



**CITY OF ELBA
ZONING ORDINANCE
ORDINANCE 06092014C
JUNE 9, 2014**

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TABLE OF CONTENTS

Article 1	GENERAL PROVISIONS	1
§1.1.	Short Title; Zoning Map	1
§1.2.	Purpose	1
§1.3.	Jurisdiction	1
§1.4.	Interpretation	1
§1.5.	Severability	1
§1.6.	Fees	1
§1.7.	Penalties and Remedies	2
Article 2	DEFINITIONS	3
§2.1.	Purpose	3
§2.2.	Definitions	3
Article 3	CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS	23
§3.1.	Purpose	23
§3.2.	Zoning Districts	23
§3.3.	Intent of Zoning Districts	23
Article 4	DISTRICT REGULATIONS	26
§4.1.	Use Regulations	26
§4.2.	Area and Dimensional Regulations	27
Article 5	SUPPLEMENTAL REGULATIONS	31
§5.1.	Purpose	31
§5.2.	General Regulations	31
§5.3.	Nonconformities	31
§5.4.	Intersection Visibility	33
§5.5.	Height	33
§5.6.	Accessory Buildings and/or Structures	33
§5.7.	Accessory Dwelling Units	35
§5.8.	Storm Shelters / Safe Rooms	36
§5.9.	Encroachment on Drainage Channels or Streams	36
§5.10.	Scrap Operations / Junkyards	36
§5.11.	Group Homes	36
§5.12.	Manufactured Homes	37
§5.13.	Manufactured Home Parks	39
§5.14.	Recreational Vehicle (RV) Parks	42
§5.15.	Townhouse Complexes and Condominium Developments	44
§5.16.	Home Occupations	44
Article 6	OFF-STREET PARKING AND LOADING REGULATIONS	
§6.1.	Purpose	47
§6.2.	Off-Street Parking and Loading Terms	47
§6.3.	General Regulations	47

§6.4.	Storage and Parking of Commercial Vehicles and Trailers in Residential Areas	48
§6.5.	Size and Location	48
§6.6.	Shared Parking	49
§6.7.	Construction and Maintenance	50
§6.8.	Calculating Parking Requirements	50
§6.9.	Off-Street Loading Requirements	53
§6.10.	Change in Parking and Loading Requirements	54
Article 7	ADMINISTRATION AND ENFORCEMENT	55
§7.1.	Purpose	55
§7.2.	Enforcing Officer	55
§7.3.	Building Permit Required	55
§7.4.	Application and Plan Requirements for Building Permit	56
§7.5.	Development Plan Requirement	57
§7.6.	Development Plan Review	57
§7.7.	Approval and Certification of Development Plan	58
§7.8.	Conditional Use Procedures	59
Article 8	AMENDMENT AND REZONING PROCEDURE	62
§8.1.	Purpose	62
§8.2.	Zoning Amendment	62
§8.3.	Zoning Amendment Petition	62
§8.4.	Planning and Zoning Board Action	62
§8.5.	City Council Action	63
§8.6.	Zoning of Annexed Land	64
§8.7.	Limitation on Application for Ordinance Amendment	64
Article 9	BOARD OF ZONING ADJUSTMENT	65
§9.1.	Purpose	65
§9.2.	Membership	65
§9.3.	Procedures	65
§9.4.	Powers and Duties	65
§9.5.	Fees	66
§9.6.	Administrative Appeals	66
§9.7.	Variances	67
§9.8.	Special Exceptions	69
§9.9.	Action by Board of Zoning Adjustment	70
§9.10.	Additional Hearings	70
§9.11.	Appeal from Board of Zoning Adjustment Decision	71

Article 1 - General Provisions

Sec. 1.1. – Short Title; Zoning Map

This ordinance shall be known as the “Zoning Ordinance of Elba, Alabama,” and the map herein referred to, identified by the title “Zoning Map of Elba,” shall be further identified by the signature of the Mayor of Elba, and attested by the City Clerk. The zoning map of Elba and all explanatory matter thereon are hereby adopted and made part of this ordinance. Such map shall be filed in the office of the City Clerk and shall show thereon the date of adoption of this ordinance.

Sec. 1.2. – Purpose

The fundamental purpose of this ordinance is to promote health and general welfare; to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, public water and sewer, schools, parks, and other public requirements in accordance with adopted policies and the Code of Alabama, Title 11, Chapter 52, as amended.

Sec. 1.3. – Jurisdiction

The provisions of this ordinance shall apply within the corporate limits of the City of Elba, Alabama. Said provisions shall be applicable to the corporate limits, which exist at the time of adoption of this ordinance, as well as to any future revisions to the corporate limits.

Sec. 1.4. – Interpretation

In the interpretation and application, the provisions of this ordinance shall be considered 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 impose greater restrictions than those specified herein, compliance with such other ordinances or regulations is mandatory. This ordinance shall not lower the restrictions of plats, deeds, or private contracts if such are greater than the provisions of this ordinance.

Sec. 1.5. – Severability

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.

Sec. 1.6. – Fees

A schedule of application fees for consideration of all approvals, permits, certificates, and public hearings required under this Ordinance shall be established by separate resolution or Ordinance.

Such fees shall be computed so as to recover all costs incurred by the City in reviewing and processing zoning-related requests, including advertising fees, and shall be adopted and revised as necessary by the City Council.

Sec. 1.7. – Penalties and Remedies

Any person, firm, corporation, or other organization which violates any provisions of this Ordinance shall be fined, upon conviction, not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) plus court costs for each offense. Each day such violation continues shall constitute a separate offense. The conviction of a violation and imposition of any fine shall not constitute an exemption from compliance with the provisions of this Ordinance.

In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this Ordinance, the Administrative Official may seek an injunction or writ of mandamus or take other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or to stay or prevent occupancy of such building, structure, or land.

Article 2 – Definitions

Sec. 2.1. - Purpose

For the purpose of this ordinance, words used in the present tense include the future and past tense, the singular includes the plural, the plural includes the singular, the male gender includes the female and the female gender includes the male. Words, terms, and phrases not defined in this article shall be construed according to the common and approved usage of the language, except where the context clearly indicates a different meaning.

Sec. 2.2. - Definitions

Accessory building: Any detached minor building in the rear of the main building consisting of masonry or frame walls and roof, one or two stories in height, necessary as an adjunct to the use or occupancy of a principal or main building and/or structure. An accessory building is one which:

- (A) Is not used as a residential dwelling;
- (B) Is subordinate to and serves the principal building and/or principal use;
- (C) Is subordinate in area, extent or purpose to the principal building and/or principal use served;
- (D) Contributes to the comfort, convenience or necessity of occupants of the principal building and/or principal use served; and
- (E) Is located on the same zoning lot as the principal building and/or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to be located elsewhere than on the same zoning lot with the building and/or use served.

Accessory dwelling unit (ADU): A secondary residential dwelling on the same lot as the principal residential dwelling. An ADU is an accessory use to the principal residential dwelling and may include accessory apartments, garage apartments, and guest houses. An ADU shall not be rented or used as income-producing property. Recreational vehicles are not considered as an ADU.

Accessory use: A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

Administrative official: A person designated by the city council to administer and enforce this ordinance. The administrative official may appoint a representative as appropriate.

Adult day care: The provision of care for adult persons, who are not related to the primary caregiver, for less than 24 hours per day.

Agricultural activity: The production, storage, harvesting, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and products; poultry and poultry products; the keeping, raising, and breeding of livestock; bees and apiary products; trees and forest products; fruits and vegetables; plants and flowers; or lands that are devoted to soil conservation or forestry management. This does not include any food processing.

Aircraft landing field: A private loading and unloading facilities from aircraft and helicopters. Included are runways, hangers, refueling and repair facilities, parking, and all other facilities needed to operate aircraft. This use is not intended to be open to the public.

Airport/heliport: A passenger and freight loading and unloading facilities from aircraft and helicopters. Included are runways, hangers, refueling and repair facilities, parking, and all other facilities needed to operate aircraft. Ticket purchasing, restaurants, and retail stores are permitted as accessory uses.

Alley: A public right-of-way, generally less in size than a street, designed to provide a secondary access to the side or rear of properties.

Alteration; altered: The word "alteration" shall include any of the following:

- (A) Any addition to the height or depth of a building or structure;
- (B) Any change in the location of any of the exterior walls of a building or structure;
- (C) Any increase in the interior accommodations of a building and/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 50 percent of its value prior to the commencement of such repairs, renovation, remodeling or rebuilding.

Animal hospital: A place where animals are given medical or surgical treatment, and where animals may be boarded during their treatment and convalescence (also see definition of "veterinary clinic").

Animal shelter: Non-profit or public organization providing shelter for small domestic animals.

Apartment: A dwelling unit contained in a multi-family structure or complex with at least three (3) families living in separate dwelling units.

Assisted living facility: A residential facility for elderly or other persons needing light medical supervision, within which are provided living and sleeping quarters, meal preparation, and other nonmedical living assistance.

Automobile convenience station: A facility where gasoline and other motor fuels, are stored and subsequently dispensed, by use of fixed approved dispensing equipment by customers of the facility on a self-service basis and/or by employees on a full-service basis and which may include an automatic car wash for washing one automobile at a time, within an enclosed building; in addition, a facility which also provides sandwiches, snacks, staple groceries and other similar retail products or services, which are not recognized or defined by this ordinance as separate uses or as necessary components of separate uses, for sale on premises for consumption off premises by the customer.

Automobile rental / leasing: The rental or leasing of automobiles, motorcycles, recreational vehicles, boats, recreational equipment, and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease (e.g. rental car agencies and taxi-cab dispatch areas).

No "automobile repair" or "scrap operation" activities may occur onsite and no non-operating vehicles shall be stored on the premises.

Automobile repair service: Any building or structure, improvements, or land used for the general repair, adjusting, overhauling, removing, replacing, rebuilding, or reconditioning of automobiles and engines, including but not limited to body, frame or fender straightening or repair, welding, painting, or upholstery work, collision repair, vehicle steam cleaning, but excluding the assembly, disassembly, dismantling or salvage of automobiles, in whole or in part. Non-operating vehicles shall not be stored on the premises.

Automobile sales: A retail business which sells operable automobiles that pass state vehicle inspection requirements upon display in the open for sale or trade. Secondary supporting uses may include onsite facilities for the repair and service of automobiles previously sold, rented, or leased as defined under "automobile repair" and "automobile service". No "scrap operation" activities may occur onsite and no non-operating vehicles shall be stored on the premises.

Automobile service station: Any building and/or structure, improvements, or land used for the replacement of any part, or repair of any part, to an automobile that does not require removal of the engine head or pan, engine transmission or differential, including, but not limited to oil change and lubrication, cooling, electrical, fuel and exhaust systems, wheel alignment and balancing, brake adjustment, relining and repairs, mufflers, batteries, new tire services and sales, shock absorbers, installation of stereo equipment, car alarms or cellular phones, but excludes dismantling, rebuilding, reconditioning, or salvage of automobiles, in whole or in part. No non-operating vehicles shall be stored on the premises. No vehicle to be serviced shall remain on the premises more than 45 days.

Automobile wash: A building or portion thereof containing facilities for washing, cleaning, and/or detailing of automobiles and other light vehicles.

Awning: An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton building or structure over which a covering is attached.

Balcony: A platform enclosed by a railing or parapet projecting from the wall of a building for the private use of tenants or for exterior access to the above-grade living units. When a balcony is roofed and enclosed, it is considered part of the room it serves.

Bank or financial institution: Any building, room, space or portion thereof where an establishment provides a variety of financial services, including generally, banks, credit unions, and mortgage companies.

Bar (tavern or lounge): A business whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars include taverns, night clubs, private clubs, bottle (BYOB) clubs, and similar facilities serving alcoholic liquor.

Bed and breakfast: A transient lodging establishment either converted from a single-family dwelling or specifically constructed for the purpose of providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

Block: A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Boarding house: See definition of “rooming house”.

Buffer: An open space, landscaped area, fence, wall, berm, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the effects of one land use on another.

Building: A structure attached or placed on the ground, enclosed by exterior walls, built, erected and framed of a combination of materials, having a roof for the shelter of persons, animals, or property.

Building area: The portion of the lot occupied by the main building, including porches, carports, accessory buildings and other structures.

Building line: A line showing the nearest distance to the property line where it is permissible to build or place a dwelling or building.

Build-to line: An alignment establishing a certain distance from the property line to a line along which the building shall be built. Front porches and handicap ramps shall be exempt from build-to line requirements but must occur behind the property line.

Building envelope: The designated area within a lot formed by the front, side, and rear building setback lines of a lot within which the principal buildings must be located.

Building height: The vertical distance from the average level of the highest and lowest point of that portion of a lot covered by the building to the top-most point of the roof.

Business or vocational school: An facility offering instruction and training, including four-year degrees and/or postgraduate degrees, in a service, trade skill, or the arts such as secretarial, cosmetology, commercial artist, computer software, legal, and similar training, provided that such enterprise does not offer student housing or athletic facilities at the site.

Campground, tent only: A parcel upon which two or more campsites are located, established, or maintained for occupancy by tents for overnight camping.

Campsite: A plot of land within a campground for the placement of a single tent or group of tents.

Canopy: See definition of “awning”.

Cemetery / mausoleum: Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities. Mortuaries shall be included when operated within the boundary of such cemetery.

Clinic, outpatient: See definition of “medical clinic”.

Club (fraternal): A facility which offers social, educational, cultural or other similar activities that is only available to members and their guests.

Collection center: A facility which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable material.

Commercial amusement, inside: The provision of spectator entertainment within an enclosed building, including but not limited to a concert hall or indoor movie theater. This use does not include an arena.

Commercial amusement, outside: The provision of spectator entertainment outside of a building, including but not limited to a drive-in theater, amphitheater, or racing facilities. This use does not include a stadium.

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

Community education (K-12): Public or private instruction on an elementary, middle and high school level, approved under the regulations of the State of Alabama.

Conditional use: A conditional use is a land use that would generally not be considered as an appropriate land use in a particular zoning district as a use permitted by-right, but could be considered appropriate with certain controls and/or restrictions which promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. A conditional use is subject to approval by the City Council.

Condominium: A form of property ownership in which each owner holds title to his/her individual unit, plus a fractional interest in the common areas of the multi-unit project. Each owner pays taxes on his/her property, and is free to sell or lease it.

Consignment sale: A sale of personal property by someone who is acting as an agent of another.

Construction/demolition landfill: See definition of “landfill, construction/demolition”.

Convenience store: See definition of “automobile convenience and service”.

Corner lot: See definition of “lot, corner”.

Correctional facility: A facility for the housing and care for persons legally confined for violations of law.

Crematory: A facility which reduces to ashes by burning.

Cultural center: Services to the public, such as, but not limited to museums, art galleries and libraries by a public or private, non-profit facility.

Custom assembly: The onsite production of goods by hand manufacturing that generally involves only the use of hand tools. Incidental direct sale to consumers of the goods produced onsite is permitted.

Daycare: The provision of care for persons (preschool age, disabled or the elderly), who are not related to the primary caregiver, for less than 24 hours per day including:

- (A) *Daycare center.* A licensed facility that provides daycare for more than six persons;
- (B) *Daycare home.* A licensed service accessory to a single-family dwelling; up to six persons;
- (C) *School daycare.* Licensed daycare centers of unlimited size for before, during, and after school programs.

Development plan: A dimensional presentation of a proposed development of a specified parcel (or parcels) of land that illustrates the location of buildings, easements, parking arrangements, public access, street pattern, and other similar features.

Distributive business / wholesale: The sale or distribution of goods from the premises that may consist of the flexible use of the floor area for warehouse, assembly, showroom, and office space within tenant areas, with the showroom and office area not exceeding 50 percent of the total floor area permitted on the parcel.

Donation center, drop-off: Any lot, building and/or structure or premises used solely for the collection of clothing, furniture, housewares, small electrical appliances, household textiles, toys, and other small household items. The center shall not pay for materials collected or sell any collected materials on the premises. Collected materials shall be stored in an enclosed location onsite until picked up and taken to a central sorting and distribution center. Types of drop-off donation centers range from storefront centers, which may include a drive-thru facility, to other enclosed facilities.

Dry cleaners: A facility providing laundering services that include cleaning plants using nonflammable, non-explosive type cleaning solvent. This does not include a laundry or dry cleaning pick-up station.

Dwelling unit: Any portion of a building providing complete, independent living facilities for one or more persons including permanent provisions for habitation to include:

- (A) *One-family (single-family):* A building containing one detached dwelling unit.
- (B) *Two-family (duplex):* A building containing two attached dwelling units.
- (C) *Multi-family:* A building containing at least three attached dwelling units.
- (D) *Townhouse:* See definition of “Townhouse”.

Electrical service lines: An electrical line serving limited geographic areas of residential neighborhoods by providing electrical power directly to a residence, or group of residences, and not designed to extend service more than one half-mile.

Electrical distribution lines: An electrical line designed to distribute electric power to, and through, agricultural, residential, commercial, and industrial areas.

Electrical transmission lines: Electrical power lines, feeder circuits, or networks designed to transmit electrical power for regional use.

Façade: The front of a principal building.

Family: This term is meant to include the following:

(A) An individual or two or more persons related by blood, marriage, or adoption, maintaining a common household in a dwelling unit.

(B) A group of persons not related by blood, marriage, or adoption, living together as a common household in a dwelling unit. However, the number of unrelated persons shall not exceed the number of bedrooms in the dwelling. This definition does not include group homes.

Farm: See definition of “agricultural activity”.

Fireworks sales: The retail sale of any pyrotechnics classified as Class C common fireworks by the United States Department of Transportation (USDOT), as defined by the Code of Alabama, Section 8-17-217 of the Code of Alabama.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland or tidal waters; or

(B) The unusual and rapid accumulation of runoff or surface water from any source.

Flood hazard area: Any area shown on the flood insurance rate maps as being located within the boundaries of flooding under regulatory flood conditions, and being regulated by the Flood Damage Prevention Ordinance (Chapter 38, Article II in the City of Elba’s Code of Ordinances).

Flood insurance rate map (FIRM): An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood, regulatory: A 100-year frequency flood as delineated on the flood insurance rate maps which has a probability of occurring once every 100 years or having a one percent chance of occurring each year.

Fruit stand: See definition of “open air market”.

Funeral home: An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funerals.

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

Greenway: A linear park, alternative transportation route, or open space conservation area that provides passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open spaces or natural areas.

Grocery store: A facility primarily selling food, for off-premises consumption and/or preparation, as well as other convenience and household goods.

Gross floor area: The sum of the areas of all floors within the outside edge of the outside walls of a building, excluding basements.

Group home: A facility which serves as a home for six or fewer persons with disabilities as defined by the Fair Housing Act of 1988 reside and may include up to two additional persons acting as house-parents or guardians who need not be related to each other or to any of the persons residing in the home.

Halfway house: A facility, which is licensed by the State of Alabama, for housing persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society; enabling them to live independently.

Hazardous operation: A use that may present serious hazards to human life and health such as, but not limited to arsenals, atomic reactors, explosives, and fireworks manufacture.

Heavy equipment sales and service: The retail or wholesale sale or rental of heavy motorized vehicles or equipment, along with incidental service or maintenance such as, but not limited to construction equipment rental yards, tractor-trailers, semi-trailers, boats, buses, recreational vehicles, farm equipment, and moving trailer rental (see "automobile sales").

Heavy manufacturing: See definition of "manufacturing, heavy".

Home improvement center: A facility for the retail sale of a diverse range of hardware and related materials generally used in the maintenance, repair, or construction of buildings and/or structures, including lawn and garden supplies.

Home occupation: Any use customarily conducted entirely within a dwelling and carried on solely by inhabitants thereof, and which use is clearly incidental and secondary to the use of the dwelling for residential purposes. Home occupations shall be categorized as either "major" or "minor" home occupations in accordance with **Section 5.16** of this Ordinance and the following definitions:

Home occupation, major: A home occupation that includes characteristics that might, in the opinion of the Administrative Official, generate or involve external impacts to the residential area and meets the requirements of **Section 5.16.2** of this Ordinance.

Home occupation, minor: A home occupation that does not include characteristics that might, in the opinion of the Administrative Official, affect the residential character of the neighborhood and meets the requirements of **Section 5.16.1** of this Ordinance.

Homeless shelter: A facility providing temporary housing to indigent, needy, homeless, or transient persons and which may also provide ancillary services such as counseling, vocational training, etc.

Homeowners' association: An incorporated, nonprofit organization operating under recorded land agreements through which:

(A) Each lot owner and homeowner in a planned or other described land area is automatically a member;

(B) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

Hospital: An institution where medical or surgical care is provided for the sick or injured on a primarily in-patient or long-term basis.

Hotel: Any building, or portion thereof, in which lodging is provided, intended for occupancy by persons for compensation, and in which access to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Household: A family living together in a single dwelling unit with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. (Refer to definition of family.)

Illegal nonconforming building and/or structure: A building and/or structure which was erected or altered outside the provisions of a prior zoning ordinance.

Illegal nonconforming use: Any use which, on the effective date of the ordinance from which this article is derived, was operating outside the provisions of a prior zoning ordinance, such as a commercial establishment operating in a residential zone in defiance of zoning restrictions.

International Code Council (ICC): A membership driven association that develops building codes and standards used to construct residential and commercial buildings and provides minimum safeguards for people at home, at school and in the workplace. The I-Codes are a complete set of comprehensive, coordinated building, life safety and fire prevention codes.

Junkyard or salvage yard: A lot or parcel of land on which is kept, stored, bought or sold articles commonly known as junk, including scrap paper, scrap metal and used automobile bodies and parts, appliances, etc.

Kennel or stable: Any lot, building, and/or structure or premises used for the boarding, breeding, training, and/or raising of domestic animal/wildlife (excluding livestock), whether by owners of such animals or by persons providing facilities and care, whether or not for compensation, but shall not apply to the keeping of animals in a municipal animal pound, pet store, a bona fide laboratory for scientific or experimental purposes (e.g. dental, veterinary, pharmaceutical, or biological) or in a veterinary establishment for the purpose of observation and/or recovery necessary to veterinary treatment.

Kitchen facilities: A portion of a building used for the preparation of meals, and for the purpose of this chapter shall include a sink or similar fixture for washing dishes.

Landfill, construction/demolition: A facility for the disposal of non-biodegradable waste, resulting from road building, construction, remodeling, repair, or demolition of buildings and/or structures.

Landfill, sanitary: A facility for the burial of nonhazardous and non-medical farm, residential, institutional, commercial, or industrial waste according to the provisions of subtitle "D" of the Resource Recovery and Conservation Act.

Legal nonconforming building and/or structure (grandfathered building and/or structure): A building and/or structure which was lawfully erected or altered in conformity with all applicable municipal ordinances or through variances granted by the board of adjustment, but which the building and/or structure does not comply with all the provisions this ordinance establishes for buildings and/or structures in the district in which the buildings and/or structure is located.

Legal nonconforming use (grandfathered use): A land use which, on the effective date of the ordinance from which this chapter is derived, was lawfully operated in accordance with the provisions of any prior zoning ordinance or through a variance granted by the board of adjustment, but which use is not a permitted use as established by this chapter in the district in which the use is located.

Liquor sales: The retail sale of alcoholic spirituous beverages to patrons or customers, in sealed packages, and not for consumption on the premises.

Live / work: A building or space within a building that is used jointly for commercial and residential purposes by the owner or employee of the business where the residential use of the space is secondary or accessory to the primary use as a place of work and located in the rear or upper level of the building. Any commercial use permitted in the zoning district applicable to the property is permitted in the live/work unit.

Livestock: A domesticated farm animal, kept for pleasure, utility, or sale. Examples of livestock may include cattle, horses, donkeys, mules, goats, sheep, swine and other hoofed animals; poultry, ducks, geese, pigeons, peacocks and other live fowl; and fur or hide-bearing animals.

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

Living space: The floor space in a dwelling to be calculated on the basis of total habitable room area.

Living quarters: Housing providing facilities for sleeping and bathing.

Light manufacturing: See definition of “manufacturing, light”.

Loading, off-street: Land occupied, necessary, and maintained for loading and unloading of goods, materials, or things, for delivery and shipping, in a manner that vehicles may provide for such services without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.

Lodge / Summer Camp: A place where children, youth and/or adults gather together for spiritual, recreational, or educational purposes in an organized and supervised manner, and where overnight lodging (e.g. tents, cabins), food, counseling, religious, and outdoor recreational activities may be provided.

Lounge: See definition of “bar (tavern or lounge)”.

Lot: A piece, parcel, or plot of land occupied or intended to be occupied by one main building, accessory building, uses customarily incidental to such main buildings, and such open spaces as are provided in this ordinance or as intended to be used with such piece, parcel, or plot of land, having its principal frontage upon a street. Two or more platted lots may be combined to create one lot.

Lot, corner: A lot situated at the intersection of two or more streets. On corner lots, the narrower side shall be considered the front, regardless of the location of the main entrance of the dwelling. Where both frontages of the lot are equal, the front yard shall be considered the side on which the majority of the lots front the block.

Lot, double-frontage: A lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot width: The horizontal distance between side lot lines measured along a line that is parallel to the front lot line.

Manufactured home: A factory-built structure that conforms to federal performance standards established by the Department of Housing and Urban Development (HUD), is transportable in one or more sections, is built on a permanent chassis, and is used for human habitation.

Manufactured home, Class A: A manufactured home that meets or exceeds the Department of Housing and Urban Development (HUD) construction standards that were in effect at the time of construction and that satisfies the criteria in **Section 5.12** of this Ordinance.

Manufactured home, Class B: A manufactured home that does not meet the definition of a Class A Manufactured Home. Class B Manufactured Homes are not allowed in the City, with the exception of existing manufactured homes permitted prior to the adoption of this Ordinance.

Manufactured home park: A parcel of land under single ownership used or designed to accommodate a manufactured home community of multiple spaces for rent or lease.

Manufactured home subdivision: A subdivision designed and intended for selling individual parcels for location of manufactured homes.

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

Manufacturing, light: The manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing. Typical light manufacturing uses include but are not limited to: electronic goods, food and bakery products, non-alcoholic beverages, paper imprinting, household appliances, leather products, jewelry, food and bakery products, and clothing apparel.

Mausoleum: See definition of “cemetery / mausoleum”.

Medical clinic: A facility providing medical, psychiatric, or surgical services for sick or injured persons exclusively on an outpatient basis.

Mineral extraction: The extraction of metallic and nonmetallic minerals or materials, including rock crushing, screening and the accessory storage of explosives.

Minor plan amendment: Alterations to existing developments which do not increase either the building area or the square footage of existing building(s) by more than 50 percent and which, in the judgment of the administrative official, will not significantly affect neighboring property or public services and facilities, including but not limited to water, sanitary sewer, transportation and storm drainage systems.

Minor modification (PUD's only): Any change which does not alter the scope or intent of the PUD or adversely affect adjacent areas or increase financial or maintenance responsibility to the city.

Mobile home: See definition of “manufactured home”.

Mobile home park: See definition of “manufactured home park”.

Mobile storage unit: The purchase, lease, or rental of any storage unit or container that is either set on the ground or on wheels, and which is typically used for, but is not limited to the storage of equipment, excess inventory, layaway items, back-to-school merchandise, seasonal merchandise, records or clearance sale items. A mobile storage unit excludes semi-trailers, and/or containers belonging to a railroad or barge operation located in a railroad yard, on a railroad track, and on or near a navigable river.

Modular home: A dwelling unit constructed or assembled onsite in accordance with the applicable building code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motel: A building or group of buildings containing one or more guestrooms having separated outside entrances for each such room or suite of rooms and for each of which room's or suite of room's automobile parking space is provided.

Motor freight: Facilities engaged in the shipment of goods from shippers to receivers for a charge including the services of other transportation establishments to effectuate delivery.

Multimedia productions: A facility for the staging and recording of video or audio productions such as, but not limited to music commercials, programs, and motion pictures.

Net residential acreage: Land used or proposed to be used for the placement of dwelling units and their accessory uses, private open spaces, parking areas, etc. This does not include streets or public recreation or open spaces.

Nonconforming use: A use of any structure or land which, though originally lawful, does not conform to this ordinance or any subsequent amendments thereto for the district in which it is located.

Nonconformity: A condition that occurs when, on the effective date of adoption of this Code or a previous ordinance or on the effective date of an ordinance text amendment or rezoning, an existing lot, building and/or structure, sign, development, or use of an existing lot or building and/or structure does not conform to one or more of the regulations currently applicable to the district in which the lot, building and/or structure, sign, development, or use is located.

Non-operating vehicle: Any motor vehicle, including a boat, which cannot be operated for reasons including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair or incapable of being moved from one location to another under its own power.

Nonresidential drug treatment facility: A facility characterized by the dispensing of substitute narcotics for the treatment of drug addictions with little or no professional counseling on an outpatient basis.

Nursing home: A State of Alabama licensed facility providing full-time convalescent or chronic care to persons who, by reason of advanced age, chronic illness or infirmity are unable to care for themselves and require skilled nursing and related medical services.

Office, general: A building providing space for professional, administrative, or clerical services, but not involving medical services.

Open air market: A facility, located partially or wholly outside a building, at which sales of arts, crafts, produce, or other goods, including but not limited to a flea market, produce market, or craft market.

Open space: An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts or any other recreational facilities. Streets, buildings and/or structures for habitation and the like shall not be included.

Open space, permanent, useable: These terms are meant to include public open spaces, not occupied by buildings, and may consist of pedestrian walkways, play areas, landscaped areas, sports areas, ponds and any other areas suitable for the common enjoyment of the residents of the project. Privately owned lots or privately occupied space shall not be considered as permanent useable open space.

Ownership: This term is meant to include the following:

- (A) A person, partnership or corporation.
- (B) An association of property owners legally bound to one another.
- (C) The homeowners' association of a condominium project, established under laws of the State of Alabama.

Parcel: A lot or contiguous group of lots in single ownership or under single control usually considered a unit for purposes of development.

Park: Any facility that is open to the public for recreational uses, including, but not limited to, hiking, swimming, boating, camping; predominately kept in a natural state; or the property of the local, state, or federal government, or any department or agency thereof, specifically designated as a park, natural area, or recreation area.

Parking lot: The use of property for the commercial parking or storage of operable automobiles on a temporary basis. This does not include the providing of off-street parking required by this

ordinance. Such parking shall be for the use of licensed vehicles only and is not intended to include merchandise or vehicles for sale.

Parking space: An accessible space reserved for the temporary storage of one vehicle. Not less than an area nine feet wide and 18 feet long shall be provided for each parking space, and all parking spaces required shall be provided with necessary lanes and maneuvering areas. Handicapped parking spaces shall have dimensions in accordance with the Americans with Disabilities Act requirements and/or any building code, as adopted.

Pawnshop: Any building, room, space or portion thereof where a pawnbroker regularly conducts business.

Person: Any individual, including any trustee, receiver, assignee, or personal representative thereof.

Personal care services: Services such as fitness centers, spas, tanning salons, nail salons, beauty and barber care, and dry cleaning and laundry services not to include a laundry plant.

Personal instruction: Services for training individuals or groups in the arts, personal defense, crafts, or other subjects of a similar nature.

Planned unit development (PUD): A development that:

(A) Is land under unified control, planned and developed as a whole in a single development operation or approved programmed series of development operations for dwelling units and related uses and facilities;

(B) Includes principal and accessory uses and buildings substantially related to the character of the development itself and the surrounding area of which it is a part; and

(C) Is developed according to comprehensive and detailed plans which include streets, utilities, building sites and the like.

Power/gas substation: A facility that regulates electric current or natural gas pressure for distribution to individual neighborhoods.

Printing and publishing: The production and distribution of books, magazines, newspapers, and other printed matter, including retail photocopying and blueprinting services, as well as record pressing and publishing, engraving, and photoengraving.

Public assembly facility: A building and/or structure designed and constructed to be utilized by the public at-large for community events, including but not limited to arenas, civic centers, or community centers.

Public uses, buildings: A building that provides public services not otherwise defined by this Article, such as municipal administrative and operation, county buildings and activities, state highway offices and similar land uses, and federal uses such as post offices, internal revenue offices, military installations, etc.

Public uses, utilities: A facility providing transmission and distribution of public utility services to the public at large, including water, sewer, gas, electric, and cable facilities.

Radio/television/satellite station: A building and/or structure for transmitting and receiving radio, television, satellite, and other broadcast signals, including radar surveillance including accessory buildings.

Recreation facility, indoor: A commercial or public recreational land use conducted entirely within a building, including but not limited to arcade, athletic and health clubs, bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, etc.

Recreation facility, outdoor: A commercial or public recreational land use conducted in open or partially enclosed or screened facilities, including but not limited to driving range, miniature golf courses, golf courses, tennis courts, etc.

Recreational vehicle (RV): A vehicular portable building designed as a temporary dwelling unit for travel, recreation, and vacation uses, which is identified on the unit by the manufacturer as a "camper," "travel trailer," or "motor home," is not more than eight feet in body width and does not exceed 40 feet in length.

Recreational vehicle (RV) park: A parcel upon which two or more recreational vehicles are located and used as temporary living or sleeping quarters.

Recycling collection center: A drop-off facility for the temporary assemblage of small recyclable consumer items, such as food and beverage containers, fabrics, and paper.

Recycling plant: A facility, other than a facility open to the public to receive household waste and recyclable material, where any method, technique, or process is utilized to separate, process, modify, convert, treat or otherwise prepare non-putrescible waste so that component materials or substances may be used or reused or sold to third parties for such purposes. The use or reuse or a solid waste may not be used in a manner that would constitute solid waste disposal.

Rehabilitation facility: A facility offering treatment for addictive, mental, or physical disabilities on either 24 hour a day or outpatient basis.

Religious institution: Any building and/or structure or lot used primarily for religious practices.

Residential: Any land area used and/or zoned for housing activities with personal use or enjoyment without the intent of realizing a profit or recovering costs through the sale of goods or services.

Restaurant, fast-food: Any building, room, space, or portion thereof where food is sold for consumption onsite or offsite within a short period of time, orders are made at either a walk-up, drive-through, or drive-in basis, payment for food is made prior to consumption, and the packaging of food is done in disposable containers.

Restaurant, full-service: Any building, room, space or portion thereof where food is sold for consumption onsite, customers are provided an individual menu, a restaurant employee serves the customers at the same table or counter at which items are consumed, or where seating turns over at a rate of 30 minutes or more. A restaurant shall not be considered a restaurant, fast-food or restaurant, take-out solely on the basis of incidental, or occasional take-out sales.

Restaurant, take-out: Any building, room, space or portion thereof where a limited variety of food or beverages are sold principally for offsite consumption, but which may include incidental seating for onsite consumption containing no more than 20 seats. Typical uses include bakeries, candy, nut, and confectionery stores, coffee houses, ice cream and frozen dessert stores, small delicatessens, and similar establishments.

Retail: The sale of goods and/or services at retail. For purposes of calculating required parking, retail includes "retail, general" and "retail, shopping center".

Retail, general: An establishment providing general retail sales, services or rental from the premises, of goods and/or services not specifically classified in another commercial activity type. Exterior displays and sales are allowed.

Retail, shopping center: A single building containing two or more different individual stores engaged in general retail sales.

Rooming house (or boarding house): Any building or portion thereof which contains between three and nine guestrooms 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 period longer than thirty (30) days.

School: Refer to the following definitions in this article:

- (A) Business or vocational school;
- (B) Daycare;
- (C) Community education (Grades K-12); and
- (D) College or university.

Scrap operation: The storage, processing and/or sale from the premises of used or waste material, including automotive dismantlers and recyclers, where a person, firm, association, corporation, or trust resident or nonresident, is engaged in the business and/or providing facilities for the purpose of recovering parts from automobiles and trucks, which have been wrecked or otherwise rendered inoperable as transportation vehicles with the parts recovered being for resale and further reduce used automobiles and trucks to a condition capable of salvage for their metal scrap content by scrap processors.

Seasonal use: See definition of "temporary / seasonal use".

Self-service laundry: A building and/or structure containing washing machines and usually drying machines, which are coin-operated by the customer. It may or may not have an attendant.

Self-service storage: An establishment that leases or rents storage units for the purpose of storing personal property.

Semi-public land use: A philanthropic and charitable land uses including Y.M.C.A.'s, Y.W.C.A.'s, Salvation Army, orphanages, private welfare organizations, Red Cross, and other general charitable institutions.

Setback line: A line parallel to the property line between which line and the property line no structure may be erected.

Shelter, storm: A building and/or structure intended to provide protection to human life during periods of danger from nuclear fallout, air raids, storms or other emergencies.

Sign: A permanent or temporary building and/or structure or display that is arranged, extended, designed or used as an advertisement, announcement, description or direction and is exposed to public view. Excluded are governmental signs erected for public safety; signs located completely within an enclosed building; and flag emblems or insignia of a nation, political unit, school or religious group. Definitions for specific sign types are included in the supplementary standards in this chapter.

Slaughterhouse: A place where animals are slaughtered and prepared for distribution to butcher shops or retail sales establishments such as grocery stores. A slaughterhouse is designed to accommodate the confinement and slaughtering of live animals and may include packing, treating, storage, or sale of the product on the premises.

Special exception: A special exception is a land use that would generally not be considered as an appropriate land use in a particular zoning district as a use permitted by-right, but could be considered appropriate with certain controls and/or restrictions which promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. A special exception use is subject to approval by the Board of Zoning Adjustment.

Stable: See definition of “kennel or stable”.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, the space between such floor and the ceiling next above it.

Structure: Any combination of materials, including buildings, constructed or erected, which requires location on the ground or attachment to anything having location on the ground, including among other things signs, billboards, fences and walls, but not including telephone poles, overhead wires, wire fences and other fences less than three feet high, retaining walls or terraces (see definition of “building”).

Subdivision: The division of a lot or parcel of land into two or more lots, parcels, or other divisions of land by means of platting of boundaries.

Tank farm: An open air facility containing aboveground large containers for the bulk storage of material in liquid, powder, or pellet form.

Tavern: See definition of “bar (tavern or lounge)”.

Taxidermy: The art of preparing, stuffing, and mounting the skins of animals.

Telecommunication tower: Any ground-mounted structure that is designed and constructed primarily for the purpose of supporting communications.

Temporary festival: The provision of rides, games, food, amusements, and/or activities open to the public. The use shall have duration of no more than 14 days in one month.

Temporary / seasonal use: A use established for a fixed period of time, including but not limited to fireworks sales, Christmas trees, and similar seasonal uses, with the intent to discontinue such use upon the expiration of such time that does not involve the construction or alteration of any permanent building and/or structure. A temporary / seasonal use requires an application for permit.

Townhouse: An attached dwelling unit having a separate ground floor entrance and separate private yard space, with common sidewalls on one or both sides of the dwelling unit.

Townhouse complex: A group of townhouse buildings each containing between two or and seven attached townhouse units.

Townhouse building: A single building within a townhouse complex containing as many as seven individual residential units sharing at least one common wall.

Townhouse unit: A single living space located within a townhouse building sharing at least one common wall.

Use: The purpose for which land or a building or structure is designed, arranged or intended, or for which it is or may be occupied or maintained.

Utility companies: Any person, governmental body, organization, or entity of any type, and their agents, representatives, and employees, supplying electricity, natural gas, water, communications, or similar or associated services.

Utility equipment: Poles, towers, supports, wires, conductors, conduits, guys, stubs, cross arms, braces, transformers, insulators, cut-outs, switches, communication circuits, used or useful in supplying electricity, natural gas, water, communication or similar or associated services.

Variance: A relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where such variance is due to conditions peculiar to the property and not the result of the actions of the applicant.

Veterinary clinic: An enterprise for the outpatient care and treatment of the diseases and injuries of animals (also see definition of “animal hospital”).

Warehouse: A facility used primarily for the bulk storage of goods and materials either for a private entity or the general public.

Wholesale: See definition for “distributive business / wholesale”.

Wrecker service: An establishment for the removal of a motor vehicle by towing, carrying, hauling or pushing from public or private property when such vehicle is inoperable or has been ordered to be impounded to a public or private impound lot. This shall not include an "automobile service" use that has a tow truck and services vehicles onsite.

Yard: An open space on the lot between the lot lines or street right-of-way and the building envelope for the main building, left open, unoccupied, and unobstructed by buildings and/or structures from the ground to the sky, except as otherwise provided in this ordinance.

Yard, front: An open space extending across the entire width of the lot between the main buildings, including covered porches, and the front lot line, or if an official future street right-of-way line has been established, between the main building, including covered porches, and the right-of-way line. On corner lots, the narrower side shall be considered the front, regardless of the location of the main entrance of the dwelling. Where both frontages of the lot are equal, the front yard shall be considered the side on which the majority of the lots front the block.

Yard, rear: An open space extending across the width of the lot behind the main building to the property line, excluding accessory buildings and/or structures.

Yard, side: An open space extending along the side lot line from the front yard to the rear yard, between the main buildings, including covered porches, and such lot lines.

Yard, street-side: A street side yard is an open space extending along the side lot line, front yard to the rear yard, between the main building and the street. This definition only applies to corner lots.

Article 3. Classification and Establishment of Districts

Sec. 3.1. – Purpose

The City of Elba, Alabama is hereby divided into zoning districts as established by this article. The purpose of this article is to achieve compatibility among land uses within the various districts, to implement the City's official zoning map, and to serve the citizens of Elba by providing for the implementation and administration of the regulations of the City's zoning ordinance.

Sec. 3.2. – Zoning Districts

For the purpose of this ordinance, the City of Elba is hereby divided into types of districts designated as follows:

Zoning Districts	
R-1	Single-Family Residential District
R-2	Single-Family and Duplex Residential District
R-3	Multi-Family Residential District
R-4	Multi-Family Residential District
MH-1	Manufactured Home Subdivision District
O-1	Neighborhood Office District
B-1	Local Shopping Business District
B-2	General Business District
B-3	Central Business District
M-1	Light Manufacturing District
M-2	General Manufacturing District
AG-1	Agricultural District

Sec. 3.3. – Intent of Zoning Districts

R-1 Single-Family Residential District: The R-1 district is intended to provide land for single-family residential dwelling units. Regulations concerning this district are designed to protect the residential character of these areas by prohibiting commercial and industrial activities and to maintain the low density character of these areas through yard and area standards.

R-2 Single-Family and Duplex Residential District: The R-2 district is intended to provide for single-family and duplex (two-family) residential dwelling units. Regulations concerning this district are designed to protect the residential character of these areas by prohibiting commercial and industrial activities and to maintain the medium density character of these areas through yard and area standards.

R-3 Multi-Family Residential District: The R-3 district is intended to provide for multiple family residential dwelling units, including apartments and townhouses. Regulations concerning this district are designed to protect the residential character of these areas by prohibiting commercial

and industrial activities and to prevent overcrowding of these areas through yard and area standards.

R-4 Multi-Family Residential District: The R-4 district is intended to provide for multiple family residential dwelling units, including apartments and townhouses, and to include single manufactured home units. Regulations concerning this district are designed to protect the residential character of these areas by prohibiting commercial and industrial activities and to prevent overcrowding of these areas through yard and area standards.

MH-1 Manufactured Home Subdivision District: The MH-1 district is intended to provide for residential development for manufactured homes that are located in approved manufactured home parks and subdivisions and accessory structures necessary for operation of the subdivision. Regulations concerning this district are designed to provide a stable living environment, comparable to other residential neighborhoods, and to prevent overcrowding of these areas through yard and area standards.

O-1 Neighborhood Office District: The O-1 district is intended to serve as a transitional district between residential districts and/or uses and more intensive nonresidential activities. It is designed for mostly small-scale offices and similar uses.

B-1 Local Shopping Business District: The B-1 district is intended to serve as a transitional district between residential districts and more heavily-intensive commercial districts. It is designed for mostly small-scale local retail and personal services that provide for the regular needs and convenience of those residing in adjacent residential areas.

B-2 General Business District: The B-2 district is intended to serve a variety of retail and service activities that are primarily more intensive and a larger scale than uses allowed in a B-1 district. These districts may include shopping centers that incorporate multiple facilities on a single site.

B-3 Central Business District: The B-3 district is intended to serve a variety of governmental, financial, and retail activities within the traditional downtown business area. It is designed to facilitate compatible development and redevelopment within the core area of downtown. Mixed uses are permissible within the B-3 district.

M-1 Light Industrial District: The M-1 district is intended to serve industrial and manufacturing operations that are relatively small in scope and not obnoxious, offensive, or detrimental to neighboring areas. It is designed to provide for industrial uses that are primarily contained within buildings and do not require extensive storage facilities.

M-2 General Industrial District: The M-2 district is intended to serve manufacturing operations that are larger in scope and may create nuisances that are obnoxious, offense, or detrimental to neighboring areas. It is designed to provide for assembly and processing operations that function throughout the property.

AG-1, Agricultural District: The AG-1 district is intended to serve as land for agricultural and associated operations and/or very low density residential development. Regulations concerning this district are designed to maintain the rural character of these areas.

Article 4. District Regulations

Sec. 4.1. – Use Regulations

The Table of Permitted Uses (Table 4.1) specifies which uses are permitted in each zoning district and defines the use categories utilized in this Ordinance through indicating which land uses may locate in each zoning district. A further distinction of permitted uses is made between uses that may locate in a given district upon obtaining a “special exception” or a “conditional use”.

Permitted uses “by right”, as a “special exception”, or as a “conditional use” shall be subject, in addition to use regulations contained in this Ordinance, to other regulations regarding area and dimensional regulations and such other provisions specified within this Ordinance.

4.1.1. *Permitted uses by right:* Land uses that are allowed "by-right" in each zoning district will be identified by the letter "P" in the Table of Permitted Uses.

4.1.2. *Uses by special exception:* Land uses that are specified as "special exceptions" in each zoning district will be identified as such by the letter "S" in the Table of Permitted Uses. Said uses are exceptions, and no permit shall be issued for such uses except those with the written approval of the Board of Zoning Adjustment and subject to such conditions as the board may require preserving and protecting the character of the district in which the use is located. The process for making application for a special exception is outlined in Section 9.8 of this Ordinance.

4.1.3. *Permitted uses by conditional use:* Land uses that are specified as “conditional uses” in each zoning district will be identified as such by the letter “C” in the Table of Permitted Uses. Said uses are conditional, and no permit shall be issued for such uses except those with review of the Planning and Zoning Board and the written approval of the City Council and subject to such conditions as the Council may require preserving and protecting the character of the district in which the use is located. The process for making application for a conditional use is outlined in Section 7.8 of this Ordinance.

4.1.4. *Prohibited use:* If a land use is listed in the Table of Permitted Uses but is not either a permitted use, special exception, or conditional use, then the land use is prohibited. Land use variances are prohibited under the terms of the Ordinance. When an applicant desires to pursue a prohibited land use, then the applicant would be required to request rezoning of the subject property. The process for making application for rezoning is outlined in Section 8.3 of this Ordinance.

4.1.5. *Unlisted uses:* If a land use is not listed in the Table of Permitted Uses, the Administrative Official shall be authorized to make an interpretation about whether or not the land use should be allowed by-right, as a special exception, or as a conditional use, based on land uses that are in the Table of Permitted Uses that have similar land use impacts. If the Administrative Official is unable to make a determination, then the land use shall be prohibited in that district. The Administrative Official shall provide a letter to the applicant regarding land use interpretation

decisions and maintain an official written file of all such interpretation decisions. Appeals of land use interpretations may be taken to the Board of Zoning Adjustment as outlined in Section 9.6 of this Ordinance.

Sec. 4.2. – Area and Dimensional Regulations

The Table of Area and Dimensional Regulations (Table 4.2) specifies standards relating to the size and placement of buildings within each of the zoning districts. The required specifications for lot area, residential density, setbacks, building heights, and separation between buildings are specified in this Article on the basis of zoning district classification. Building permits and/or zoning compliance approval shall only be issued for properties in compliance with these regulations.

LEGEND												
P – Permitted By Right												
S – Special Exception Required												
C – Conditional Use Required												
Blank – Not Permitted												
USES/DISTRICTS	Residential Districts						Non-Residential Districts					
	Single-Family Districts			Multi-Family Districts			Business Districts				Manufacturing Districts	
	AG-1	R-1	R-2	R-3	R-4	MH-1	O-1	B-1	B-2	B-3	M-1	M-2
Adult Day Care				C	C		C	C	C			
Agricultural Activity (Farm)	P											
Aircraft Landing Field	C										C	C
Airport / Heliport	C										C	C
Animal Hospital	S						S	P	P		P	P
Animal Shelter	S						S	S	S		P	P
Assisted Living Facility				C	C		C	P	P			
Automobile Convenience Station								S	P	S	P	P
Automobile Rental / Leasing								S	P		P	P
Automobile Repair Service								S	P		P	P
Automobile Sales								S	P		P	P
Automobile Service Station								S	P	S	P	P
Automobile Wash								S	P	S	P	P
Bank / Financial Institution								P	P	P		
Bar, Lounge, or Tavern								S	P	P		
Bed and Breakfast	S		S	P	P		P	P		S		
Campground, Tent Only	S											
Cemetery	S							P	P			
Club (Fraternal)				S	S		S	P	P	P		
Collection Center (Solid Waste / Recycling)								S	P		P	P
Commercial Amusement, Inside								S	P	S	S	
Commercial Amusement, Outside	C							S	P	S	S	
Condominium				P	P							
Correctional Facility	C										P	P
Crematory								S	P		P	P
Cultural Center							C	P	P	P		
Custom Assembly								S	P	S	P	
Daycare Center				S	S	S	P	P	P			
Daycare Home	S	S	S	S	S							
Distributive Business / Wholesale									S		P	P
Donation Center, Drop-Off								S	P	S	P	P
Dry Cleaners (Plant)									C		P	P
Dwelling, Accessory Unit (Family)	P	P	P	P	P							
Dwelling, Single Family	P	P	P	P	P							
Dwelling, Duplex			P	P	P							
Dwelling, Multi-Family (Apartments)				P	P							
Dwelling, Townhouse				P	P							
Fireworks Sales	S							P	P		P	P
Funeral Home	C	C	C	C	C			P	P		P	
Garden Center / Nursery	P							S	P		P	
Grocery Store								P	P	S		
Group Home	C			C	C		C	C	C			
Halfway House				C	C			C	C			
Hazardous Operation												C
Heavy Equipment Sales and Service	C								P		P	P
Home Improvement Center								S	P		P	
Home Occupation	S	S	S	S	S	S						
Homeless Shelter				C	C			C	C			
Hospital								C	P			
Hotel / Motel								P	P	S		
Junkyard (Scrap Operation)												C
Kennel / Stable	P							S	S			
Landfill, Construction / Demolition											C	C
Landfill, Sanitary												
Liquor Sales								P	P	P		

LEGEND												
P – Permitted By Right												
S – Special Exception Required												
C – Conditional Use Required												
Blank – Not Permitted												
USES/DISTRICTS	Residential Districts						Non-Residential Districts					
	Single-Family Districts			Multi-Family Districts			Business Districts				Manufacturing Districts	
	AG-1	R-1	R-2	R-3	R-4	MH-1	O-1	B-1	B-2	B-3	M-1	M-2
Live / Work							P	P	P	P		
Livestock Sales	P											
Lodge / Summer Camp	C											
Manufactured Home, Class A, Single Family	S				P	P						
Manufactured Home Park						P						
Manufactured Home Subdivision					P	P						
Manufacturing, Heavy												P
Manufacturing, Light											P	P
Medical Clinic							P	S	P			
Mineral Extraction	C										S	S
Mobile Storage Unit								S	S		P	P
Modular Home	P	P	P	P	P							
Motor Freight											P	P
Multi-Media Productions								P	P	P		
Nonresidential Drug Treatment Facility								C	C		C	
Nursing Home							C	C	P			
Office (General)							P	P	P	P		
Open Air Market	P							C	C	C		
Park / Greenway	P	P	P	P	P	P	P	P	P	P	P	P
Parking Lot								P	P	P	P	P
Pawnshop								P	P	C		
Personal Care Services							S	P	P	P		
Personal Instruction							S	P	P	P		
Printing and Publishing								S	P	C	P	P
Public Assembly Facility	C			C	C			P	P	P		
Public Uses, Buildings	P	P	P	P	P	P	P	P	P	P	P	P
Public Uses, Utilities	P	P	P	P	P	P	P	P	P	P	P	P
Radio / TV Station								S	P	S	P	P
Recreation Facility, Indoor								P	P	S		
Recreation Facility, Outdoor	C								P	C		
Recreational Vehicle (RV) Park	C					P			C		C	
Recycling Collection Center	C								P		P	P
Recycling Plant											C	C
Rehabilitation Facility				C	C		C	P	P			
Religious Institution	C	C	C	C	C		C	P	P	C		
Restaurant, Fast-Food								P	P	S		
Restaurant, Full-Service								P	P	P		
Restaurant, Take-Out								P	P	P		
Retail, General								P	P	P		
Retail, Shopping - Center								P	P	C		
Rooming House (Boarding House)				P	P			P				
School, Business / Vocational							C	P	P	C		
School, College / University							C	P	P			
School, Daycare		S	S	S	S		P	P	P			
School, K-12							C	P	P			
Self-Service Laundry								P	P	S		
Self-Service Storage								S	P		P	P
Semi-Public Land Use								P	P	S		
Slaughterhouse												P
Tank Farm											C	P
Taxidermy	P							S	P	C		
Telecommunications Tower	C						C	C	C	C	C	C
Temporary Festival	C							P	P	P	P	P
Temporary / Seasonal Use	C							P	P	S	P	P
Townhouse / Townhouse Complex			C	P	P							
Veterinary Clinic	S						P	P	P		P	P
Warehouse									S		P	P
Wrecker Service								S	P		P	P

ZONING DISTRICT	Residential Districts						Non-Residential Districts					
	Single-Family Districts			Multi-Family Districts			Business Districts				Manufacturing Districts	
	AG-1	R-1	R-2	R-3	R-4	MH-1	O-1	B-1	B-2	B-3	M-1	M-2
Min. Lot Area / Max. Density, Sq. Feet	10,000	10,000	8,500	7,500	7,500	4,000	N/A	N/A	N/A	N/A	N/A	N/A
Lot Area per Additional DU, Sq. Feet	N/A	N/A	N/A	2,000	2,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Min. Lot Width @ Building Line, Feet	100	100	75	50 ²	50 ²	50	N/A	N/A	N/A	N/A	N/A	N/A
Min. Front Yard Setback, Feet	35	35	30	25	25	25	25	25	25	0	25	25
Min. Rear Yard Setback, Feet	40	40	35	30	30	30	30	20	20	0	25	25
Min. Side Yard Setback, Feet	10 ³	10	10	10	10	10	10 ⁴	0 ⁴	0 ⁴	0 ⁴	25 ⁵	25 ⁵
Min. Side Yard Abutting Street, Feet	35	35	30	25	25	25	25	25	25	0	25	25
Max. Building Area, % of Gross Lot Area	25	25	30	35	35	35	35	40	50	N/A	50	50
Max. Building Height – Feet	35	35	35	45	45	35	35	35	45	65	45	45
Max. Building Height – Stories	2 ½	2 ½	2 ½	3	3	2 ½	2	2	3	5	3	3
Off-Street Parking Requirements	See Article 6, Off-Street Parking and Loading Requirements											

¹ Requirements are for Manufactured Home Subdivisions; see Section 5.13 for Manufactured Home Park requirements.

² For each additional dwelling unit (DU), add 5' of minimum lot width.

³ Structures used for housing livestock should be 100' from property line of any non AG-1 district.

⁴ Lots adjoining any Residential District shall have a 20' side yard setback.

⁵ Lots adjoining any Residential District shall have a 40' side yard setback.

Article 5. Supplemental Regulations.

Sec. 5.1. – Purpose

The regulations contained in this article supplement or modify the district regulations appearing elsewhere in this Ordinance.

Sec. 5.2. – General Regulations

Except as otherwise provided for in this Ordinance:

- a) Unless specifically provided elsewhere in this Ordinance, no building, structure, or parcel of land shall hereafter be used, occupied, or modified into a use not permitted within the zoning district in which it is located. Any use that is not specifically listed as a permitted use, special exception, or conditional use within the applicable zoning district shall be prohibited.
- (b) Any building and/or structure erected, enlarged, reconstructed, moved, or structurally altered shall comply with the dimensional regulations set forth in this Ordinance.
- (c) The minimum lot area, yard setbacks, open spaces, and parking spaces required by this Ordinance for each building and/or structure shall not be encroached upon or counted toward the requirements for any other building unless specifically provided for otherwise in this Ordinance.
- (d) A building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one principal building and one principal use on one lot except as otherwise permitted for non-residential uses and multi-family dwelling units. Accessory structures shall not include living quarters, except as provided in Section 5.7. – Accessory Dwelling Units.
- (e) No private permanent building and/or structure shall be placed or constructed within a public right-of-way or easement.
- (f) No lot shall be reduced in area so that yards and other open spaces total less than the minimum area required under this Ordinance.

Sec. 5.3. – Nonconformities

The purpose of this section is to provide for the regulation of legally nonconforming uses, structures, and lots; and to specify the circumstances and conditions under which such nonconformities can be continued, expanded, or modified; and under which they shall be terminated.

5.3.1. *Nonconforming Uses*: Any land use lawfully existing at the time of enactment of this Ordinance, or subsequent amendment to, but not in conformity with its provisions, will be considered a nonconforming use.

- (a) Nonconforming uses may be continued unless:
 - (1) The use is discontinued for a period exceeding one calendar year after which it may not be re-established for any reason.
 - (2) The use is extended, expanded or altered except in conformity to this Article.
- (b) No accessory use to a principal nonconforming use shall continue after such principal uses shall have ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance.
- (c) A nonconforming use may be changed to another nonconforming use provided the new use is in the same or a lesser intensity of use as the original use.
- (d) A nonconforming use shall not be enlarged or occupy a greater area of land than it did at the enactment of this Ordinance, or subsequent amendment.
- (e) A nonconforming use shall not be altered, enlarged, or intensified in any way that increases its nonconformity, but may be altered or reduced to decrease its nonconformity.
- (f) A structure containing a nonconforming use shall not be moved to any portion of the lot other than that occupied at the enactment of this Ordinance, or subsequent amendment.
- (g) A nonconforming use that changes to a permitted use within the applicable district shall not thereafter revert to a nonconforming use.

5.3.2. *Nonconforming Buildings and/or Structures*: Any building and/or structure existing at the time of enactment of this Ordinance, or subsequent amendment to, but not in conformity with its provisions, will be considered a nonconforming building and/or structure. The use of a nonconforming building and/or structure may be continued subject to the provisions of Section 5.3.

- (a) Alterations to any nonconforming building and/or structure, whether residential or nonresidential, must be made in conformity to this Article.
- (b) Nothing in this Article shall be interpreted to prohibit routine maintenance, restoration of a structure to a safe condition, internal renovations and modifications, and external improvements that do not increase in scope or scale the nonconformity of the building and/or structure.
- (c) Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is

charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition; provided such restoration of such structure is not otherwise in violation of the provisions of this Ordinance.

- (d) No accessory building and/or structure to a principal nonconforming building and/or structure shall continue after such principal building and/or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations in this Ordinance.

5.3.3. Nonconforming Lots of Record: Any lot existing at the time of enactment of this Ordinance, or subsequent amendment to, but not in conformity with its provisions, will be considered a nonconforming lot of record. Where the owner of a lot of record does not own sufficient adjacent land to enable construction of a building and/or structure which conforms to the dimensional regulations of this Ordinance, development may occur provided such development conforms to all other regulations in this Ordinance, or if the owner is granted a variance, as outlined in Section 9 of this Ordinance, by the Board of Zoning Adjustment.

Sec. 5.4. – Intersection Visibility

On lots at intersections and at railroad crossings, no structure, planting, or other obstruction which materially obstructs traffic visibility shall be permitted or maintained between the heights of three and one-half (3½) feet and 15 feet above street level within a triangular space bounded by the two intersecting right-of-way lines of streets and railroads and a straight line connecting the right-of-way lines 20 feet from their intersection.

Sec. 5.5. – Height

- (a) In each zoning district, each structure erected or altered shall not exceed the heights specified in the district requirements in Article 4 of this Ordinance, except upon approval of the Board of Zoning Adjustment.
- (b) Height limitations shall not apply to barns, silos, or other farm structures when located on farms; church spires, belfries, cupolas, or domes; flagpoles, public utility poles, telecommunications towers, water tanks, or to any ventilation structures, chimneys, or any other such facilities are not intended for human occupancy and that are normally required to be placed on the roof.

Sec. 5.6. - Accessory Buildings and/or Structures

It is the intent of this section that accessory buildings and/or structures may be permitted on any lot used pursuant to zoning district regulations. The following standards apply to accessory buildings and/or structures:

5.6.1. Storage Buildings and Similar Buildings and/or Structures:

- (a) No accessory building and/or structure other than a permitted sign shall be erected in any required front yard.

- (b) Accessory buildings and/or structures shall be located a minimum of ten (10) feet from any building and/or structure and a minimum of five (5) feet from any property line.
- (c) Accessory structures on a corner lot shall be set back the minimum front yard depth required on each street.
- (d) Total square footage of all accessory buildings and/or structures shall be included in calculations for lot coverage or any other site design requirements applying to the principal use of the lot.
- (e) Vehicles, including recreational vehicles, and travel trailers, shall not be used as temporary or permanent living quarters, storage buildings, utility buildings, or other such uses, unless otherwise permitted in this Ordinance.

5.6.2. Swimming Pools and Similar Buildings and/or Structures:

- (a) Private swimming pools shall be constructed no closer than ten feet from the waterline to any property line and shall be completely enclosed by a protective fence or wall at least four feet in height with suitable locks on all gates and exits. All gates shall be locked at all times when the pool is not in use. Fences and gates shall be so constructed and of such materials so as to prevent the entry of children and household pets into the pool area.
- (b) Enclosures for pools shall not be considered a part of the principal building and/or structure unless physically attached to the principal building and/or structure and shall comply with standards for minimum setback requirements, and other building location requirements of this Ordinance.

5.6.3 Fences/Walls:

- (a) Fences may be located along all front, side and rear yards and may be constructed on any common property line. However, no fence, wall, or hedge located in a required front yard shall exceed four (4) feet in height, unless it meets the minimum required front yard setback for the zoning district in which it is located.
- (b) In areas where the property faces two roadways or is located in any other area construed to be a corner lot, no opaque fence or hedge exceeding two and one-half (2½) feet in height shall be located in the line of sight referred to in Section 5.4.
- (c) No fence shall generally exceed six (6) feet in height; however, where lot line is adjacent to a non-residentially zoned property, fences, walls, or hedges may be maintained to a height not exceeding eight (8) feet in height.
- (d) Fences must be constructed of a permanent weatherproof material such as wood, vinyl or masonry. Fabric, plastic sheeting or metal (unless specially designed and created as a fence) is not permitted.

5.6.4. Awning, Carport, or Porch: An unattached awning, carport or porch, open on three or more sides, may be constructed or erected on the side of or behind any principal building and/or structure in any district, provided that:

- (a) No such awning, carport or porch shall be constructed closer than five (5) feet to any property line.
- (b) Any such awning, carport or porch located on a corner lot shall be set back at least the minimum front yard setback for the district in which it is located.

Sec. 5.7. - Accessory Dwelling Units

- (a) Accessory dwelling units shall only be permitted as an accessory use to a permitted single-family detached dwelling in order to provide an inexpensive housing option available to family members who might otherwise have difficulty finding homes. This section is also intended to protect the property values and residential character of neighborhoods where accessory dwelling units are located.
- (b) Accessory dwelling units may be allowed in single-family residential lots provided that all of the following requirements shall be met:
 - (1) Any accessory dwelling unit must be located on the same lot as the principal dwelling and must be clearly subordinate, incidental, and in connection with the principal dwelling.
 - (2) No more than one accessory dwelling unit shall be permitted on any residential lot.
 - (3) An accessory dwelling unit shall not exceed 800 square feet.
 - (4) The accessory dwelling unit shall be located and designed not to interfere with the appearance of the principal building as a single-family dwelling unit.
 - (5) The accessory dwelling unit shall not be available to any person who is not a family member of the owner of the property.
 - (6) If detached from the principal dwelling, accessory dwelling units shall be to the rear of the principal dwelling or within the upper floor of a detached garage or similar permitted accessory building and/or structure and shall be set back as otherwise required of accessory buildings and/or structures.
 - (7) One parking space, in addition to that required for the principal dwelling, shall be provided for the accessory dwelling unit, and must be located on the same lot on which the accessory dwelling unit is located.
 - (8) A manufactured home may not be used as an accessory dwelling unit.

(9) Recreational vehicles and travel trailers shall not be used as accessory apartments.

(10) No existing building and/or structure may be converted to an accessory apartment unless it complies with all other minimum district dimensional regulations.

(11) No variations, adjustments, or waivers to the requirements of this code shall be allowed in order to accommodate an accessory apartment.

Sec. 5.8. - Storm Shelters / Safe Rooms

Storm shelters and/or safe rooms are permitted as principal or accessory uses and structures in any district, subject to the yard and lot coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately, and in addition to shelter use may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use, but shall not be used for principal or accessory uses prohibited expressly or by implication in the district.

Sec. 5.9. – Encroachment on Drainage Channels or Streams

Any structure proposed to be located outside the flood hazard area but within 150 feet of any main drainage channel or stream (hereinafter referred to as a stream) must be approved in writing by the Elba Planning and Zoning Board. The Planning and Zoning Board may require an engineer to determine, on the basis of the area of the watershed and probable runoff, the openings needed for the stream of how close a structure may be built to the stream in order to assure adequate space for the flow of floodwater, provided, however, no building shall be permitted within ten (10) feet of the bank of any stream.

Sec. 5.10. – Scrap Operations / Junkyards

- (a) No automobile scrap operation or junkyard shall be established closer than 300 feet to a residential district.
- (b) All outdoor storage of salvage operations shall be completely contained within a fence or wall between four (4) and eight (8) feet in height. Such fence shall be designed in accordance with Section 5.6.3.
- (c) Storage of wrecked automobile, junk, or salvaged materials shall not exceed the height of the required screen fence or wall.

Sec. 5.11 – Group Homes

Group homes shall be conducted within a building that is consistent or compatible with the character of the district in which it is located.

- (a) A group home located in an agricultural district shall be conducted in a building that shall maintain the exterior appearance of a single-family dwelling, with no separate outside entrances to individual bedrooms.
- (b) A group home in a multi-family or business district may be conducted in a building other than a single-family dwelling, provided the group home conforms to the area and dimensional regulations applicable to the zoning district.
- (c) Where applicable, the group home shall provide evidence that it will operate in compliance with any State licensing requirements.

Sec. 5.12 – Manufactured Homes

All manufactured homes being installed or moved into or within the City of Elba shall apply for a Manufactured Home Installation Permit from the Administrative Official to demonstrate compliance with the following requirements prior to occupancy to classify as a Class A Manufactured Home:

- (a) *HUD Seal Requirement:* Prior to installation, each manufactured home shall bear a seal certifying compliance with the Manufactured Home Construction and Safety Standards Act promulgated by the U.S. Department of Housing and Urban Development. Any lawfully existing manufactured home not bearing such seal shall be deemed a nonconforming building and shall be treated as a nonconforming building and use in accordance with the regulations established in Section 5.3. of this Article.
- (b) *Age of Manufactured Home:* No manufactured home over ten (10) years of age may be moved into the City or to another location within the City, either on a single lot or in a manufactured home park, without an approved Special Exception from the Board of Zoning Adjustment.
- (c) *Anchoring Requirement:* All manufactured homes shall be set up, installed, and anchored in full compliance with the requirements of the Alabama Manufactured Housing Commission. Each manufactured home site shall be properly prepared for set up and installation as may be necessary and appropriate to prevent the accumulation of standing water or the drainage of stormwater runoff beneath the manufactured home.
- (d) *Skirting Requirement:* All manufactured homes shall be skirted with a weather-resistant material which resembles siding materials commonly found on a single-family dwelling. Exterior siding should not have a high-gloss finish and should be residential in appearance, including, but not limited to, clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material, but excluding smooth, ribbed, or corrugated metal or plastic panels. Concrete block or brick and mortar foundation walls, constructed in compliance with all applicable building code requirements, shall be the preferred method of skirting. The exterior siding material must extend to the ground, except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation. Where the space

beneath a manufactured home that is to be enclosed by skirting is not completely covered by a concrete pad, then a ground vapor retarder of 6 mil rated polyethylene sheeting or greater shall be installed over the entire area enclosed by skirting. All skirting should be adequately vented.

- (e) *Axles and Tow Bars Removal*: Once a manufactured home has been placed on an individual lot or site, all tow bars and axles shall be removed and stored in a location on the lot where they cannot be seen from the street, neighboring homes, or adjoining properties.
- (f) *Access to Exterior Entrances*: Immediately after installation and prior to occupation, steps from a landing or porch shall be constructed at each raised exterior entrance or doorway to the manufactured home. At a minimum, the front or main entrance to a manufactured home shall be served by a stairway (not less than three feet in width) leading to a landing or porch not narrower than five (5) feet in depth (as measured outward from the exterior of the structure) nor shorter than eight (8) feet in length (centered along the entranceway) and containing a railing along all exterior edges of the landing and stairway. A stairway (not less than three feet in width) with exterior railings shall be erected at all other entrances to the manufactured home. All required stairways and landings/porches shall be constructed of pressure treated wood or brick materials, or some combination of both. Required railings may be constructed of pressure treated wood or metal materials.
- (g) *Sanitary Facilities*: Each manufactured home shall contain at least one shower or tub, a flush toilet, a lavatory, hot and cold running water, and a central source of heat for the occupants thereof.
- (h) *Landscaping*: All manufactured homes shall be landscaped in a manner consistent with other adjoining residential home sites in the area or neighborhood. At a minimum, ornamental shrubs shall be applied along the front yard foundation or skirting of each manufactured home.
- (i) *Orientation*: Each manufactured home shall be oriented on the lot so that it meets all setback and area requirements of the zoning district. Wherever possible, the unit shall be located with its long axis parallel with the street.
- (j) *Minimum Width*: Each manufactured home shall be at least 12 feet in width.
- (k) *Fuel Storage Facilities*: All fuel oil supply systems serving a manufactured home shall be constructed and installed within the foundation wall or underground in accordance with all applicable building and safety codes, except that any bottled gas tanks may be fenced or screened as not to be clearly visible from the street or abutting properties.
- (l) *Number allowed*: Not more than one (1) manufactured home shall be permitted on any individual lot that is not located within a manufactured home park.

(m) *Use Limitations*: No manufactured home may be used for any purpose other than as regulated for residential use herein except in a nonresidential zoning district as provided below:

1. As an office and storage for parts at a legally licensed manufactured home sales lot by the owner, real estate office, or sales office.
2. A temporary construction office or a temporary residence at a construction job site provided that such use shall cease when a certificate of occupancy is issued.
3. Campaign headquarters, to be removed immediately after election day.
4. Showing of exhibits or special products for a period not to exceed 14 days.
5. For special sales or promotions by civic or nonprofit organizations, to be removed on a specified date.
6. For temporary or seasonal uses in applicable zoning districts.

Sec. 5.13. – Manufactured Home Parks

All manufactured home parks shall comply with the following minimum standards:

- (a) *Park Site*: A manufactured home park site shall contain a minimum area of five (5) acres and have at least 100 feet frontage upon a public street. Approval of a Manufactured Home Park requires submission and approval of a Development Plan in accordance with Article 7.
- (b) *Allowable Manufactured Homes*: Only Class A Manufactured Homes, as specified in Section 5.12, are allowed in a Manufactured Home Park.
- (c) *Park Administration*: Manufactured home parks shall have a resident manager, or similar officer, who shall be the agent of the owner(s) with responsibility for the enforcement of park rules and regulations.
- (d) *Area and Dimensional Requirements for Manufactured Home Spaces*:
 1. Minimum Area: 4,000 square feet.
 2. Minimum Width: 40 feet.
 3. Minimum Yard Size: 25 feet from any park property boundary line; 15 feet from other lot line; no home shall be closer than 30 feet to any other home.
- (e) *Buffer / Screening Requirements*: A 15-foot minimum buffer around the perimeter of the manufactured home park shall be provided. An opaque fence eight (8) feet in height shall be erected and maintained along the side and rear boundaries of the manufactured home park.
- (f) *Off-Street Parking*: Each designated manufactured home space shall provide at least two (2) paved parking spaces. All off-street parking spaces shall have access to an interior roadway within the park. No direct access shall be allowed between manufactured home spaces and any exterior street.

- (g) *Park Streets*: Manufactured homes within a manufactured home park shall front upon an interior roadway having a minimum right-of-way of 50 feet, and a paved surface of at least 18 feet in width. This interior roadway shall be an all-weather surface of concrete or asphalt and built to City standards.
- (h) *Street Lighting*: Street lighting shall be provided throughout the park with lighting units so spaced and equipped with luminaries placed at such heights as will provide an average luminance of four (4) lumens per square meter reaching the ground surface, and the luminance ratio shall be set at a maximum of six (6) to one (1). Light shall be directed downward.
- (i) *Site Drainage*: A manufactured home park shall be located on a well-drained piece of property, and shall be graded to ensure adequate treatment of surface water runoff.
- (j) *Utilities / Public Services*:
 - 1. Sewer: A sanitary sewer collection system shall be extended to every manufactured home space. The connection from each shall be made under and/or within five (5) feet of the manufactured home, and shall be equipped with a seal.
 - 2. Water: Every manufactured home space shall be provided with an individual branch service line with a minimum diameter of $\frac{3}{4}$ inches, and delivering potable water. A cut-off shall be installed on each branch, as well as a back flow prevention device approved by a nationally recognized testing agency. All connections to the water distribution system shall be under, and/or within five (5) feet of the manufactured home. Each lot shall have a water meter; and the service line from the meter to the manufactured home shall be buried a minimum depth of 12 inches in the ground.
 - 3. Electrical: Every manufactured home space within the park shall be provided with individual electrical service. Each service shall be mounted on a treated wooden pole or a metal pedestal; and shall be equipped with a circuit breaker, or a switch and fuses, housed in a panel approved for exterior use. The power supply wiring from the service to the manufactured home shall be of a direct burial type, properly sized, and buried in the earth from the service to a connection point underneath the individual manufactured home. The supply cable shall be encased in metal or plastic pipe and buried to the depth required by City regulations. A primary service line shall not be located across the top of any manufactured home.
 - 4. Natural Gas: Any natural gas service provided to a manufactured home space shall be installed conforming to the rules and regulations of the Southeast Alabama Gas District (SEAGD) guidelines and City of Elba.
 - 5. Sanitation Disposal: Every manufactured home space within the park shall have two designated spaces for city refuse cans. Regular garbage and refuse pick-up service shall be provided by the City of Elba.
 - 6. Fire Protection: A fire hydrant must be within 1,000 feet of any manufactured home within the park.

(k) *Accessory Uses Allowed:*

1. Clubhouse, laundry, swimming pool, and other similar facilities for the common use of the residents of the park.
2. No more than one (1) caretaker dwelling unit of conventional construction, containing at least 600 square feet of floor space.
3. Storage areas for boats, recreational vehicles, and other types of vehicles that exceed 30 feet in length shall be fenced and landscaped. Storage of such vehicles shall not be allowed upon individual manufactured home spaces or on the internal roads of the park.

(l) *Permitted Interests:* Manufactured home parks shall not be platted or otherwise divided for fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, shall be privately owned, or owned in common by the residents of the park, and shall not occupy parcels of land which are deeded separately from the common facilities within the park.

(m) *Manufactured Home Spaces:* Manufactured home spaces shall be clearly staked or otherwise identified; and shall have a permanent marker giving a number and/or letter of a minimum height of three (3) inches so that they may easily be read from the interior roadway. All individual utility meters shall also be numbered for easy identification by service personnel.

(n) *Installation Requirements:* All manufactured homes shall be set up, installed, and anchored in conformance with the standards of the Alabama Manufactured Housing Commission. Each manufactured home site shall be properly prepared for set up and installation as may be necessary and appropriate to prevent the accumulation of standing water or the drainage of stormwater runoff beneath the manufactured home.

(o) *Skirting Requirements:* All manufactured homes shall be skirted with a weather-resistant material which resembles siding materials commonly found on a single-family dwelling. Exterior siding should not have a high-gloss finish and should be residential in appearance, including, but not limited to, clapboards such as conventional vinyl or metal siding, wood shingles, shakes, or similar material, but excluding smooth, ribbed, or corrugated metal or plastic panels. Concrete block or brick and mortar foundation walls, constructed in compliance with all applicable building code requirements, shall be the preferred method of skirting. The exterior siding material must extend to the ground, except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation. Where the space beneath a manufactured home that is to be enclosed by skirting is not completely covered by a concrete pad, then a ground vapor retarder of 6 mil rated polyethylene sheeting or greater shall be installed over the entire area enclosed by skirting. All skirting should be adequately vented.

(p) *Storm Shelter:* Storm shelters are recommended, but not required in a manufactured home park. If a manufactured home park installs storm shelters, the following guidelines shall be followed.

1. Every manufactured home park of ten (10) or more spaces shall be provided with above- or below-grades storm shelters, which shall:
 - i. Have a minimum floor area of seven (7) square feet for each manufactured home space in said manufactured home park.
 - ii. Be designed by a licensed structural engineer or architect and built in accordance with plans as approved by the Administrative Official.
 - iii. Be designed and constructed to meet all Federal Emergency Management Agency (FEMA) requirements.
 - iv. Be designed and constructed to meet all City codes, where applicable.
 - v. Be designed and constructed to meet all applicable requirements of the Americans with Disabilities Act (ADA).
 - vi. Be located no farther than 1,320 linear feet from the furthest manufactured home space in the park.
2. The manufactured home park owner shall be responsible for making the storm shelter accessible and usable in times of need. It is unlawful for any required storm shelter to be used for storage purposes if such storage reduces the minimum floor area available for shelter of persons below the requirements of this subsection.
3. For any addition of ten (10) or more manufactured home spaces, a storm shelter complying with this subsection shall be provided. For any addition of fewer than ten (10) manufactured home spaces to an existing manufactured home park, there is no requirement that an additional shelter be provided to serve such additional spaces. However, when two (2) or more such additions of fewer than ten (10) manufactured home spaces result in a cumulative addition of ten (10) or more manufactured home spaces, a storm shelter which complies with the requirements of this subsection shall be provided to serve such additional spaces.
4. Any manufactured home park of ten (10) or more manufactured home spaces, which has an existing above- or below-grade storm shelter as of the effective date of this Ordinance, which does not conform to the requirements of this subsection, shall be deemed a nonconforming manufactured home park with regard to these requirements and may continue to exist for so long as said existing shelter remains in place and usable; provided, however, any manufactured home spaces added to such community after such effective date shall require storm shelters as provided herein.

Sec. 5.14. – Recreational Vehicle (RV) Parks

All recreational vehicle (RV) parks shall comply with the following minimum standards:

- (a) *RV Park Site:* All RV park sites shall contain a minimum of ten (10) vehicle spaces. Approval of an RV park requires submission and approval of a Development Plan in accordance with Article 7.
- (b) *RV Park Spaces:* Each RV park individual vehicle space shall be at a minimum 30 feet in width and 70 feet in depth with a paved pad. Each vehicle space shall be no closer than 20 feet to any other vehicle space.

- (c) *RV Park Administration*: All RV parks shall have a resident manager, or similar officer, who shall be the agent of the owner(s) with responsibility for the enforcement of park rules and regulations.
- (d) *Length of Stay*: The placement of a recreational vehicle for occupancy longer than 14 days shall not be permitted.
- (e) *Restroom / Bathing Facilities*: All RV park sites shall provide on-site toilet and bathing facilities for the use of tenants of the RV park. These facilities shall consist of at least one (1) lavatory, one (1) water closet, and one (1) shower stall, one of each provided and distinctly marked for each gender for each ten (10) recreational vehicle spaces in the RV park. These facilities shall be connected to a water distribution and sanitary sewer collection system.
- (f) *Sanitation Disposal*: All RV parks shall provide an accessible watertight, rodent-proof container within 150 feet of any recreational vehicle space. Trash shall be removed a minimum of once per week.
- (g) *Water Supply*: All RV parks shall provide an accessible, adequate, potable water supply to each recreational vehicle space.
- (h) *Sewage Disposal*: Sewage disposal facilities at all RV parks shall be provided by one of the following methods:
 - 1. Each vehicle space is provided with an individual connection to the sanitary sewer collection system. In such cases, the system shall accommodate a sewage flow of at least 100 gallons per recreational vehicles space per day; or
 - 2. Sanitary stations at the rate of one (1) station per ten (10) recreational vehicle spaces to be contained in the park may be used in lieu of individual sewer connections. Where sanitary stations are used, they shall be centrally located among the recreational vehicle spaces they are to serve, and shall have an individual capacity to accommodate sewage flow of 750 gallons per day. Sanitary stations shall be well screened, equipped with a self-closing hatch and connected to an approved sewage disposal system. Sanitary stations shall not be located closer than 50 feet to any recreational vehicle space.
- (i) *Second Party Rental*: There shall be no recreational vehicles available for second party rental within any RV park.
- (j) *Camping*: Camping tents within any RV park are limited to recreational vehicle occupants within the individual vehicle site. Campfires are prohibited.
- (k) *Security Lighting*: A security light shall be provided for each ten (10) recreational vehicles spaces.

- (l) *Grilling Area:* There shall be no grilling within a recreational vehicle space. All RV parks shall provide permanent grilling sites for the use of tenants of the RV park.

Sec. 5.15. – Townhouse Complexes and Condominium Developments

All townhouse complexes and condominium developments shall comply with the following additional standards:

- a) *Development Site:* Townhouse complexes and condominium development sites shall contain a minimum area of one and one-half (1 ½) acres and have at least 100 feet frontage upon a public street. Approval of a townhouse complex or condominium developments requires submission and approval of a Development Plan in accordance with Article 7.
- b) *Covenants and Deed Restrictions:* A copy of all proposed covenants and deed restrictions shall accompany the Development Plan and must show all land held in undivided common interest.
- c) *Yard Requirements:* No side yards are required for interior walls of each unit; however, all other yards for individual buildings on the development site shall conform to the regulations of the applicable district.
- d) *Sanitation Disposal:* Each townhouse complex and condominium development shall provide adequate on-site containers for the collection of household garbage generated by residents. All garbage containers shall be placed and kept within three- or four-sided enclosures with walls at least four (4) feet high to provide proper screening.

Sec. 5.16. – Home Occupations

A home occupation is intended to be a business use conducted in a residential property, with operations occurring entirely within a dwelling and is clearly incidental and secondary to the use of the dwelling for residential purposes. The City recognizes the need to afford opportunities for residents to work from home and to establish regulations that will permit certain home occupations that are compatible with other uses permitted within the same zoning district.

All home occupations shall be classified as either “minor” or “major” home occupations. It shall be the applicant’s responsibility to clearly explain the scope of the business to the Administrative Official to ensure the proper regulations are administered.

5.16.1. Minor Home Occupations: Are home-based businesses that have no outward appearance of business activity. Examples of minor home occupations include (but are not limited to) the following: business office; internet based business; and mail order or phone order. No public hearing is required for minor home occupation applications, and the Administrative Official has authority to approve light home occupation applications. All dwellings containing a minor home occupation shall comply with the following standards:

- (a) The person conducting the home occupation shall be a full-time resident of the dwelling in which the home occupation is being conducted. There shall be no employment of help other than members of the resident family.
- (b) Any work conducted is confined to the principal dwelling and any business-related equipment or materials are kept inside the principal dwelling.
- (c) A maximum of twenty-five percent (25%) of the gross floor area of the dwelling, excluding attics, garages, and basements, shall be used for a home occupation.
- (d) There are no signs or advertisements on the property, including on the mailbox.
- (e) There are no customers at the home.
- (f) The business operator is responsible for observing any private covenants which may impact the home occupation.
- (g) Any other restriction as may be considered appropriate by the Administrative Official or the Board of Zoning Adjustment.
- (h) Violation of any of the aforementioned conditions could result in revocation of the approval.

5.16.2 Major Home Occupations: Are home-based businesses that exhibit any outward or visible signs of business activity, including (but not limited to) the following: small appliance repair; lawn care business; home maintenance business, etc. Major home occupations shall be considered special exceptions and shall be subject to board of zoning adjustment approval as outlined in Article 9. All dwellings containing a major home occupation shall comply with the following standards:

- (a) The person conducting the home occupation shall be a full-time resident of the dwelling in which the home occupation is being conducted. There shall be no employment of help other than members of the resident family.
- (b) Any work conducted shall be entirely within the principal dwelling or an accessory building. Storage of materials, productions, or machinery used for the home occupation should be shielded from view of the street and adjacent properties.
- (c) A maximum of twenty-five percent (25%) of the gross floor area of the dwelling, excluding attics, garages, and basements, shall be used for a home occupation.
- (d) One sign with a maximum size of two (2) square feet may be allowed on the property.
- (e) There shall be no noise, odors, or vibrations associated with the business.

- (f) Any customers or deliveries to the home shall be kept to a minimum and shall not restrict traffic circulation.
- (g) Not more than one (1) major home occupation shall be permitted at any one property.
- (h) The business operator is responsible for observing any private covenants which may impact the home occupation.
- (i) Any other restriction as may be considered appropriate by the Administrative Official or the Board of Zoning Adjustment.
- (j) Violation of any of the aforementioned conditions could result in revocation of the approval.

Article 6. Off-Street Parking and Loading Regulations

Sec. 6.1. – Purpose

The regulations contained in this article are intended to provide off-street parking and loading facilities to reduce street congestion and potential traffic hazards in land uses within the City.

Sec. 6.2. – Off-Street Parking and Loading Terms

The following terms, when used in this Article, shall have the meanings defined in this Section:

Employee: Parking spaces required for employees shall be based on the maximum number of employees on the premises at any one time.

Gross floor area (GFA): The sum of the areas of all floors within the outside edge of the outside walls of a building, excluding basements.

Loading, off-street: Land occupied, necessary, and maintained for loading and unloading of goods, materials, or things, for delivery and shipping in a manner that vehicles may provide for such services without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.

Maximum occupancy: The maximum number of persons, which may be accommodated by the use as determined by its design or by fire code standards.

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

Parking space: An accessible space reserved for the temporary storage of one vehicle. Not less than an area nine feet wide and 18 feet long shall be provided for each parking space, and all parking spaces required shall be provided with necessary lanes and maneuvering areas. Handicapped parking spaces shall have dimensions in accordance with the Americans with Disabilities Act requirements and/or any building code, as adopted.

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

Sec. 6.3. – General Regulations

- (a) Unless otherwise provided for, the requirements of this article shall apply to all parking and loading areas in all districts, with the exception of the B-3 Central Business District zone where on-street parking is permitted. In situations where the required number of parking spaces is not readily determinable by Table 6.1, the administrative official is authorized to determine the parking space requirements using the table as a guide.

- (b) All off-street parking and loading facilities shall be located entirely off of street rights-of-way.
- (c) The provision for and maintenance of off-street parking and loading facilities herein required shall be the joint responsibility of the operator and owner of the land, building, structure, or use on which is located the use for which off-street parking facilities are required.
- (d) Handicapped parking spaces shall be provided and designed in accordance with the applicable provisions of the Americans with Disabilities Act (ADA) and/or City Building Code.

Sec. 6.4. – Storage and Parking of Commercial Vehicles and Trailers in Residential Areas

The intent of this section is to regulate the use of commercial vehicles within residential zoning districts. Residential areas typically have streets designed for local access of passenger-type vehicles. Due to size and/or weight, commercial vehicles often have difficulty maneuvering or parking on residential streets without causing damage to the street surface or impeding sight distance.

Commercial vehicles and trailers of all types, including recreational vehicles, boats, and other camping or hauling vehicles, shall not be parked or stored on any lot, street, alley, or public right-of-way in any residential district, except in accordance with these requirements:

- (a) No solid waste collection vehicle, tractor truck or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, towing and recovery vehicle, or any heavy construction equipment, or any commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products shall be permitted to park in a residential district.
- (b) No recreational vehicle, hauling trailer, utility trailer, boat, boat trailer, or commercial vehicle shall be parked or stored in the front yard; or the side yard on corner lots that abuts a public right-of-way or upon the right-of-way.
- (c) Vehicles, including recreational vehicles, and travel trailers, shall not be used as temporary or permanent living quarters, with the following exceptions:
 - (1) Temporary placement within a recreational vehicle park, as authorized in Section 5.14 of this Ordinance.
 - (2) Temporary placement, due to extenuating circumstances beyond the occupant's control, such as a house fire or similar hardship. A permit shall be requested from the Administrative Official for a defined period of time, not to exceed one year.

Sec. 6.5. – Size and Location

- (a) Each off-street parking space shall be at a minimum nine (9) feet width by eighteen (18) feet length, exclusive of access or maneuvering area, ramps, and similar features.

- (b) In parking areas of twenty (20) or more parking spaces, up to twenty percent (20%) of the spaces may be reserved for compact cars. Such spaces shall be at a minimum eight (8) feet width by sixteen (16) feet length. These spaces shall be conspicuously marked for compact cars only.
- (c) Stacking spaces, for aisles intended to serve drive-in / take-out windows or similar types of activities, shall be at a minimum ten (10) feet in width and twenty (20) feet in length and be separate from parking aisles and spaces.
- (d) All required parking spaces shall be located on the same lot as the use served by the parking, except as provided below:
 - (1) If the number of required parking spaces cannot be feasibly provided on the same lot as the served use, remote parking may be permitted by Special Exception if within 400 feet of the parcel in use. Such Special Exception requires written legal documentation that the user of such remote space has the right to such space.
 - (2) Uses that meet the requirements of Shared Parking conditions, as described in Section 6.6.

Sec. 6.6. – Shared Parking

In meeting the requirements of this section, adjacent land uses, or sites, may share parking under the following conditions and standards, subject to approval by the Planning and Zoning Board:

- (a) With an approved Shared Parking Agreement, required parking may be reduced 15% from the cumulative amount of the uses sharing the parking on the lot.
- (b) If individual landowners agree to share parking, a written agreement between the various property owners providing for cross-access easements and stipulating that only those buildings, structures, or units shown on the development plan may share parking.
- (c) In the case of a single owner, an overall shared parking plan for the properties or development sites may be submitted with the application for development plan approval. Only those buildings, structures, or units shown on the development plan may participate in the shared parking agreement.
- (d) Should there be a change in the number of structure or units within any individual development or location, which is bound by a shared parking agreement or plan, the shared parking agreement shall be subject to the review and approval of the administrative official, or at their discretion, the review and approval of the Planning and Zoning Board.
- (e) The shared parking agreement shall be executed and recorded in the Coffee County recording office and be binding on subsequent purchasers or inheritors and a copy provided to the administrative official.

Sec. 6.7. – Construction and Maintenance

Off-street parking facilities shall be constructed, maintained, and operated in accordance with the following specifications:

- (a) Parking spaces, with the exception of single-family and duplex dwelling units, shall be delineated by striping or similar techniques, indicating their location and maintained in good condition.
- (b) All parking spaces, including driveways and maneuvering areas, shall be surfaced with dust-free materials.
- (c) Drainage in parking areas shall direct storm water toward adequate drainage channels. Parking areas of twenty (20) or more spaces may be required to provide on-site storm water detention to mitigate the sudden discharge of high volumes of storm water into the public drainage system. Drainage plans shall be subject to approval by the Planning and Zoning Board.
- (d) Boundary or perimeter areas shall be provided with wheel guards or bumper guards, so located that no part of a parked vehicle will extend beyond the property line of the parking area.
- (e) Lighting facilities shall be arranged so that they do not unreasonably disturb occupants of the site or of adjacent residential properties or interfere with traffic.
- (f) Parking areas shall be provided with entrances and exits so located as to minimize traffic congestion and backing onto a public street, as well as adequately providing access for sanitation, emergency, and other public service vehicles.
- (g) To the maximum extent feasible, site plans for proposed developments shall separate movement of pedestrians from movement of vehicles and bicycles, and protect bicyclists from conflicts with vehicles.

Sec. 6.8. – Calculating Parking Requirements

The minimum number of parking spaces required is based on the type of use. To determine the minimum number of parking spaces required, locate the applicable standard based on the uses in Table 6.1 below.

- (a) Unless a specific use is listed, the required number of parking spaces shall be the sum of the combination of uses on the lot.
- (b) If the calculation of required spaces results in a fraction of a parking space, the number shall be rounded up to the nearest whole number.

TABLE 6.1 – MINIMUM PARKING SPACES REQUIRED			
Use	Spaces Required per sq. ft. (sf) GFA	Stacking Space	Other Standards
Animal Hospital / Veterinarian	1 per 300 sf GFA		
Assisted Living Facility	1 per 4 beds		1 per employee
Automobile Convenience Station (w/ Gas Sales)	1 per 200 sf GFA	3 per car wash lane	Pump spaces shall not be included.
Automobile Repair / Service	1 per 400 sf office / seating area	1 per service bay	
Automobile Sales / Leasing	1 per 200 sf interior sales area plus 1 per 4,000 sf outdoor display area	1 per service bay	
Automobile Wash (Automated)		3 per lane	1 per employee
Automobile Wash (Self-Service)	1 per stall		
Bank / Financial Institution (w/o Drive-In)	1 per 250 sf GFA		1 per employee
Bank / Financial Institution (w/ Drive-In)	1 per 350 sf GFA	4 per teller lane	1 per employee
Bar / Tavern / Lounge	1 per 100 sf GFA		1 per employee
Barber / Beauty Shop / Nail Salon	2 spaces per chair		
Bed and Breakfast	1 per room plus 1 space		
Club / Lodge	1 per 100 sf GFA, excluding storage area		
Commercial Amusement, Inside (e.g. Theater)	1 per 4 seats maximum occupancy		
Day Care Center		1 per 10 children maximum occupancy	1 per employee
General Retail / Shopping Center (not specified): Under 100,000 sf 100,000 + sf	1 per 200 sf GFA 1 per 250 sf GFA		
Golf Course	5 per hole		
Group Home	1 per 4 beds		1 per employee
Hospital	1 per 1.5 beds		1 per employee at largest shift
Hotel / Motel	1 per room plus 1 per employee		Parking for accessory uses in accordance with applicable standard.

TABLE 6.1 – MINIMUM PARKING SPACES REQUIRED (Continued)			
Use	Spaces Required per sq. ft. (sf) GFA	Stacking Space	Other Standards
Indoor Assembly / Religious Facility	1 per 3 occupants		Occupancy load set by Fire Marshal
Industrial / Manufacturing	1 per employee, not less than 1 per 100 sf GFA		1 per company vehicle stored on site.
Medical Clinic	1 per 200 sf GFA		
Nursing Home	1 per 4 beds		1 per employee
Office Use	1 per 250 sf GFA		
Produce / Fruit Market	1 per 500 sf display area		1 per employee
Recreation, Indoor Bowling Alley Other	3.5 per bowling lane 1 per 300 sf GFA		
Recreation, Outdoor Golf Course Golf Driving Range Miniature Golf Other	5 per hole 1 per tee 1 per tee 1 per 3 persons maximum occupancy		
Residential, Accessory Unit Dwelling	1 per dwelling unit		
Residential, Manufactured Home	2 per dwelling unit		
Residential, Multi-Family Dwelling	2 per dwelling unit plus 1 per employee		
Residential, Single-Family Dwelling	2 per dwelling unit		
Restaurant, Fast-Food / Take Out	1 per 100 sf GFA	5 per lane	1 per employee
Restaurant, Full-Service	1 per 3 persons maximum occupancy		1 per employee
School, Business / College	1 per 5 students plus 2 per 3 employees		
School, Elementary / Middle	1 per classroom plus 1 per 3 seats in main assembly space		
School, High	1 per 8 students maximum occupancy plus 1 per 3 seats in main assembly space		
Storage, Self-Service	1 per 200 sf GFA in office		24 ft minimum building separation
Warehouse / Wholesaling	1 per employee, not less than 1 per 200 sf GFA		1 per company vehicle stored on site.

NOTE: GFA is Gross Floor Area.

Sec. 6.9. – Off-Street Loading Requirements

All nonresidential structures and uses shall provide and maintain adequate off-street space for the loading and unloading of materials or goods, and for delivery and shipping, so that such operations can be accomplished without encroaching upon or otherwise interfering with the use of public streets, alleys, and sidewalks by pedestrians and vehicles.

- (a) Each retail use, storage warehouse, wholesale establishment, manufacturing facility, freight terminal, market, restaurant, funeral home, laundry or dry cleaning plant, or similar use shall provide off-street loading space as follows:
 - (1) Less than 8,000 square feet of gross floor area: no off-street loading space required unless the Planning and Zoning Board determines that the specific use requires such space.
 - (2) 8,000 but less than 20,000 square feet of gross floor area: one (1) off-street loading space is required.
 - (3) 20,000 but less than 60,000 square feet of gross floor area: two (2) off-street spaces are required.
 - (4) Over 60,000 square feet of gross floor area: two (2) off-street spaces are required, plus one (1) additional space for every 50,000 square feet of gross floor area or fraction thereof over 60,000 square feet.
- (b) For each public assembly facility, hotel, office building, stadium, hospital, or similar use, shall provide off-street loading space as follows:
 - (1) Less than 10,000 square feet of floor space: no off-street loading space is required unless the Planning and Zoning Board determines that the specific use requires such space.
 - (2) 10,000 but less than 40,000 square feet of gross floor space: one (1) off-street loading space is required.
 - (3) Over 40,000 square feet of floor space: one (1) off-street loading space plus one (1) additional space for every 50,000 square feet or fraction thereof over 40,000 square feet.
- (c) Each loading space shall be at a minimum twelve (12) feet width by sixty-five (65) feet length, exclusive of access or maneuvering area, ramps, and similar features. Each space shall allow vertical clearance of fourteen (14) feet.
- (d) No loading space shall be used to meet off-street parking requirements, interfere with the on-site circulation of traffic, nor allow a truck to extend into any right-of-way or over any property line.
- (e) No loading space shall be located within the front yard or within five (5) feet of any property line.

- (f) Joint or combined off-street loading space for two (2) or more buildings on the same lot can be provided as long as the amount of such combined off-street space is equal in size and capacity to the combined requirements of the several buildings to be served.
- (g) Plans for buildings or uses requiring off-street loading facilities as stipulated above shall clearly indicate the location, dimensions, clearances and access of such required off-street loading facilities.

Sec. 6.10. – Change in Parking and Loading Requirements

Whenever there is an alteration of a structure, an expansion in use, or a change in use that requires off-street parking and loading facilities, the site shall conform to the off-street parking and loading standards of this Article.

Article 7. Administration and Enforcement

Sec. 7.1. – Purpose

The regulations contained in this article specify the process of administration and enforcement of the City of Elba's Zoning Regulations and identifies remedies when enforcement action becomes necessary. This article also specifies an applicant's responsibility for obtaining required building permits, development plan approval, and the process for requesting a conditional use permit. Regulations in this article are not intended to modify regulations established in the City of Elba, Code of Ordinances, Chapter 14, Buildings and Building Regulations, or any other regulations established in this Ordinance.

Sec. 7.2. – Enforcing Officer

Regulations in this Ordinance shall be administered and enforced by the Administrative Official or his/her duly authorized agent. The Administrative Official shall have the right to enter upon any premises at any reasonable time prior to the issuance of a Certificate of Occupancy for the purpose of making inspections of buildings or premises necessary in carrying out their duties in the enforcement of this Ordinance.

Sec. 7.3. – Building Permit Required

- 7.3.1. The Administrative Official shall not issue a building permit for any proposed construction or development activity until an application and accompanying site plans or documentation has been filed and reviewed in conformance with this Ordinance.
- 7.3.2. A building permit shall be required for the following improvements:
- (a) All new construction.
 - (b) Addition to any existing structure (e.g. new rooms, garages, etc.).
 - (c) Accessory uses over 120 square feet in area, including detached sheds and swimming pools.
 - (d) Major interior alterations (does not include interior painting, replacing floor coverings, cabinet replacement, etc.).
- 7.3.3. It shall be unlawful to commence excavation for the construction of any improvements listed in Section 7.3.2., installation of any manufactured home, storage of building materials, or erection of temporary field offices until the Administrative Official has issued a permit for such work.

Sec. 7.4. – Application and Plan Requirements for Building Permit

- 7.4.1. Application for a building permit and submittal of the required fee shall be submitted to the Administrative Official on a form provided for that purpose and supplemented with site plans, specifications, and intended use of such building or other structure to demonstrate conformance to this Ordinance.
- 7.4.2. It shall be unlawful for the Administrative Official to approve any site plans or issue any building permit for excavation or construction until the Administrative Official has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Administrative Official may require an application for a building permit be accompanied by site plans showing the following in detail sufficient to enable the Administrative Official to ascertain whether or not the proposed development is in conformance with this Ordinance:
- (a) The actual shape, proportion and dimensions of the lot to be built upon.
 - (b) The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any buildings or other structures already on the lot, both above and below grade.
 - (c) The existing and intended use of all such buildings or other buildings or other structures.
 - (d) Information such as the location of property lines and locations of existing buildings on adjoining lots may be essential for determining conformance with this Ordinance. Other information may be requested by the Administrative Official.
- 7.4.3. The Administrative Official shall review the permit application for general completeness and compliance with this Ordinance. After concluding that zoning regulations have been satisfied, the Administrative Official shall authorize the release of the respective permit. If zoning regulations have not been satisfied, the Administrative Official shall state in writing, on the application, the cause of any disapproval. Issuance of a building permit shall, in no case, be construed as waiving any provision of this Ordinance.
- 7.4.4. Prior to the occupancy or use of any land, building, or other structure or part thereof, a final inspection shall be required. The purpose of the final inspection is to ensure that any land, building, or other structure or part thereof is found to be in conformity with this Ordinance. It shall be the duty of the owner or authorized agent to contact the Administrative Official to schedule a final inspection. The Administrative Official shall facilitate a final inspection thereof, and issue a certificate of occupancy if the building, other structure, or part thereof is found to conform with the provisions of this Ordinance, or, if such certificate is refused, state such refusal in writing with the cause.
- 7.4.5. The Administrative Official shall issue the certificate of occupancy after the project passes the final inspection. The issuance or rejection of the certificate of occupancy shall

occur no later than three (3) business days following the final inspection. The Board of Adjustment shall hear appeals from the decision of the Administrative Official.

- 7.4.6. Any permit under which no construction work has been done above the foundation wall or other foundation support within six (6) months from the date of issuance shall expire by limitation, but shall upon reapplication, be renewable. Renewing of the building permit shall be subject to the provisions of any ordinances in force at the time of permit renewal. Under no circumstance shall any permit be renewed more than one time. This means that a permit with one renewal is only good for one year in Elba.
- 7.4.7. Any permit under which construction work has not been fully completed within 12 months from the date of issuance shall expire by limitation, but shall upon reapplication, be renewable. Renewing of the building permit shall be subject to the provisions of any ordinances in force at the time of permit renewal. In no event shall any permit be renewed more than one time.

Sec. 7.5. – Development Plan Requirement

Prior to issuance of a building permit, a development plan must be approved by the Elba Planning and Zoning Board for any of the following land uses:

- a) Parcel of land proposed for non-residential use.
- b) Parcel of land proposed for multi-family dwellings (e.g. apartments).
- c) Parcel of land containing a non-residential use or multi-family dwellings that is proposed to be expanded by fifty (50) percent or more of lot area or building floor area.
- d) Parcel of land, which is to be developed utilizing a planned unit development (PUD) district zoning classification.
- e) Parcel of land where, due to the unique characteristics of the land, surrounding uses, proposed use, or other features of the development, the Administrative Official determines it to be in the interest of the public health, safety, or welfare that such project be subject to the development plan review process.

Sec. 7.6. – Development Plan Review

Developments subject to development plan review shall submit the following information:

- a) The outer boundary or perimeter of the total development site, including a valid legal description.
- b) A topographic map showing contours at two-foot intervals.

- c) An identification of the characteristics of existing land uses and development for land adjoining the project site.
- d) The rights-of-way, pavement, and typical cross-sections of all streets within the development, and access to the public street system.
- e) The type, number, and location of all structures.
- f) The location, extent, and approximate acreage of all resource protection, recreation, and open space lands and other common areas.
- g) The location and nature of all common amenities, such as clubhouses, swimming pools, laundries, etc.
- h) Location of all utilities and surface water drainage facilities.

The plan submittals shall be drawn to scale by an engineer or architect registered in the State of Alabama.

Sec. 7.7. – Approval and Certification of Development Plan

7.7.1. The Planning and Zoning Board shall hold a public hearing, notice of which shall be given, for the consideration of any proposed development plans.

- (a) The Administrative Official shall give public notice for hearings by the Planning and Zoning Board and submit the required notice to a newspaper of general circulation within the City; such notice shall be given at least seven (7) days in advance of the time set for the hearing. The required notice shall be accomplished by publishing the meeting agenda. Costs of said notice are included in the initial application fee.
- (b) A public notice sign must be erected and maintained at the applicant's expense not less than fifteen (15) calendar days prior to the date of the public hearing. The public notice sign must be placed on all street frontages for proper notification of adjacent property owners. The applicant will be responsible for making sure the sign is erected and conforms to specifications established by the Planning and Zoning Board. Any tabled items from the agenda until the next month will need to have the sign changed to note the new date.
- (c) Written notice shall be mailed by the Administrative Official to adjacent property owners. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the name of the applicant, the location of the property, current and proposed zoning of the property, and the time, date, and location of the hearing.

7.7.2. A development plan approved or approved conditionally by the Planning and Zoning Board shall be the official development plan. All certified development plans are valid for twelve (12) months, but may be extended with Planning and Zoning Board approval.

7.7.3. Once approved, a development plan will become a binding condition upon the development of the site. If any development substantially deviates from the approved development plan, a new development plan shall be submitted for review and approval. Any of the following shall constitute a substantial deviation:

- (a) An increase or reduction in the land area of the project site of more than five (5) percent.
- (b) A change in the total number, or in the type, of dwelling units approved of more than five (5) percent.
- (c) A reduction of five (5) percent or more of the approved percentage of resource protection, recreation, or open space land.
- (d) Any significant addition, removal, or rearrangement of land uses or streets.

Sec. 7.8. – Conditional Use Procedures

7.8.1. Conditional uses are those that have some special effect, which differs from the potential impacts of permitted uses or exceeds them in intensity, or have uniqueness such that their effect upon the surrounding environment cannot be determined in advance of a use being proposed in a particular location. As such, conditional uses must be reviewed in terms of existing zoning and land use in the vicinity of the proposed use, and whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, welfare, and safety in general.

7.8.2. All conditional uses listed in Table 4.1 must be requested as follows:

- (a) An applicant shall complete appropriate forms provided by the Administrative Official, along with documentation required to ensure compliance with the review criteria below.
- (b) Applications shall be filed at least thirty (30) days before the scheduled hearing date before the Planning and Zoning Board.

7.8.3. For purposes of providing information concerning applications for conditional use requests, the Administrative Official shall also cause the following notice to be given:

- (a) The Administrative Official shall give public notice of hearing upon each application by publication in a newspaper of general circulation within the City; such notice shall be given at least seven (7) days in advance of the time set for the hearing. Such notice shall state the location and address of the property and the general nature of the question involved. The foregoing shall constitute legal notice in all respects as

provided by law. Provision of further notice by the Board shall be informative but not jurisdictional.

- (b) Written notices shall be mailed by the Administrative Official to adjacent property owners. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the name of the applicant, the location of the property, the proposed use, and the time, date, and location of the hearing.

7.8.4. The Planning and Zoning Board shall review the conditional use application for compliance with this Ordinance and all other applicable City codes and ordinances, and for compatibility with the purposes of the proposed zoning district. In particular, the Planning and Zoning Board shall determine that satisfactory provisions have been made concerning the following, among other considerations of this Ordinance:

- (a) Access to and from the property and the proposed structure and/or uses, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.
- (b) The location and accessibility of off-street parking and loading areas.
- (c) The location and accessibility of refuse and service areas and their potentially adverse affects upon surrounding properties.
- (d) The screening and buffering of potentially adverse views and activities from surrounding properties.
- (e) Control of noise, glare, odor, surface water runoff, and other potentially disturbing impacts upon surrounding properties.
- (f) The availability, location, and capacity of utilities.
- (g) The location and scale of signs and lighting with particular reference to traffic safety, glare, and visual compatibility with surrounding properties.
- (h) The bulk, density, and lot coverage of structures, yards, and open areas, with reference to their compatibility with the character of the surrounding areas.

The Planning and Zoning Board may impose such conditions for approval that it deems necessary in the particular case to protect the public interest and the intent of 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 conditional use is granted and not to a particular person. Violations of conditions lawfully attached to any conditional use shall be deemed to be violations of this Ordinance.

- 7.8.5. The Planning and Zoning Board, by majority vote, shall recommend approval, approval with conditions, or denial of the application for conditional use to the City Council. The Planning and Zoning Board shall submit its recommendations to the City Council within thirty (30) days of the public hearing on the conditional use application, unless the City Council grants an extension of such period. The failure of the Planning and Zoning Board to act within this time period shall constitute a recommendation to the Council that the application be approved.

Article 8. Amendment and Rezoning Procedure

Sec. 8.1. – Purpose

The regulations contained in this article are to identify and clarify the processes associated with making application for amendments to this Ordinance, including changes to the official zoning map.

Sec. 8.2. – Zoning Amendment

A proposed change of district boundaries or regulations of this Ordinance may be initiated by the City Council, the Planning and Zoning Board, or by request of property owners or their agent, within the area proposed to be changed. Following submission and review by the Planning and Zoning Board, the regulations and the number, area, and boundaries of districts established by this Ordinance may be amended, supplemented, changed, modified, or repealed by the City Council. No amendment shall become effective unless it is first submitted to the Planning and Zoning Board for its recommendation.

Sec. 8.3. – Zoning Amendment Petition

Any person desiring a change in zoning classification or other provisions of this Ordinance must petition the City of Elba according to the following procedure:

- 8.3.1. A zoning amendment application shall be submitted to the Administrative Official on a form, provided by the City, at least thirty (30) days prior to a scheduled meeting of the Planning and Zoning Board. The application shall be signed by the property owner or accompanied by an affidavit that the applicant is authorized to act on the owner's behalf.
- 8.3.2. A zoning amendment application shall be accompanied by the following attachments:
 - (a) A map of the property proposed to be rezoned. The map shall contain information, including a legal description, property as presently zoned, and proposed zoning. The written legal description may be submitted on a separate sheet and labeled as an attachment to the map.
 - (b) A vicinity map identifying the exact location of the property to be rezoned, illustrating a one-half (½) mile radius from the site, drawn on the rezoning map, or submitted as a separate attachment.

Sec. 8.4. – Planning and Zoning Board Action

- 8.4.1. Any proposed amendment, modification, or repeal shall first be submitted to the Planning and Zoning Board for its recommendation and report.

8.4.2. The Planning and Zoning Board shall hold a public hearing, notice of which shall be given, for the consideration of any proposed amendment to this Ordinance or the zoning map and report its recommendation to the City Council.

- (a) The Administrative Official shall give public notice for hearings by the Planning and Zoning Board and submit the required notice to a newspaper of general circulation within the City; such notice shall be given at least seven (7) days in advance of the time set for the hearing. The required notice shall be accomplished by publishing the meeting agenda. Costs of said notice are included in the initial application fee.
- (b) A public notice sign must be erected and maintained at the applicant's expense not less than fifteen (15) calendar days prior to the date of the public hearing. The public notice sign must be placed on all street frontages for proper notification of adjacent property owners. The applicant will be responsible for making sure the sign is erected and conforms to specifications established by the Planning and Zoning Board. Any tabled items from the agenda until the next month will need to have the sign changed to note the new date.
- (c) Written notice shall be mailed by the Administrative Official to adjacent property owners. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the name of the applicant, the location of the property, current and proposed zoning of the property, and the time, date, and location of the hearing.

8.4.3. The Planning and Zoning Board, by majority vote, shall recommend approval or denial of the requested zoning amendment to the City Council. The Planning and Zoning Board shall submit its recommendations to the City Council within thirty (30) days of the hearing, unless the City Council grants an extension of such period. If the Planning and Zoning Board fails to submit a report within the thirty (30) day period, it shall be deemed to have recommended the proposed amendment and the City Council shall proceed to hold a public hearing, in accord with State law. Any party or parties wishing to speak for or against an amendment shall appear and speak at the public hearing.

Sec. 8.5. – City Council Action

8.5.1. Upon receipt of the recommendation of the Planning and Zoning Board, the City Council shall hold a public hearing on the proposed amendment at the next regularly scheduled City Council meeting.

8.5.2. The City Council shall hold a public hearing, notice of which shall be given, for the consideration of any proposed amendment to this Ordinance or the zoning map. Notice of the proposed rezoning shall be published as required by law. Required notice shall include a written legal description and map of the property to be rezoned. The applicant will pay the cost of publication as determined by the newspaper to the City Clerk. Further processing shall be withheld until the cost of publication is paid. Upon passage of the City Council, the approved ordinance will be advertised one additional instance.

The cost of advertising will be the responsibility of the applicant as determined by the City Clerk's office.

Sec. 8.6. - Zoning of Annexed Land

The zoning of any property annexed into the corporate limits of the City of Elba shall be reviewed by the Planning and Zoning Board and a recommendation made to the City Council. Once approved by the City Council, the annexed property will be subject to all zoning regulations therein. Any subsequent rezoning of such property shall follow the procedures for zoning amendment specified in this Article.

Sec. 8.7. – Limitations on Application for Ordinance Amendment

No action shall be initiated for an amendment to this Ordinance affecting the same parcel of land more than once a year, unless specifically authorized by the City Council on the grounds that the circumstances and conditions relevant to the amendment request have changed significantly since the prior hearing.

Article 9. Board of Zoning Adjustment

Sec. 9.1. – Purpose

The purpose of this article is to identify the duties, responsibilities, powers and proceedings of the Board of Zoning Adjustment (hereinafter called the “Board”) as authorized under Sections 11-52-80 and 11-52-81 of the Code of Alabama, 1975, as amended. This article is also intended to identify and clarify the processes associated with making application to the Board of Zoning Adjustment.

Sec. 9.2. – Membership

The Board shall consist of five (5) members to be appointed by the City Council. Each member is to be appointed for a term of three (3) years, except that in the first instance, one (1) member shall be appointed for a term of three (3) years, two (2) members for a term of two (2) years, and two (2) members for a term of one (1) year. Thereafter, each member appointed shall serve for a term of three (3) years or until a successor is duly appointed. In addition to the five (5) regular members of the Board, two (2) supernumerary members shall be appointed to serve on the Board at the call of the Board Chair only in the absence of regular members, and while serving shall have and exercise the power and authority of regular members. Such supernumerary members shall be appointed to serve for three (3) year terms and shall be eligible for reappointment. Members of the Board may be removed from office by the City Council for cause upon written charges and after a public hearing. Vacancies shall be filled by the City Council for the remaining term of any member whose term becomes vacant. All members of the Board, including supernumerary members, shall be residents of the City.

Sec. 9.3. – Procedures

- 9.3.1. The Board shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Board Chair and at such times and places as the Board may determine. The Board Chair, or in their absence the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- 9.3.2. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact; and shall keep records of its examinations and of other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Sec. 9.4. – Powers and Duties

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

- 9.4.1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a City official, acting under the authority of this Ordinance.
- 9.4.2. To authorize upon appeal in specific cases such variance from the provisions of this Ordinance that is not contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done.
- 9.4.3. To hear and decide special exceptions to the terms upon which the Board is required to act on by the provisions of this Ordinance.

Sec. 9.5. – Fees

A schedule of application fees for consideration of all variances, special exceptions, and appeals for review before the Board required under this Ordinance shall be established by separate resolution or Ordinance. Such fees shall be computed so as to recover all costs incurred by the City in reviewing and processing Board requests, including advertising fees, and shall be adopted and revised as necessary by the City Council.

Sec. 9.6. – Administrative Appeals

- 9.6.1. Appeals to the Board may be taken by any person aggrieved or affected by any provision of the Ordinance or by any decision of the Administrative Official. The Administrative Official shall present all of the papers constituting the record upon which the action appealed was taken to the Board.
- 9.6.2. An appeal shall stay all proceedings in furtherance of the action related to the decision which is being appealed, unless the Administrative Official certifies to the Board that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record.
- 9.6.3. Administrative appeals to the Board must be presented as follows:
 - (a) No application is required to appeal a decision of the Administrative Official, but the appellant shall provide a letter to the Board, describing the decision from which the appeal is sought and the specific details of appellant's request.
 - (b) Appeals to the Administrative Official's decision shall be submitted within thirty (30) calendar days of decision.
- 9.6.4. For purposes of providing information concerning such applications, the Board shall also cause the following notice to be given:

- (a) The Board shall give public notice of hearing upon each appeal by publication in a newspaper of general circulation within the City; such notice shall be given at least seven (7) days in advance of the time set for the hearing. Such notice shall state the location and address of the property and the general nature of the question involved. The foregoing shall constitute legal notice in all respects as provided by law. Provision of further notice by the board shall be informative but not jurisdictional.
 - (b) Written notices shall be mailed by the Administrative Official to adjacent property owners. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the name of the applicant, the location of the property, the nature of the variance requested, and the time, date, and location of the hearing.
- 9.6.5 The Board shall hold a public hearing on the appeal request and, at the close of the public hearing, act on the appeal based on the review criteria established in this Article.
- (a) The Board shall grant to the Administrative Official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
 - (b) In exercising the appeal power, the Board shall have all the powers of the official from whom the appeal is taken, and the Board may reverse or affirm wholly or partly or may modify the decision being appealed.
 - (c) If the board of adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the Administrative Official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision light of such evidence.
 - (d) An appeal shall be sustained only if the Board finds that the Administrative Official erred factually in the decision.
 - (e) Every decision of the Board shall be accompanied by written findings of fact specifying the reason for the decision. These findings shall be filed in the office of the Board within ten (10) days after the final action.

Sec. 9.7. – Variances

- 9.7.1. The Board may authorize upon appeal in specific cases such variances from the terms of this Ordinance where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.
- 9.7.2. Variance appeals to the Board must be requested as follows:
- (a) An applicant shall complete appropriate forms provided by the Administrative Official, along with documentation required to ensure compliance with the review criteria below.

- (b) Applications shall be filed at least thirty (30) days before the scheduled hearing date before the Board.
- 9.7.3. For purposes of providing information concerning applications for variance requests, the Board shall also cause the following notice to be given:
- (a) The Board shall give public notice of hearing upon each application by publication in a newspaper of general circulation within the City; such notice shall be given at least seven (7) days in advance of the time set for the hearing. Such notice shall state the location and address of the property and the general nature of the question involved. The foregoing shall constitute legal notice in all respects as provided by law. Provision of further notice by the Board shall be informative but not jurisdictional.
 - (b) Written notices shall be mailed by the Administrative Official to adjacent property owners. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the name of the applicant, the location of the property, the nature of the variance requested, and the time, date, and location of the hearing.
- 9.7.4. The Board shall hold a public hearing on the variance request, and, at the close of the public hearing act to approve, approve with conditions, continue, table, or deny the application based on the review criteria established in this Article.
- 9.7.5. A variance may be granted by the Board upon an affirmative finding that all of the following conditions exist:
- (a) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district, and that are not a result of the owner's intentional action.
 - (b) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
 - (c) The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) or practical difficulty because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards.
 - (d) The variance is the minimum action necessary to alleviate the hardship or practical difficulty and observes the spirit of this chapter.
 - (e) The variance desired will not adversely affect the public health, safety, or general welfare or impair the purposes or intent of this Ordinance.

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

- 9.7.6. The Board may not grant use variances, which are variances that have the effect of allowing a use within a specific zoning district that is not allowed by this Ordinance. The appropriate procedure for requesting any land use not allowed within a zoning district is rezoning.

Sec. 9.8. – Special Exceptions

- 9.8.1. The Board may hear and decide special exceptions to the terms of this Ordinance, upon which such Board is required to make judgment under this Ordinance.
- 9.8.2. Special exception appeals to the Board must be requested as follows:
- (a) An applicant shall complete appropriate forms provided by the Administrative Official, along with documentation required to ensure compliance with the review criteria below.
 - (b) Applications shall be filed at least thirty (30) days before the scheduled hearing date before the Board.
- 9.8.3. For purposes of providing information concerning applications for special exception requests, the Board shall also cause the following notice to be given:
- (a) The Board shall give public notice of hearing upon each application by publication in a newspaper of general circulation within the City; such notice shall be given at least seven (7) days in advance of the time set for the hearing. Such notice shall state the location and address of the property and the general nature of the question involved. The foregoing shall constitute legal notice in all respects as provided by law. Provision of further notice by the Board shall be informative but not jurisdictional.
 - (b) Written notices shall be mailed by the Administrative Official to adjacent property owners. Written notice shall be given at least ten (10) days in advance of the hearing and shall contain the name of the applicant, the location of the property, the proposed use, and the time, date, and location of the hearing.
- 9.8.4. The Board shall review the special exception application for compliance with this Ordinance and all other applicable City codes and ordinances. In particular, the Board shall determine that satisfactory provisions have been made concerning the following, among other considerations of this Ordinance:
- (a) Access to and from the property and the proposed structure and/or uses, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.
 - (b) The location and accessibility of off-street parking and loading areas.

- (c) The location and accessibility of refuse and service areas and their potentially adverse affects upon surrounding properties.
- (d) The screening and buffering of potentially adverse views and activities from surrounding properties.
- (e) Control of noise, glare, odor, surface water runoff, and other potentially disturbing impacts upon surrounding properties.
- (f) The availability, location, and capacity of utilities.
- (g) The location and scale of signs and lighting with particular reference to traffic safety, glare, and visual compatibility with surrounding properties.
- (h) The bulk, density, and lot coverage of structures, yards, and open areas, with reference to their compatibility with the character of the surrounding areas.

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 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.

Sec. 9.9. – Action by Board of Zoning Adjustment

In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as out to be made, and to that end shall have the powers of the enforcing officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the matter upon which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance.

Sec. 9.10. – Additional Hearings

All decisions rendered by the Board shall be final and binding upon all parties. No appeal of an administrative decision or decision on an application for a variance of 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:

- 9.10.1. New evidence or information pertinent to the request has been discovered that was not available to the applicant at the time of the original hearing.

9.10.2. The decision resulted from an error in procedure required by this Ordinance or State law and made by the Board, the Administrative Official, or any other City officials.

Sec. 9.11. – Appeal from Board of Zoning Adjustment Decision

Any party aggrieved by any final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from to the circuit court, by filing with such board a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the action to be certified to the court to which the appeal is taken, and the action in such court shall be tried *de novo*.