 5,000 nits when measured from

the sign's face at its maximum brightness, during daylight hours and 500 nits when measured from the sign face at its maximum brightness between dusk and dawn, i.e., the time of day between sunrise and sunset.

5. Any sign using video technology which malfunctions, fails, or ceases to operate in its usual or normal programmed manner causing therein motion, movement, flashing or any other similar effects, shall be repaired or disconnected within twenty-four (24) hours by the owner or operator of such sign.
6. The area consisting of electric or electronic message board elements shall not exceed 200 sq. ft..
7. The following limitations shall apply to the location of signs using video technology for a message board:
 - a. A sign on which the video technology includes 100 or more sq. ft. of sign area shall not be erected within 500 feet of property falling in one of the city's residential zoning districts, although this restriction shall not apply to the city's mixed use districts and commercial districts allowing residential uses.
 - b. A sign on which the video technology includes twenty (20) or more sq. ft. of sign area but less than 100 sq. ft. of sign area shall not be erected within 200 feet of property falling in one of the city's residential zoning districts, although this restriction shall not apply to the city's mixed use districts and commercial districts allowing residential use.
 - c. A sign on which the video technology includes less than twenty (20) sq. ft. of sign area shall not be erected within 100 feet of property zoned and use exclusively for single family uses: it is

the express intent of this provision to allow the use of such technology on signs for institutional uses located in residential districts, provided that the required separation is maintained.

- 11.5.2. Freestanding and Detached Canopy Signs. Except as otherwise provided for integrated business centers, non-residential uses shall be limited to one freestanding sign and one detached canopy sign per establishment. However, establishments fronting on more than one thoroughfare shall be permitted one freestanding sign and one detached canopy sign per frontage, subject to the following:

1. Freestanding Signs.
 - a. The width of the base shall be no less than eighty (80) percent of, and no greater than 120 percent of, the width of the permitted copy area. The BZA may alter the base requirements of the sign, but such shall not be less than fifty (50) percent of the copy area permitted.
 - b. Maximum sign height shall be based upon the classification of the street along which the sign is placed, as follows:
 - (1) Arterial: fifteen (15) ft
 - (2) Collector: ten (10) ft
 - (3) Local Street: eight (8) ft
 - c. The sign may be illuminated or non-illuminated.
 - d. The sign shall be no closer than ten (10) feet to the edge of pavement of any street and no closer than twenty (20) feet from a sign on an adjoining property. No sign shall be placed on the right-of-way.
 - e. The sign may contain a message board, which shall count as part of the total copy area permitted.

2. Detached Canopy Signs.

- a. The sign shall be flat against the surface of the canopy, which shall extend no closer than two (2) feet horizontally to the curb line of any public thoroughfare nor eight (8) feet vertically from the finished surface directly below.
- b. The permanently-affixed copy area shall not exceed an area equal to twenty-five (25) percent of the surface area of the detached canopy, which surface area shall not be counted as part of the sign area.

11.5.3. Attached Signs. Each establishment shall be allowed attached signage on each facade or on any elevation that faces a public parking lot or a parking lot directly associated with the establishment. No more than two forms of attached signage (i.e., one wall sign and one awning sign) shall be permitted on one elevation, subject to the maximum attached sign area permitted on any one elevation. Attached sign copy area, including the maximum aggregate copy area for attached signage permitted on multiple elevations, shall be as described in [Table 11.5.3](#) and as provided in Paragraphs 1 and 2 following.

1. For attached signs placed less than 250 feet from the nearest thoroughfare right-of-way: Where an establishment, per this Section, may be permitted attached signage on more than one elevation, the aggregate, attached sign copy area on each elevation shall not exceed the area specified in Row 1. Each such establishment is permitted an aggregate copy area for all permitted attached signs as specified in ROW 2.

For example, if an establishment with a GFA of 2,500 sq. ft. is permitted attached signage on each of two elevations, the

amount in Row 2 (40 sq. ft.) is multiplied by “2” to determine how much copy area may be distributed among the two permitted attached sign locations. A total of 80 sq. ft. of attached sign copy area would be permitted with no individual sign being larger than 50 sq. ft.

2. For attached signs placed 250 feet or more from the nearest thoroughfare right-of-way: Where an establishment, per this Section, may be permitted attached signage on more than one elevation, the aggregate, attached sign copy area on each elevation shall not exceed the area specified in Row 3. Each such establishment is permitted an aggregate copy area for all permitted attached signs as specified in Row 4.

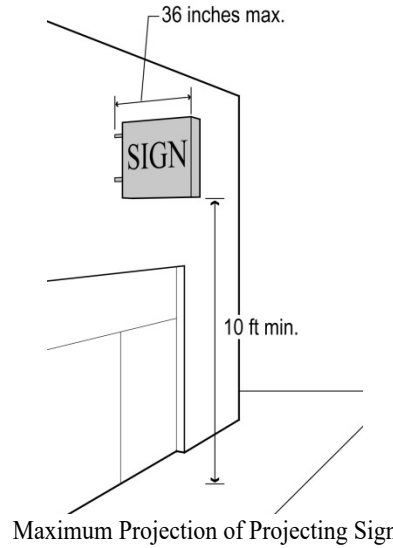
For example, if an establishment with a GFA of 2,500 sq. ft. is permitted attached signage on each of two elevations, all of which are 250 feet or more from the nearest thoroughfare right-of-way, the amount in Row 4 (48 sq. ft.) is multiplied by “2” to determine how much copy area may be distributed among the two permitted attached sign locations. A total of 96 sq. ft. of attached sign copy area would be permitted with no individual sign being larger than 60 sq. ft.

3. Wall Signs. Where permitted, wall signs shall not extend out from the face of the building more than 18 inches.

Table 11.5.3 Attached Sign Area				
For attached signage placed less than 250 feet from the nearest thoroughfare				
GFA of building or tenant space	2,000 sq. ft. or less	2,001-5,000 sq. ft.	5,001-10,000 sq. ft.	10,001 sq. ft. or greater
1. max. copy area per sign	32 sq. ft.	50 sq. ft.	70 sq. ft.	100 sq. ft.
2. max. aggregate copy area (per no. of permitted sign locations)	28 sq. ft.	40 sq. ft.	55 sq. ft.	70 sq. ft.
For wall signs placed 250 feet or more from the nearest thoroughfare				
3. adjusted max. copy area	48 sq. ft.	60 sq. ft.	80 sq. ft.	120 sq. ft.
4. adjusted max. aggregate copy area (per no. of permitted sign locations)	42 sq. ft.	48 sq. ft.	60 sq. ft.	84 sq. ft.

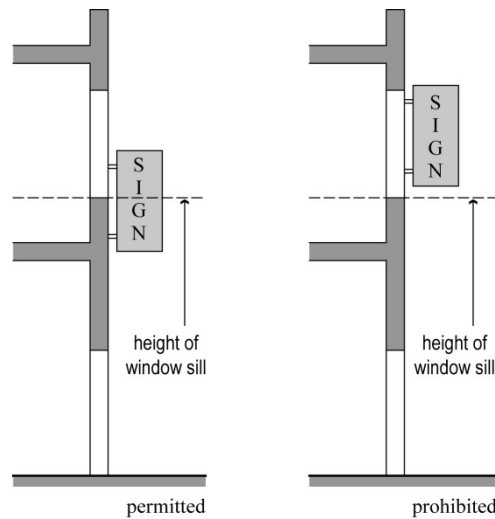
4. Projecting Signs. Where permitted, projecting signs may be either illuminated or non-illuminated, provided no other signs for such establishment are located on the same building wall. Additionally:

- a. Such sign(s) shall not project outward more than thirty-six (36) inches from the face of the building and shall have a minimum clearance of ten (10) feet above the ground level or sidewalk to the lowest point on the sign.



Maximum Projection of Projecting Sign

- b. Such sign(s) shall not project into public right-of-way nor exceed sixteen (16) sq. ft. in sign area.
- c. A bottom of a projecting sign shall not extend vertically above the window sill of the second story of a multi-story building to which it is attached.



Projecting Sign on multi-story building

5. Awning, Attached Canopy and Marquee Signs. Where permitted, awning and attached canopy signs may be painted on, applied to, or otherwise be a part of the fabric or other non-structural material. Additionally,:

- a. The sign shall be flat against the surface of the awning or canopy, which shall extend no closer than two (2) feet horizontally to the curb line of any public thoroughfare nor eight (8) feet vertically from the finished surface directly below.
- b. Awning signs shall not be internally-illuminated.
- c. The permanently-affixed copy area of canopy or marquee signs shall not exceed an area equal to twenty-five (25) percent of the surface area of the canopy, marquee or architectural projection upon which such sign is affixed or applied, which surface area shall not be counted toward allowable sign area.

§11.6. Signs Permitted By District

11.6.1. Business and Office Districts (B-1, B-1.2, B-2, O-1, O-2). Each City licensed business or other organization shall be permitted the following types of signage. For integrated business centers, refer to [§11.7](#).

1. Freestanding Signs, subject to [§11.5.2](#). Freestanding signs shall not exceed 40 sq. ft. in copy area, except that where two (2) freestanding signs are permitted, each shall not exceed thirty-two (32) sq. ft. of copy area.
2. Detached canopy sign subject to [§11.5.2.2](#).
3. Attached Signs, subject to [§11.5.3](#).
 - a. Wall sign, subject to [§11.5.3.3](#) or projecting sign, subject to [§11.5.3.4](#).
 - b. Awning, attached canopy, or marquee sign, subject to [§11.5.3.5](#).
4. Message Board, subject to [§11.5.1](#). Message board shall be included within, not in addition to, any freestanding or attached sign permitted under Paragraph

1 or 3 above. Not more than one message board shall be permitted per premises.

5. Temporary signs allowed under [§11.8](#);
6. Other signs expressly allowed under [§11.4.4 Signs Permitted in All Districts](#) or other sections of this Article.

11.6.2. Commercial Districts (B-3). Each City-licensed business or other organization shall be permitted the following types of signage. For integrated business centers, refer to [§11.7](#).

1. Freestanding Signs, subject to [§11.5.2](#). Freestanding signs shall not exceed 80 sq. ft. in copy area. Each shall be no more than ten (10) feet long.
 2. Detached canopy sign subject to [§11.5.2.2](#).
 3. Attached Signs, subject to [§11.5.3](#).
 - a. Wall Sign, subject to [§11.5.3.3](#) or Projecting Sign, subject to [§11.5.3.4](#).
 - b. Awning, Attached Canopy, or Marquee Sign, subject to [§11.5.3.5](#).
 4. Message Board, subject to [§11.5.1](#). Message board shall be included within, not in addition to, any freestanding or attached sign permitted under Paragraph 1 or 3 above. Not more than one message board shall be permitted per premises.
 5. Temporary signs allowed under [§11.8](#).
 6. Other signs expressly allowed under [§11.4.4 Signs Permitted in All Districts](#) or other sections of this Article.
- 11.6.3. Institutional (INST-1). Each City licensed business or institution shall be permitted the following types of signage:
1. Freestanding Sign, subject to [§11.5.2](#). Such sign shall not exceed thirty-two (32) sq. ft. in copy area. Such sign shall be no more than eight (8) feet long.
 2. Attached Signs, subject to [§11.5.3](#).

- a. Wall Sign. Permitted subject to [§11.5.3.3](#).
 - b. Projecting Sign, subject to [§11.5.3.4](#).
 - c. Awning, Attached Canopy, and Marquee Signs, subject to [§11.5.3.5](#).
3. Message Board, subject to [§11.5.1](#).
 Message board shall be included within, not in addition to, any freestanding or attached sign permitted under Paragraph 1 or 2 above. Not more than one message board shall be permitted per premises.
4. Places of Public Assembly. Places of assembly shall be allowed one additional freestanding or attached sign not to exceed twenty (20) sq. ft. in copy area or an additional twenty (20) sq. ft in copy area that may be used to increase the maximum copy area of a freestanding or wall sign otherwise permitted in this §11.6.3.
5. Temporary signs allowed under [§11.8](#).
6. Other signs expressly allowed under [§11.4.4 Signs Permitted in All Districts](#) or other sections of this Article.
- 11.6.4. Residential Districts. The following signs shall be permitted for each neighborhood within an E-2, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9 or RC-1 District:
- 1. Any dispute over whether a proposed sign will serve a “neighborhood” shall be referred to the Planning Commission for determination of the boundaries of the neighborhood. If the Commission fails to determine the boundaries of the proposed neighborhood within sixty (60) days of the submittal of an application for a neighborhood sign to the Building Official, then the neighborhood shall be deemed to be that area designated in the original application, and the application processed accordingly.
 - 2. One freestanding sign shall be permitted at each principal entrance to the neighborhood. Sign shall not exceed thirty-two (32) sq. ft. of copy area. If there are walls on both sides of the entrance to the development or neighborhood, then one wall sign per side is permitted in lieu of a freestanding sign, each not to exceed sixteen (16) sq. ft. in copy area.
 - a. A “principal entrance” shall be considered to be that place where property included within the neighborhood abuts a collector or thoroughfare shown on the city's master street plan or other transportation plan;
 - b. There shall not be more than one “principal entrance” for each 20 dwelling units in a neighborhood, provided that a neighborhood as defined in this Article shall be entitled to at least one such sign;
 - c. The permitted signs shall be located on private property owned in common by residents of the neighborhood, or, with the permission of the property owner, on private property owned by one or more individuals and located at a principal entrance to the neighborhood;
 - d. The permitted neighborhood sign(s) shall bear no commercial message;
 - e. The permitted neighborhood sign(s) may be lighted by direct white light but shall not otherwise be illuminated.
 - 3. Street signs shall be of the standard design used commonly in the City, or of such other design as may be approved by the Council. Location of such signs shall be approved by the City Engineer.
 - 4. As a temporary use accessory to the permitted activity of lawful subdivision development, one temporary sign shall be permitted at each principal entrance to

the subdivision in accordance with the following:

- a. There shall in no case be more than one such sign for a subdivision or development with fifty (50) or fewer lots included in the subdivision or development and no more than two such signs for any other subdivision or development.
- b. Such sign shall not be illuminated and shall not exceed twenty-four (24) sq. ft. in area;
- c. Such sign shall be removed upon the earlier of: installation of a permanent neighborhood identification sign; or sale of more than ninety (90) percent of the lots in the subdivision.
- d. Sign permit is renewable on an annual basis.

11.6.5. Signs Allowed for Individual Residential Units in Agricultural and Residential Districts. The following signs shall be allowed for individual dwelling units within an A-1, E-2, R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9 or RC-1 District:

1. One wall sign, not to exceed two sq. ft. in area shall be permitted for each dwelling unit. Such sign may not contain a commercial message. Such sign shall not be illuminated.
2. Each occupied lot shall be permitted no more than two temporary signs at one time that contain a commercial message, which shall not be illuminated, shall not exceed six and one-half (6.5) sq. ft. in area and shall not exceed five (5) feet in height. The only commercial messages permitted on such signs are messages related to commercial activity lawfully and temporarily conducted on the premises, including the lawful, occasional sale of personal property (such as through a garage sale or a yard sale) or the sale, rental or lease of the

premises. Signs related to the sale of personal property shall be removed within twenty-four (24) hours after the end of the sale. Signs related to the sale, lease or rental of the premises shall be removed no later than four (4) days from the date on which the deed, lease or other document representing the transaction is completed.

§11.7. Signs Permitted for Integrated Business Centers

For integrated business centers, sign area, height, and number of signs shall be in accordance with the standards of this Section.

11.7.1. Freestanding Signs.

1. The number, area and height of freestanding signs shall be in accordance with Table 11.7. Allowable sign height is determined by the maximum sign height permitted in [§11.5.2.1](#) plus the additional height permitted in [Table 11.7](#). Spacing between freestanding signs along the same frontage, where permitted, shall be no less than 200 feet.
2. No freestanding sign shall be built on berms or manmade structures to add height to the sign.
3. Freestanding signs may include message board elements, subject to [§11.5.1](#). The message board shall be considered part of the permitted aggregate freestanding sign area.

11.7.2. Attached Signs. Tenants shall be allowed attached (wall, projecting or awning/canopy) signage complying with [§11.5.3](#) and in accordance with the following:

1. Each ground level tenant space with frontage on the exterior of the building shall be allowed attached signage pursuant to [§11.5.3](#).

Table 11.7 Freestanding Signage for Integrated Business Centers	
GFA of Center	Area, Number and Height of Signs
More than 1,000,000 sq. ft.	Max. aggregate sign area: 1,000 sq. ft. Max. number of signs: 4 Max. area of each sign: 500 sq. ft. Additional height permitted: 25 ft
500,001-1,000,000 sq. ft.	Max. aggregate sign area: 750 sq. ft. Max. number of signs: 3 Max. area of each sign: 400 sq. ft. Additional height permitted: 20 ft
100,000-500,000 sq. ft.	Max. aggregate sign area: 500 sq. ft. Max. number of signs: 1 per street frontage up to 2 total Max. area of each sign: 280 sq. ft. Additional height permitted: 15 ft
50,000-99,999 sq. ft.	Max. aggregate sign area: 320 sq. ft. Max. number of signs: 1 per street frontage up to 2 total Max. area of each sign: 180 sq. ft. Additional height permitted: 10 ft
10,000-49,999 sq. ft.	Max. aggregate sign area: 160 sq. ft. Max. number of signs: 1 per street frontage up to 2 total Max. area of each sign: 100 sq. ft. Additional height permitted: 7.5 ft
Less than 10,000 sq. ft.	Max. aggregate sign area: 100 sq. ft. Max. number of signs: 1 per street frontage up to 2 total Max. area of each sign: 60 sq. ft. Additional height permitted: 5 ft

2. Except as provided for ground floor tenants in Paragraph 1 above, for multi-story buildings, each tenant space with its own exterior public entrance shall be permitted one attached sign.
3. For multi-story buildings in which upper level tenants are accessed through a common, ground level entrance, one attached sign not to exceed twenty (20) sq. ft. in copy area in addition to any other permitted attached signage, shall be permitted at such ground level entrance for building and/or tenant identification.

§11.8. Temporary Signs in Non-residential Districts

Temporary signs shall be allowed in non-residential zoning districts as follows:

- 11.8.1. Applicability. This section shall apply to the following zoning districts: B-1, B-1.2, B-2, B-3, O-1, O-2, Inst-1 and MXD.
- 11.8.2. Temporary Sign Permits. Each temporary sign allowed by this section shall require a temporary sign permit along with a date sticker that must be attached to such temporary sign. Anyone that is required to have a business license in the city must have a current business license at the address where the temporary sign is to be located before a temporary sign permit can be issued. Temporary signs may be permitted only intermittently throughout the year. A permit is required for each sign. No less than thirty (30) days shall pass before the second permit can be issued. In the event a new business is located at the same address, then the new business license holder shall be exempt from the temporary sign permits issued to the previous occupant.
- 11.8.3. General Provisions. Unless specifically provided for otherwise in this Section, the following shall apply to all temporary signs in non-residential districts:
 1. A temporary sign may be a wall sign or a freestanding sign, but shall not be permitted in a public right-of-way.
 2. Duration of Display. Each temporary sign shall not be displayed for more than thirty (30) days in a one year period.
 3. There shall be no more than one temporary sign per address at any one time.
 4. Content. Any sign allowed under this section may contain: any noncommercial message; a commercial message pertaining to goods, services or other commercial transactions available on the premises or that will be available on the premises when construction is complete. Signs seeking employees for a business

shall be considered to pertain to commercial transactions available on the premises and shall be allowed.

11.8.4. Rules for Types of Temporary Signs.

1. Temporary Sign Where Permanent Sign not Installed. For any premises which is occupied or for which a building permit has been issued, and for which the permanent sign allowed by [§11.6](#) or [§11.7](#) has not been installed, one temporary sign shall be allowed from the date of occupancy or the date of issuance of the building permit, whichever comes first, until the date of installation of the permanent sign not to exceed sixty (60) days. The temporary sign shall not exceed the size allowed for the permanent sign or thirty-two (32) sq. ft., whichever is smaller, and, if freestanding, shall not exceed eight (8) feet in height.
2. Grand Opening Banners. Each new non-residential use may have one (1) banner per frontage announcing the opening of the establishment. Such banners shall be limited to an aggregate area of thirty-two (32) sq. ft. per establishment and, if freestanding, shall not exceed eight (8) ft in height. Newly established integrated business centers shall be permitted an aggregate area of forty (40) sq. ft. but shall be limited to one (1) banner per frontage of such center regardless of the number of new uses.
3. Other Temporary Signs. Other temporary signs shall not exceed twenty-four (24) sq. ft. in area and, if detached, shall not exceed six (6) feet in height.
4. Temporary Signs for Non-Profit Organizations. Temporary signs for non-profit 501(c)-3 organizations, such as for charitable fundraising events, that conform to the limitations of this Section shall require a permit as provided in

[§11.8.2](#); however, the permit shall be at no cost. The location, number and size of the signs shall be at the direction of the Mayor. Such signs shall be removed within forty-eight (48) hours following the event. Failure to remove signs in a timely manner may affect issuance of future permits.

§11.9. Nonconforming Conditions

- 11.9.1. Conditions. Any sign that is not specifically permitted, or that does not comply with all provisions of this Ordinance, yet which existed and was maintained as such, as of the effective date of this Ordinance, shall be considered a nonconforming sign.
- 11.9.2. Alterations. A nonconforming sign shall not, after the effective date of this Ordinance, be enlarged, structurally altered, or extended unless such sign shall be made to comply with all the provisions of this Ordinance. Sign faces may be replaced on a nonconforming sign, but no change may be made in the technology of a nonconforming sign unless such sign is made to comply with all of the provisions of this Article.

For purposes of this section, prohibited changes in technology include but are not necessarily limited to: conversion of a single-faced sign to a tri-vision sign; addition of electronic message board technology to a sign; addition of any other form of changeable copy technology – manual, mechanical or electronic – to a sign; conversion from internally lighted to externally lighted or vice versa; or addition of exposed bulbs.

A nonconforming sign may not be replaced by another nonconforming sign. Minor repairs and maintenance of nonconforming signs, such as repainting and electrical repairs, shall be permitted. However, no changes in the location,

size, or shape of any nonconforming sign shall be permitted except to make the sign comply with all provisions of this Ordinance.

- 11.9.3. Compliance. The Department shall require all nonconforming signs to be removed or made to conform to all provisions of this Ordinance, by the owner of the property upon which the sign is located, upon the occurrence of any of the following events:
1. Damage or deterioration of the sign to the extent that the Department Official or its authorized agent determines that the sign is structurally unsound.
 2. Any proposed alteration or repairs to a sign that would prolong the useful life of the sign or that would involve an expenditure of more than fifty (50) percent of the original cost of the sign.
 3. Within ten (10) years from the effective date of this ordinance; or if a business with a nonconforming sign has a written plan on file in the Department to replace the nonconforming sign within fifteen (15) years of the effective date of this ordinance. A written sign replacement plan must include site plan, sign dimensions, sign materials, and location. However, this shall not apply to nonconforming neighborhood signs existing on or prior to the effective date of these regulations. Such nonconforming neighborhood signs shall still be subject to Paragraphs 1 and 2 immediately above.
 4. For any message board on which the message is changed electronically, to achieve compliance with the requirements of [§11.5.1](#) by January 1, 2011.
 5. Where there is any application for a permit for a new or replacement permanent sign on the same site as the

nonconforming sign, except that this provision shall not apply to integrated business centers as defined herein.

§11.10. Legal Status Provisions

- 11.10.1. Generally. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Article is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter.
- 11.10.2. Severability where less speech results. Without diminishing or limiting in any way the declaration of severability set forth above in §11.10.1, or elsewhere in this Ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is declared unconstitutional shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.
- 11.10.3. Severability of provisions pertaining to prohibited signs. Without diminishing or limiting in any way the declaration of severability set forth above in §11.10.1, or elsewhere in this Ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article or any other laws declared unconstitutional by valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection,

paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed under [§11.4.1](#). Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this ordinance.

- 11.10.4. Severability of prohibition on off-premise signs. If any part section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this Article and/or any other provisions of this Ordinance are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on off-premise signs as contained herein.

**Article 12 BOARD OF ZONING
ADJUSTMENT**

**§12.1. Powers and Duties of the Board of Zoning
Adjustment**

The Board of Zoning Adjustment, hereinafter referred to as the “BZA”, as prescribed by Code of Alabama, 1975, Section 11-52-80, as amended, shall have the following powers and authority.

§12.2. Administrative Review

The BZA shall have hear and decide appeals where it is alleged that an error exists in any order, requirements, decision or determination made by an administrative official in the enforcement of this Ordinance, in accordance with the following.

- 12.2.1. All appeals shall be filed in writing on forms prescribed by the Board and made available by the Zoning Official. Any such appeal shall be filed with the Zoning Official within fifteen (15) days of the date of the action being appealed. The Zoning Official shall forthwith transmit to the BZA papers constituting the record upon which the action appealed was taken.
- 12.2.2. In exercising the power of administrative review the BZA must apply, not vary, the terms of the Ordinance.
- 12.2.3. An appeal stays all proceedings in furtherance of the action appealed therefrom, unless the Zoning Official certifies to the BZA after the notice of appeal has been filed, that by reason of facts cited in such certification a stay would, in the Zoning Official’s opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the BZA or by a court of record.

12.2.4. The BZA shall select a reasonable time and place for hearing the appeal. Notice shall be provided in accordance with §12.7 Notice Requirement.

12.2.5. The BZA may affirm, reverse wholly or in part, or modify the Zoning Official’s decision, order, or determination as in its opinion ought to be done, and to that end shall have all the powers of the Zoning Official.

Furthermore, the BZA may classify a use, which is not specifically mentioned, along with a comparable permitted use for purpose of the use regulations of any Zoning District.

§12.3. Special Exceptions

The BZA shall hear and decide requests for approval of Special Exceptions uses in accordance with the following:

- 12.3.1. Special Exception uses shall require the submission of an application to the BZA. Such application shall be filed with the Zoning Official at least thirty (30) days before the scheduled hearing date before the BZA. The application shall be filed by the property owner or their authorized agent on a form made available by the Zoning Official. Notice shall be provided fifteen (15) days in advance and as otherwise in accordance with [§12.7 Notice Requirement](#).
- 12.3.2. The BZA shall review the application for compliance with this Ordinance and all other applicable codes and ordinances of the City. In particular the BZA shall determine that satisfactory provisions have been made concerning the following, among other considerations of this Ordinance:
 1. Access to and from the property and the proposed structure and/or uses, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

2. The location and accessibility of off-street parking and loading areas.
3. The location and accessibility of refuse and service areas and their potentially adverse affects upon surrounding properties.
4. The screening and buffering of potentially adverse views and activities from surrounding properties.
5. Control of noise, glare, odor, surface water runoff, and other potentially disturbing impacts upon surrounding properties.
6. The availability, location, and capacity of utilities.
7. The location and scale of signs and lighting with particular reference to traffic safety, glare, and visual compatibility with surrounding properties.
8. The bulk, density, and lot coverage of structures, and yards and open areas, with reference to their compatibility with the character of the surrounding area.

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

12.3.4. A Special Exception granted by the BZA shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the BZA, no construction or change in use pursuant to

such Special Exception has taken place, provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant the Special Exception.

§12.4. Variances

The BZA may authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the BZA that the conditions outlined below do, in fact, exist. In no case shall the BZA grant a variance that permits the permanent use of land, building or structure for a use prohibited within the district in which the land, building or structure is located. Nor shall the BZA grant a variance, which permits the extension or addition of a non-conforming use or in any way makes a non-conforming use more permanent.

It is the intent of this Ordinance that variances be used only to overcome some physical condition of a parcel of land, which poses a practical difficulty to its development and prevents its owner from using it in conformance with this Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

12.4.1. Procedure. Applications shall be filed with the Zoning Official at least thirty (30) days before the scheduled hearing date before the BZA. The property owner or authorized agent shall file the application on a form made available by the Zoning Official. Notice shall be provided fifteen (15) days in advance and

otherwise in accordance with [§12.7 Notice Requirement](#).

- 12.4.2. Before any variance is granted, the BZA must find that *all* of the following conditions exist:
1. There are extraordinary and exceptional conditions, which are peculiar to the piece of property in question because of its size, shape or topography, that are not applicable to other lands or structures in the same district.
 2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other owners of property in the District in which the property is located.
 3. All literal interpretations of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other owners of property in the district in which the property is located.
 4. The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
 5. The special circumstances are not the intended result of the actions of the applicant (i.e., self-imposed hardship)
 6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
 7. That no non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or building in other districts shall be considered grounds for the issuance of a variance.
 8. That the variance will not allow the permanent establishment of a use not permissible under the terms of this

Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

- 12.4.3. In proving that an unnecessary hardship has been imposed on the property as a result of the strict interpretation of this Ordinance, the following conditions cannot be considered pertinent to the determination of whether or not an unnecessary hardship exists.

1. Proof that a variance would increase the financial return from the land
2. Personal or economic hardship
3. Self-imposed hardship

In other words, hardship alone is not sufficient to permit variance. It must be an “unnecessary hardship”. Mere financial loss of a kind, which might be common to all of the property owners in a district, is not an “unnecessary hardship”.

- 12.4.4. A Variance granted by the BZA shall lapse and be of no effect if, after the expiration of one (1) year from the date of such action by the BZA, no construction pursuant to such Variance has taken place, provided that the BZA may, for good cause shown, specify a longer period of time in conjunction with its action to grant the Variance.

§12.5. Abatement Order

The BZA may require the conduct of any use, conforming or non-conforming, which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, radio interference or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The BZA may direct the Building Official to issue an abatement order, but such order may be directed only after a public hearing by the said Board, notice of

which shall be sent by registered mail to the owners and/or operators of the property in which the use is conducted in addition to due notice by advertisement in a newspaper of general circulation. A hearing to consider issuance of an abatement order shall be held by the BZA either upon petition signed by a person affected by the hazard or nuisance and such order shall specify the date by which the hazard or nuisance shall be abated.

§12.6. Rehearings

12.6.1. All decisions rendered by the BZA shall be final and binding upon all parties. No appeal of an administrative decision, or decision on an application for a variance or a special exception shall be reheard, and no further application shall be accepted once a decision has been rendered except under one or more of the following conditions:

1. New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.
2. The decision resulted from an error in procedures required by this Ordinance or State law and made by the BZA, the Zoning Official, or any other City Officials.
3. The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama, 1975, as amended.

12.6.2. Where no error is alleged and no new evidence is available, a new or more effective presentation by the applicant shall not constitute grounds for rehearing a decision of the BZA. Any applicant wishing a rehearing shall appear before the BZA to present one or more of the qualifying conditions listed in this Section.

12.6.3. If the BZA finds that one or more of the qualifying conditions exist, the applicant may submit a new application. This new application shall be heard at a subsequent BZA meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the BZA to grant the request.

§12.7. Notice Requirement

The BZA shall not grant any variance, exception or conduct any other public hearing regarding any other request without first giving written notice a minimum of fifteen (15) days prior to the proposed date of such public hearing to all owners of property located adjacent or contiguous to the boundaries of the property which is subject to the requested variance, exception or other business, as shown by the records of the office of the Tax Assessor of the applicable County on a date not more than ninety (90) days prior to the date of such notice. Such notice shall state the street address of the property, if any, which is the subject of the proposed variance, exception or other request to such proposal and that the said property owner is welcome to attend the public hearing and invited to speak on the issue if he or she so desires. Such notice shall be deemed given when deposited in the United States mail, certified mail-return receipt requested, first class postage prepaid, addressed to such property owners at their addresses as shown on the records of the office of the Tax Assessor of the applicable County on the date such owners are determined. Any error in the address of any notice shall not invalidate the giving of notice, provided that no more than five (5) percent of the total number of notices given with respect to the applicable hearing contain any such error.

§12.8. Appeals from Action of the Board of Adjustment

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

Service of a notice of appeal on the City Clerk by an aggrieved party within the fifteen (15) day appeal time constitutes service on the BZA.

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**Article 13 ADMINISTRATION,
ENFORCEMENT, AMENDMENTS,
PENALTIES**

§13.1. Zoning Official

The Zoning Official is hereby authorized, and it shall be his/her duty to enforce and administer the provisions of this Ordinance. The Zoning Official shall give information upon request as to the provisions of this Ordinance and shall interpret the meaning of the Ordinance in the course of enforcement. This official shall have the right to enter upon any premises at any reasonable time prior to the issuance of a Certificate of Occupancy for the purpose of making inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Ordinance.

§13.2. Building Permit; Design Review

13.2.1. Building permit required. No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, until the Building Official has issued a Building Permit for such work. The Building Official shall not issue a Building Permit until conformance with the provisions of the Zoning Ordinance is certified by the City Clerk, City Engineer and Fire Marshal. In no case shall a zoning approval be issued for the construction or alteration of a structure not in conformity with the provisions of this Ordinance.

1. The builder or owner shall furnish to the Building Official a foundation survey signed by a Land Surveyor licensed in the State of Alabama prior to the commencement of framing of the building.

2. It shall be unlawful to violate any of this §13.2. Violations shall be remedied in accordance with [§13.7 Remedies and Penalties for Violation](#).

13.2.2. Design review required.

1. For any application related to a non-residential development or landscaping or architectural elements within common areas of residential subdivisions, the Building Official shall not issue any Building Permit until completion of design review as certified by the Design Review Board.

2. Design review applications shall be submitted at least fifteen (15) working days in advance of the next regularly scheduled DRB meeting. The Zoning Official shall submit to the Design Review Board for its review, and thus shall require of the applicant, in addition to any other supporting information as required by this Ordinance, information concerning, as applicable:

a. Site Plan, including:

- (1) location and size of proposed structures, open spaces and parking areas shown in relation to lot lines, adjacent streets, sidewalks, existing buildings, and existing parking areas
- (2) location and size of proposed accesses to public streets including spacing from adjacent intersections and driveways on abutting properties
- (3) description of vehicular use areas, including circulation pattern, loading areas, and vehicle stacking space, if applicable
- (4) location of all proposed and existing sidewalks and other pedestrian facilities on and adjacent to the site
- (5) location and type of drainage improvements and facilities, including detention or retention basins, shown in relation to lot lines, adjacent streets, sidewalks, buildings, parking areas and open spaces

- b. Architectural Plans, including floor plans, building elevations and proposed façade materials and colors;
- c. the current use and zoning of abutting properties;
- d. Landscaping Plan, including:
 - (1) required landscaping areas with plant materials labeled and shown in relation to lot lines, adjacent streets, buildings and parking areas
 - (2) location, size, function and furnishings for proposed open spaces shown in relation to lot lines, adjacent streets, sidewalks, buildings and parking areas
 - (3) vehicles, equipment, and materials to be stored on the property during construction
 - (4) soil preparation methods, bedding and mulching, and planting details
 - (5) proposed material schedule showing common name, size, spacing, quantity, and installation instructions – differentiating existing and new landscaping
 - (6) proposed screening and buffers, including location of all uses and structures to be screened; and
- e. Lighting Plan, including the location of proposed exterior lighting fixtures shown in relation to lot lines, adjacent streets, sidewalks, existing buildings, parking areas, open spaces, and any existing fixtures on-site or within 50 ft of the site boundary and the height, method of shielding and intensity of proposed exterior lighting fixtures
- f. Signage Plan, including sign locations shown in relation to lot lines, adjacent streets, sidewalks, proposed and existing buildings, and signs within 50 ft of the site boundary and the area, height, design, colors and materials of all proposed signs

§13.3. Conditional Uses

13.3.1. Application. All requests for Conditional Uses shall be submitted on applications made available by the City Clerk. Applications shall be submitted at least twenty-five (25) working days prior to the next regularly scheduled meeting of the Commission and accompanied by maps, drawings, statements and/or other documentation as necessary to determine compliance with the criteria of this [§13.3](#).

13.3.2. Public Hearing. Upon acceptance of an application, the Commission shall consider the application during a public hearing. The Commission shall, after the public hearing, make a recommendation to the Council. Following the recommendation by the Commission, the Council shall hold a public hearing regarding the application and upon completion of said hearing, shall approve with conditions or deny the request within the time limit required by law.

The recommendation by the Commission may be to approve or deny the application, which said recommendation shall be advisory only. Zoning is a legislative matter decided by the Council. The Council shall not be bound by the recommendation of the Commission.

13.3.3. Expiration and Revocation.

- 1. Approval of a Conditional Use shall be considered exercised when the use has been established or when the Building Permit has been issued and substantial construction accomplished. A Conditional Use approval shall lapse and be of no effect if, after the expiration of one (1) year from the date of Council approval, no construction or change in use pursuant to such Conditional Use has taken place, provided that the Council may, for good cause shown, specify a

longer period of time in conjunction with its action to approve a Conditional Use.

2. When such use is abandoned or discontinued for a period of one (1) year, it shall not be reestablished, unless authorized by the Council. Conditional Use approval shall be revoked when the applicant fails to comply with the conditions imposed by the Council.

13.3.4. Determination. Conditional Uses shall only be approved upon a finding that all of the following criteria are satisfied:

1. The use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area.
2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area.
3. The request is consistent with all applicable provisions of the Comprehensive Plan.
4. The request shall not adversely affect adjacent properties.
5. The request is compatible with the existing or allowable uses of adjacent properties.
6. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
7. The request can demonstrate adequate provision for maintenance of the use and associated structures.
8. The request has minimized, to the degree possible, adverse effects on the natural environment.
9. The request will not create undue traffic congestion.

10. That such development will comply with all applicable regulations and conditions specified within this Ordinance.

The Council shall describe and have recorded in the minutes, the conditions imposed on the development to assure satisfaction of these criteria.

§13.4. Amendments

The provisions of this Ordinance, including the Zoning map, may from time to time be amended, supplemented, changed, modified, or repealed by the Council in accordance with Alabama Law.

- 13.4.1. Petition to Amend. Petitions to amend this Ordinance with respect to rezoning land may be initiated only upon filing of an application with the Commission by the owner of the land or the owner's authorized agent, in which case a notarized letter is required. Any member of the Council may initiate the rezoning of any land by introduction of a resolution for such purpose. An application for any change of zoning shall be filed in the office of the Commission at least twenty-five (25) working days prior to the next regularly scheduled meeting of the Commission. The petition shall state the nature of the proposed amendment, and a legal description of the property involved and the names and addresses of the owner(s) of the property. No application shall be taken out without descriptive information as to how the petitioner proposes to utilize the parcel of land (plot plan, drawings, sketches, et cetera).

- 13.4.2. Action on Petition. The Commission shall consider the petition at the first regularly scheduled meeting following the proper filing of the petition. The Commission shall, after the public hearing, make recommendations to the Council. The recommendations of the

Commission shall be advisory only, and shall not be binding on the Council. No amendment to the Ordinance shall become effective unless it has been submitted to the Commission for a recommendation.

13.4.3. Notice of Public Hearing. Notice of a public hearing to consider a change in zoning classification must be given to the public as required by Act 1123 of the 1973 Legislature of the State of Alabama and those requirements set forth in the Code of Alabama, 1975. No changes or amendments in the provisions of this Ordinance shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard, in accordance with the following.

1. Petitioner shall furnish City Clerk with names and addresses of owners of record of property within 500 feet, as shown in the records of the Applicable County Tax Assessor.
2. For the purposes of this §13.4.3, the phrase “change in zoning classification” shall include, without limitation, any change, modification or amendment of zoning district boundaries.
3. The Commission shall not conduct any public hearing proposing the recommendation for change in the zoning classification of any property within the City without first giving written notice a minimum of fifteen (15) days prior to the proposed date of the public hearing, to all owners of property located in whole or in part within 500 feet from the boundaries of the property which is the subject of the proposed change in zoning classification, as shown by the records of the office of the applicable County Tax Assessor.
4. The Council shall not enact any change in the zoning classification of any

property subject to the zoning jurisdiction of the City without first giving written notice a minimum of fifteen (15) days prior to the proposed date of such enactment to all owners of property located in whole or in part within 500 feet from the boundaries of the property which is the subject of the proposed change in zoning classification, as shown by the records of the office of the applicable County Tax Assessor on a date not more than one year prior to the date of such notice. Such notice shall state the street address of the property, if any, which is the subject of the proposed change in zoning classification and shall also state that a protest may be filed with respect to such proposed change and that said property owner is welcome to attend the public hearing to speak on the issue if he or she so desires. Such notice shall be deemed given when deposited in the United States mail, first class postage prepaid, addressed to such property owners at their addresses as shown on the records of the office of the applicable County Tax Assessor on the date of such owners are determined. Any error in the address of any such notice shall not invalidate the giving of notice pursuant to this Ordinance, provided that no more than five (5) percent of the total number of notices given with respect to any proposed change in zoning classification contain any such error.

5. For purposes of this Ordinance, the term “written notice by United States mail” shall mean “certified mail-return receipt requested”.

13.4.4. Time Limit. After the Council has voted on an application for rezoning, another application for the same kind of rezoning of the same tract or parcel of land, or change of the same portion of the Zoning Ordinance will not be considered until a period of one (1) year has elapsed from

the date of such action by the Council. Further, a withdrawal of the application for rezoning after hearing held by the Commission, but prior to the hearing by the Council shall also require a one (1) year period of time before another application may be submitted. Provided, however that the Commission and/or Council may adjust this time period if in the opinion of a majority of the Commission and/or Council, an unusual situation or circumstance exists which would warrant another hearing. In other words, the Commission and Council have the discretion to hear rezoning requests at any time when it is determined by the said Commission and/or Council that it will promote the health, safety, morals and general welfare to do so or that there are other justifiable reasons for warranting such rezoning hearing.

13.4.5. Procedures for Creation of Certain Residential Zoning Districts.

1. For applications for rezoning to an R-5, R-7 or R-8 District, the Commission shall consider the preliminary plot plan simultaneously with its recommendation to the Council on the rezoning request as provided herein. For applications for rezoning to an R-9 District, the Commission may consider the preliminary plot plan prior to its recommendation to the Council on the rezoning request.
2. Materials to Accompany Application. An application for rezoning shall be accompanied by a vicinity map and preliminary plot plan as required by the City Subdivision Regulations. For R-9 applications, the following information shall be provided with the preliminary plot plan:
 - a. The location, grouping, and height of all facilities and proposed land uses.

- b. The number of residential units produced, their location, setbacks, building areas (including building areas for covered and uncovered porches, stoops, decks, etc., number of stories, accommodations/requirements for accessory structures for storage, gazebos, etc., indicating those areas to be occupied, buffer areas and details of proposed buffering, and the location and nature of any non-residential uses.
 - c. A preliminary vehicular and pedestrian circulation system, including driveways, walkways, parking areas, and streets to be dedicated.
3. Subject to the applicant's preliminary plot plan (and with any suggested modifications) the Commission shall recommend that the Council approve or disapprove the request.
 4. If the Council approves said rezoning, the applicant shall be generally bound by said preliminary plot plan and all details submitted and presented in the zoning request pursuant to Paragraph 2 above.
 5. Deviations from Approved Preliminary Plot Plan
 - a. Minor changes to the approved preliminary plot plan may be approved by Zoning Official or City Engineer.
 - b. Substantial changes to the approved preliminary plot plan must be approved by the Commission.

§13.5. Zoning of Annexed Property

- 13.5.1. Annexed Property. All territory annexed to the City of Vestavia Hills, Alabama shall be subject to the laws, rules, regulations and ordinances of the said City. All territory annexed to the City shall be zoned in accordance with the following procedure.
- 13.5.2. Jurisdiction over Annexed Property. All territory brought within the corporate

limited of the City by annexation shall be subject to the laws, rules, regulations and ordinances of the City, including specifically but not limited to the Zoning Ordinance, Subdivision Regulations and the City Building Code. The Council shall have and exercise the authority over the territory within the corporate limits of the City.

13.5.3. Authority. Pursuant to the authority vested in the City by the provisions of Title 11-52-70, et seq., Code of Alabama, 1975, the Council shall zone all property annexed to the corporate limits of the City.

13.5.4. Intents and Purpose. In accordance with the provisions of Act Number 300 of the 1955 session of the Alabama Legislature, (Code of Alabama Recompiled, 1958, Appendix Section 985, Volume 14 at page 397), the Council intends to zone and regulate annexed territory as to the kind, character and use and structures and improvements. It is the intent of the Council that all real property located within the municipal boundaries shall be governed by the laws, rules, regulations and ordinances of the City rather than by those of the County.

The City follows the annexation procedure outlined in Act Number 32 of the 1964 session of the Alabama legislature to extend the corporate limits. Said act requires that the municipality shall hold a public hearing to determine the truth of the matters set forth in the Petition for annexation and consider any written protests or objections regarding the proposed annexation. The public hearing on the annexation petition must not be less than ninety (90) days from the date of publication. It is the intent of the Council to conduct a public hearing on the zoning of the annexed territory immediately following the public hearing

on the annexation petition. An ordinance zoning the annexed territory shall be adopted immediately after enactment of the ordinance annexing said property. The terms of this Ordinance however, shall not preclude or prohibit the City from extending its corporate limits in any other way or manner that may now or hereafter be authorized by Alabama Law.

13.5.5. Zoning Classification.

1. The application to zone or rezone the property sought to be annexed shall be initiated by the property owner or the owner's authorized agent by filing a petition concurrently with the petition for annexation. Any member of the Council may also initiate the rezoning of said territory by introduction of resolution for such purposes. The zoning classification to be applied for shall be that Vestavia Hills classification closest to and most compatible with the applicable County classification in effect on the property at the time of filing the petition for annexation except as provided in Paragraph 2 immediately below. Should two different City zoning classifications be close to and compatible with the County classification, then the City classification imposing greater restrictions shall be applied for.
2. A petitioner may request rezoning to a City zoning classification not otherwise compatible with the County zoning classification in effect on the concerned property. In such case, the request shall be considered according to the procedure set forth in [§13.4 Amendments](#). If the request is denied, the Council shall have the authority to classify the property in accordance with Paragraph 1 above. In any case, the property, upon annexation, shall be rezoned to a City zoning classification.

13.5.6. Notice Requirements. Notice shall be in accordance with [§13.4.3 Notice of Public Hearing](#) for other zoning amendments.

§13.6. Temporary Emergency Relief

The Zoning Official upon approval by the Council is hereby granted authority to provide immediate emergency relief to applicants requesting such relief by issuing permits authorizing installation of mobile homes on applicant’s property under the following conditions:

- 13.6.1. Such permit shall be temporary and not exceed one (1) year from date of issuance.
- 13.6.2. Such permit shall not be transferable.
- 13.6.3. Prior to issuance of such permit, the Zoning Official shall, with discretion, be reasonably satisfied that the applicant’s requested relief is necessary and the need thereof was approximately caused by damage resulting from fire or natural disasters.

§13.7. Remedies and Penalties for Violation

It shall be unlawful to erect, construct, reconstruct, alter, maintain, use or occupy any land in violation of any regulation in, or any provision of this Ordinance, or any amendment thereof, enacted or adopted under the authority of this Act. Any person, firm or corporation violating any such regulation, provision or amendment shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished in accordance with Title 11-45-9, Code of Alabama, for a misdemeanor violation for each such offense. Each and every day during which such illegal erection, construction, reconstruction, alteration, maintenance, use or occupancy continues shall be deemed a separate offense. Provided, however, that prior to any criminal prosecution the Zoning or Building Official or his agent shall give a written notice or citation to the person, firm or corporation

violating any provision of this Ordinance stating the rule or regulation being violated and notifying the said person, firm or corporation to cease and desist such violation immediately, otherwise said person will be prosecuted as provided herein. In case any building or structure is, or is proposed to be erected, constructed, reconstructed, altered, maintained, used or occupied in violation of any regulation or provision of this Ordinance or amendment thereof, enacted or adopted by the City, said Official or any other appropriate authority or any adjacent or neighboring property owner who would be specifically damaged by such violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance, use or occupancy.

The Zoning or Building Official may intervene in any action, suit or other proceedings wherein there is involved any amendment thereof, enacted or adopted by the City. When said Official so intervenes hereunder, that official shall be deemed to be, and shall be treated as an original party to the action, suit or proceedings. It is the intent of this Section that any action, suit or proceedings in which the Zoning or Building Official intervenes shall proceed the same as if that Official has been an original party, insofar as any statute, act or rule prohibiting an entire change in parties is concerned. The provisions of this Section shall apply to any action, suit or proceedings pending at the time of its adoption.

§13.8. Certificate of Occupancy Required

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Official, after approval of the Fire Marshal,

shall have issued a Certificate of Occupancy stating that such land or structure or part thereof is found to be in conformity with provisions of this Ordinance.

Within five (5) working days after the owner or his agent has notified the Building Official that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Official to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance or, if such Certificate is refused, to state the refusal in writing with the cause.

§13.9. Fees

The following requests shall be subject to application fees pursuant to City Ordinance #2342 Schedule of Fees, as amended. All funds collected under the provisions of this Ordinance shall be paid to the City of Vestavia Hills, Alabama.

13.9.1. Requests before the City Council.

1. Rezoning
2. Conditional Use
3. PUD or MXD Master Plan approval

13.9.2. Special Provisions – Rezoning, Conditional Use and PUD Application Fees. The fee and charge shall be retained by the City and shall not be conditioned upon or related to the action taken with respect to said application.

1. In the event of a request for withdrawal or postponement within fifteen (15) working days of a hearing date, there shall be no refund.
2. If a hearing at a later date is desired, an additional fee in the amount of the initial fee shall be charged.

13.9.3. Request before the BZA. The following shall be assessed an application fee for the filing of a request before the BZA.

1. Variance request
2. Special Exception request
3. Other applications to appear before the BZA

13.9.4. Special Provisions, BZA Fees. The fee shall be retained by the City and shall not be conditioned upon or related to the action taken with respect to said applications.

1. In the event of a request for withdrawal or postponement within twenty (20) working days of a hearing date, there shall be no refund of said fees.
2. If a hearing at a later date is desired, an additional fee in the same amount as the initial fee shall be charged.

13.9.5. Design Review Fee. An application fee shall be assessed for each review before the DRB.

13.9.6. Publication and Mailing Expenses. The applicant shall be responsible for publication and mailing expenses necessarily incurred by the City for mailings and publication as required by Alabama law and the terms and provisions of this Ordinance.

13.9.7. Fee Exemptions. The following groups are exempt from all the above application fees, but shall not be exempt from mailing and publication expenses: places of worship, Vestavia Hills City and/or School Board owned properties, properties owned by the County, County School Board, State or Federal Government and projects funded entirely by the City.

Article 14 LEGAL STATUS PROVISIONS

§14.1. Interpretation and Purpose

In their interpretation and application the provisions of this Ordinance shall be considered the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other ordinances or regulations, which may be adopted hereafter, impose greater restrictions than those specified herein, compliance with such other ordinances or regulations is mandatory. This Ordinance shall not lessen the requirements of plats, deeds, or private contract when such requirements are more restrictive than the provisions of this Ordinance.

§14.2. Savings Clause

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this Ordinance, which is not in and of itself invalid or unconstitutional.

§14.3. Repealing Clause

This Ordinance does not repeal or rescind any other ordinance previously adopted and enacted by the City of Vestavia Hills, which zoned or rezoned property located within the corporate boundaries of the said municipality. To the contrary, any and all previously adopted ordinances which have zoned or rezoned any land within the City of Vestavia Hills be and are hereby reaffirmed.

This Ordinance amends, codifies and republishes the Zoning Code of the City of Vestavia Hills, which provides the kind, character and use of structures and improvements that may be erected or made within the these zoning districts. It does not repeal any portion of the previously enacted

Zoning Code except for those provisions, which are in direct conflict with the terms and provisions of this Ordinance Number 3099.

§14.4. Effective Date

This Ordinance shall become effective immediately upon its approval, adoption and publication as required by law.

APPROVED and ADOPTED this the 23rd _____ day of May, 2022.

Ashley C. Curry Mayor

Attested by:

Rebecca Leavings,
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3099 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 23rd day of May, 2022, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills New Merkel House, and Vestavia Hills Civics Center this the _____ day of _____, 2022.

Rebecca Leavings
City Clerk