

**ZONING  
ORDINANCE**

**August 12, 1985**

**City of Montgomery**

**Alabama**



**ZONING ORDINANCE**  
**CITY OF MONTGOMERY, ALABAMA**

**Emory Folmar, Mayor**

**Prepared Under the Supervision of**

**THE CITY PLANNING COMMISSION**

**Mr. Tommy Tyson, Jr., Chairman**

Mr. Ferrell Prescott, Vice Chairman

Mr. Hollis B. Boston

Mr. Alan Martin

Mr. Ken Longcrier

Mr. William Y. Lamar, Sr.

Mr. Theron Stokes

Adopted by the Board of City Commissioners  
September, 17, 1963, effective September 21, 1963, and;  
Amended through February 20, 1973,  
Effective March 3, 1973, and;  
Revised by the City Council June 1, 1977, and;  
Amended by the City Council September 27, 1983,  
Effective October 4, 1983, and;  
Amended by the City Council August 6, 1985,  
Effective August 12, 1985

**PLANNING CONTROLS DIVISION**

H. Calvin Lott, Director

## **CERTIFICATION**

I, John L. Baker, City Clerk of the City of Montgomery, Alabama, do hereby certify that the foregoing Ordinance No. 31-78, Zoning Ordinance, was duly and legally amended by the adoption of Ordinance No. 69-83 by the City Council of the City of Montgomery, Alabama, at a regular meeting of said City Council, held in the City of Montgomery, Alabama, on September 27, 1983, and further legally amended by Ordinance 45-85, by the City Council of the City of Montgomery, Alabama, at a regular meeting of said City Council, held in the City of Montgomery, Alabama, on August 6, 1985; and said amendment shall become effective August 12, 1985, after publication.

John L. Baker, City Clerk

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**AN ORDINANCE NO. 38-63  
ZONING ORDINANCE OF THE CITY OF MONTGOMERY, ALABAMA**

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF MONTGOMERY, ALABAMA, PROVIDING FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS AND POLICE JURISDICTION OF THE CITY. TO REGULATE WITHIN SUCH DISTRICTS THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF LOTS WHICH MAY BE OCCUPIED, THE SIZE OF YARDS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, AND THE USE OF BUILDINGS, STRUCTURES AND LAND; TO PROVIDE FOR OFF-STREET VEHICLE PARKING AND OFF-STREET LOADING AND UNLOADING OF TRUCKS AND OTHER MOTOR VEHICLES; TO PROVIDE FOR METHODS OF ADMINISTRATION OF THIS ORDINANCE, AND PENALTIES FOR THE VIOLATION THEREOF; TO PROVIDE FOR THE ESTABLISHMENT OF A BOARD OF ADJUSTMENT TO ASSIST IN CERTAIN PHASES OF THE ADMINISTRATION OF THIS ORDINANCE; AND TO REPEAL EXISTING ZONING ORDINANCES AND CONFLICTING LAWS.

WHEREAS, The City Council deem it necessary, for the purpose of promoting the health, safety, morals and general welfare of the city to enact such an ordinance, and

WHEREAS, all requirements of the laws of the State of Alabama, with regard to the preparation of the report of the Planning Commission and the subsequent action of the City Council have been met. Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF MONTGOMERY, ALABAMA:

# ARTICLE I

## CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS

### 1. Short Title

This Ordinance shall be known as the "Zoning Ordinance" and the map herein referred to identified by the title "Zoning Map of Montgomery" and attested by the City Clerk. The Zoning Map of Montgomery and all explanatory matter thereon is hereby adopted and made a 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.

### 2. Districts (Ord. No. 31-73)

For the purpose of this Ordinance the City of Montgomery and its police jurisdiction is here by divided into the types of districts designated as follows:

Residence Zone	R-125
Residence Zones	R-100; R-85
Residence Zones	R-75-s; R-75-d; R-75-m
Residence Zones	R-65-s; R-65-d; R-65-m
Residence Zones	R-60-a; R-60-d; R-60-s; R-60-m
Residence Zone	R-50
Residence Zones (Mobile Dwellings)	R-99-p; R-99-s
Residence Zones (Townhouse)	R-20-t; R-24-t
Residence Zone (Planned Unit Development)	PUD
Residence Zone (Patio-Garden Home)	PGH-35
Residence Zone (Patio-Garden Home)	PGH-40
Central Business District	B-1-a; B-1-b
Business District (Single Stores)	B-2
Highway Commercial District	B-3
Planned Commercial (Local)	B-4
Planned Commercial (Community)	B-5
Light Industry	M-1
Industrial Park (Planned Area)	M-2
General Industry	M-3
Office Complex (Zero Lot Lines)	O-0
Office District	O-1
Office Park (Planned Area)	O-2
Institutional Area	INST
Agricultural Area (Residential Agriculture)	AGR-1
Agricultural Area (General Agriculture)	AGR-2
Waterfront Recreation	WR
Utility District	U
Flood Hazard District	FH

### 3. District Boundaries

The boundaries of the above districts are hereby established as shown on the Zoning Map of the municipality. Unless otherwise shown on said Zoning Map, the boundaries of districts are lot lines, the center lines of streets or alleys or such lines extended, railroad right-of-way lines, or the corporate limit lines as they existed at the time of enactment of this Ordinance.

#### **4. Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of any district shown on said maps the following rules shall apply:

- a. Where boundaries are indicated as approximately following street and alley lines, and land lot lines, such lines shall be construed to be such boundaries.
- b. In subdivided property or tracts, where a district boundary divides a lot, the location of such boundaries, unless same are indicated by dimensions, shall be determined by use of the scale appearing on such maps.
- c. Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, or alley.
- d. Where boundaries are so indicated that they are approximately parallel to the center lines of street, or to the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways, such boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimensions shall be determined by the use of the scale shown on the said maps.
- e. In case any further uncertainty exists, the Board of Adjustment shall determine the location of boundaries. The Board of Adjustment may also cause to be prepared sectional maps of any part of the city, which will interpret the exact location for the district boundaries, following the guidelines contained in the preceding paragraphs.

#### **5. Uses**

In each district, no other use other than the types specified as "permitted" shall be approved upon application to the Administrative Official. Uses specified as "Permitted on Appeal" are special exceptions, and uses specified as "Restricted" are variances, and no permit shall be issued for such uses except with the written approval of the Board of Adjustment and subject to such conditions as said Board may require to preserve and protect the character of the district.

#### **6. Non-Conforming Uses and Buildings**

- a. Continuation: A lawful non-conforming use existing at the effective date of this resolution may be continued, except as hereafter provided, although such use does not conform with the provisions of this Ordinance.
- b. Extension and Alteration: A lawful non-conforming use shall not be extended or structurally altered. The extension of a lawful non-conforming use throughout all portions of a building or structure existing at the effective date of this resolution shall not be considered as the extension of a non-conforming use.
- c. Restoration to Safe Condition: Nothing in this resolution shall prevent the restoration of any building or structure to a safe or sanitary condition when required by the proper authorities.
- d. Restoration After Damages: No non-conforming building or structure other than dwellings which have been damaged by fire or other causes to the extent of more than sixty percent (60%) of its current replacement value at the time of such damage shall be rebuilt or restored except in conformity with the provision of this Resolution. If a non-conforming building is damaged less than sixty percent (60%) of its current replacement value it may be rebuilt or restored and used as before the damage, provided that such rebuilding or restoration is completed within twelve (12) months of the date of such damage.
- e. Abandonment: A non-conforming use other than dwellings of any number of units in Residential Zones, which has been discontinued for a continuous period of one year shall not be re-established, and any future use shall be in conformity with the provisions of this Resolution.

- f. Changes in Use: A non-conforming use which is changes to a conforming use or to another non-conforming use of a more restrictive classification shall not be permitted to revert to the original or less restrictive use.
- g. Discontinuance of Non-Conforming Uses of Land: The illegal non-conforming use of land shall be discontinued within two (2) years from the effective date of this Resolution, or within two (2) years from the date the use becomes non-conforming, whichever is later, in each of the following cases:
  - (1) Where no buildings are employed in connection with such use.
  - (2) Where the only buildings employed are accessory or incidental to such use.
  - (3) Where such use is maintained in connection with a conforming building.
  - (4) Outdoor advertising signs, except that outdoor advertising signs may continue longer than two (2) years at the discretion of the Board of Adjustment.
- h. Discontinuance of Illegal Non-Conforming Uses and/or Buildings: An illegal non-conforming uses or buildings involving buildings whose uses are first enumerated in any business and industrial districts, and which are located in the R-125, R-100, R-85, R-75, R-65, R-60, or R-50 Residential Districts shall be discontinued according to the following schedule:

<b><i>Age of Building Calculated from Date of Initial Construction</i></b>	<b><i>Discontinuance at End of</i></b>
0 – 10 years	5 years
11 – 20 years	3 years
21+ years	2 years

**7. Building Lots, Yards, and Open Spaces**

In each district, each structure hereafter erected or altered, shall be provided with the yards specified, and shall be on a lot of the area and width specified in Article VII. No open space or lot required for a building or structure shall, during its life, be occupied by or counted as open space for another building or structure.

Exceptions to the district requirements for building lots and yards follow:

- a. Where the owner of property at the time of adoption of this Ordinance has a lot or lots of official record which have at least twenty-five (25) feet frontage on at least one (1) street, and which may be substandard to the requirements of the district in which located according to this Ordinance, the building and its accessory structures may be built provided the yard space and other requirements conform as closely as possible to the requirements of the district in which it is located according to the following table.

(See Table I) (Ord. No. 34-65)

- b. No building shall be required to be set back more than the average of the set-backs of the existing buildings within one hundred (100) feet each side thereof, nor shall any building be any closer to the front property line than the average set-back of existing buildings within one hundred (100) feet each side thereof (Ord. No. 3-66).

**8. Height**

In each district each structure hereafter erected or altered shall not exceed the heights specified in the district requirements, Article VII.

Height limitations shall not apply to church steeples, hospitals, sanitariums, barns, silos, farm structures, chimneys, flag poles, public utility poles, radio and television towers and aerials, cooling towers, water tanks, and industrial structures when required by manufacturing process.

## **9. Off-Street Automobile Storage**

In each district each structure hereafter erected or altered shall be provided with off-street automobile storage as specified in the district schedule, Article VII. No off-street automobile storage space required for a building or structure shall during its life be occupied by or counted as off-street automobile space for another building or structure, but may be included in the required yard space.

## **10. Off-Street Loading or Unloading**

In each business and industrial district each structure hereafter erected or altered shall be provided with off-street loading and unloading facilities as specified in Article VII.

## **11. Structures**

It is the intent of this Ordinance that there shall be but one (1) main structure, plus any permitted accessory structures, on any lot used for residential purposes; also, that accessory structures shall not include living quarters; neither will sanitary facilities be permitted in accessory structures without the approval of the Board of Adjustment.

**TABLE I  
MODIFICATION OF SIDE BUILDING LINES ON SUB-STANDARD LOTS  
NOT CONTROLLED BY DEED AND/OR PLAT RESTRICTIONS**

R-125			R-100			R-85		
Width	Side	Yards	Width	Side	Yards	Width	Side	Yards
124'	20'	19'	98'	12'0"	11'6"	84'	10'0"	9'6"
122'	19'	19'	96'	12'0"	11'0"	82'	10'0"	9'0"
120'	19'	18'	94'	11'6"	11'0"	80'	9'6"	9'0"
118'	18'	18'	92'	11'0"	11'0"	78'	9'0"	9'0"
116'	18'	17'	90'	11'0"	10'6"	76'	9'0"	8'6"
114'	17'	17'	88'	11'0"	10'0"	74'	9'0"	8'0"
112'	17'	16'	86'	10'6"	10'0"	72'	9'0"	7'6"
110'	16'	16'	84'	10'0"	10'0"	70'	9'0"	7'0"
108'	16'	15'	82'	10'0"	9'6"	68'	9'0"	6'6"
106'	15'	15'	80'	10'0"	9'0"	66'	9'0"	6'0"
104'	15'	14'	78'	9'6"	9'0"	64'	9'0"	5'6"
102'	14'	14'	76'	9'0"	9'0"	62'	9'0"	5'0"
100'	14'	13'	74'	9'0"	8'6"	60'	9'0"	5'0"
98'	13'	13'	72'	9'0"	8'0"	and all less		
96'	13'	12'	70'	9'0"	7'6"			
94'	12'	12'	68'	9'0"	7'0"			
92'	12'	11'	66'	9'0"	6'6"			
90'	11'	11'	64'	9'0"	6'0"			
88'	11'	10'	62'	9'0"	5'6"			
86'	10'	10'	60'	9'0"	5'0"			
84'	10'	10'	and all less					
and all less								

R-75			R-65			R-60 & O-1		
Width	Side	Yards	Width	Side	Yards	Width	Side	Yards
74'	10'0"	9'6"	64'	10'0"	9'0"	59'	10'0"	9'0"
72'	10'0"	9'0"	63'	9'0"	9'0"	58'	9'0"	9'0"
70'	9'6"	9'0"	62'	9'0"	8'0"	57'	9'0"	8'0"
68'	9'0"	9'0"	61'	8'0"	8'0"	56'	8'0"	8'0"
66'	9'0"	8'6"	60'	8'0"	7'0"	55'	8'0"	7'0"
64'	9'0"	8'0"	59'	7'0"	7'0"	54'	7'0"	7'0"
62'	9'0"	7'6"	58'	7'0"	6'0"	53'	7'0"	6'0"
60'	9'0"	7'0"	57'	6'0"	6'0"	52'	6'0"	6'0"
58'	9'0"	6'6"	56'	6'0"	5'0"	51'	6'0"	5'0"
56'	9'0"	6'0"	55'	5'0"	5'0"	50'	5'0"	5'0"
54'	9'0"	5'6"	and all less			and all less		
52'	9'0"	5'0"						
50'	9'0"	5'0"						
and all less								

R-50		
Width	Side	Yards
49'	8'6"	5'0"
48'	8'0"	5'0"
47'	7'6"	5'0"
46'	7'0"	5'0"
45'	6'6"	5'0"
44'	6'0"	5'0"
43'	5'6"	5'0"
42'	5'0"	5'0"
and all less		

**12. Development Plan (Ord. No. 69-83)**

In the following named districts, any proposed development shall be preceded by submission of a plan showing the proposed development in detail, including all requirements listed elsewhere in this Ordinance. In addition, applications for rezoning to one of the districts named below shall be accompanied by a preliminary development plan in the like manner.

B-2	B-1-a	M-1	O-0	R-99-p	PUD
B-3	B-1-b	M-2	O-1	R-99-s	R-20-t
B-4		M-3	O-2	PGH-35	R-24-t
B-5				PGH-40	

Application for approval of a final development plan shall be accompanied by a check payable to the City of Montgomery, Alabama, or cash in the amount of fifty dollars (\$50.00) to defray the cost of processing.

**ARTICLE II  
ENFORCEMENT**

**1. Enforcing Officer**

The provisions of this Ordinance shall be administered and enforced by an Administrative Official. This official shall have the right to enter upon any premises at reasonable time prior to the issuance of a Certificate of Occupancy for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this Ordinance.

In order to assure compliance with this Ordinance, it shall also be the responsibility of the Electrical and Plumbing Inspectors to withhold the issuance of final electrical or plumbing permits for structures, which do not conform to the Zoning Ordinance, and to report such non-compliance to the Building Inspector (Ord. No. 34-65).

**2. Building Permit Required**

It shall be unlawful to commence the excavation for the construction of any building or other structure, including accessory structures; or to store building materials or erect temporary field offices; or to commence the moving, alteration, or repair (except painting or wallpapering) of any structure, including accessory structures, until the Administrative Official of the municipality has issued for such work a building permit including a statement that the plans, specifications, and intended use of such structure in all respects conform with the provisions of this Ordinance. Application for a building permit shall be made to the Administrative Official of the municipality on forms provided for that purpose. A building permit is not required for the grading or filling of lot or lots where no excavation is made for construction (Ord. No. 34-65).

**3. Approval of Plans and Issuance of Building Permit**

It shall be unlawful for the Administrative Official to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Ordinance. To this end, the Administrative Official shall require that every application for a building permit for excavation, construction, use of land, moving, or alteration be accompanied by a map or plat drawn to scale and showing the following in sufficient detail to enable the Administrative Official to ascertain whether the proposed excavation, construction, use of land, moving, or alteration is in conformance with this Ordinance:

- a. The actual shape, proportion and dimensions of the lot to be built upon.
- b. The shape, size, and location of all buildings or other structures to be erected, altered or moved; and that of any buildings or other structures already on the lot.
- c. The existing and intended use of all such buildings or other structures.

- d. The setback and side lines of buildings on adjoining lots, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

If the proposed excavation, construction, use of land, moving or alteration as set forth in the application are in conformity with the provisions of this Ordinance, and other city codes, the Administrative Official of the municipality shall issue a building permit accordingly. If an application for a building permit is not approved, the Administrative Official of the municipality shall state in writing on the application the cause of such disapproval. Issuance of a building permit shall in no case be construed as waiving any provision of this Ordinance.

#### **4. Certificate of Occupancy Required**

No land, building, or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Administrative Official of the municipality shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this Ordinance. Within three (3) days after the owner or his agent has notified the Administrative Official of the municipality that a building, or premises, or part thereof is ready for occupancy or use, it shall be the duty of the Administrative Official of the municipality to make a final inspection thereof, and to issue a Certificate of Occupancy if the building, or premises, or part thereof is found to conform with the provisions of this Ordinance and other city codes, or if such certificate is refused, to state the refusal in writing with the cause.

#### **5. Penalties**

Any person violating any provision of this Ordinance upon conviction shall be punished by fine of not less than two hundred dollars (\$200.00), or by imprisonment in the city jail for not more than six (6) months, or by both such fine and imprisonment and also costs of court for each offense. Each day such violation continues shall constitute a separate offense (Ord. No. 23-77).

#### **6. Remedies**

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 of the municipality or any other appropriate authority or any adjacent or neighboring property owner who would be affected by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to correct or abate such violations or to prevent occupancy of such building, structure, or land.

## **ARTICLE III BOARD OF ADJUSTMENT**

### **1. Appointment, Duties, and Responsibilities**

A Board of Adjustment is hereby established, which shall consist of five (5) members to be appointed by the Montgomery City Council. One (1) member shall be appointed for a term of three (3) years, two (2) members for two (2) years, and two (2) members for one (1) year. Thereafter each member appointed shall serve for a term of three (3) years or until his successor is duly appointed and qualified. Members of the Board of Adjustment may be removed from office by the Montgomery City Council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected.

### **2. Proceedings of The Board of Adjustment**

The Board of Adjustment 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 chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent the failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be of a public record and be immediately filed in the office of the Board.

### 3. Powers and Duties of the Board

- a. **ADMINISTRATIVE REVIEW:** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of this Ordinance.
- b. **SPECIAL EXCEPTIONS:** To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance; or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance.
- c. **VARIANCES:** To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

A written application for a variance is submitted demonstrating all of the following:

- (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
- (2) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- (3) That the special conditions and circumstances do not result from the actions of the applicant.
- (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

In granting any variance, The Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance (Ord. No. 34-65).

- d. **DECISIONS OF THE BOARD OF ADJUSTMENT:** In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the Administrative Official from whom the appeal is taken.

The concurring vote of four (4) members of The Board shall be necessary to reverse any order, requirement, decision, or determination of The Administrative Official, or to decide in favor of the Applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

- e. **DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF ADJUSTMENT, CITY GOVERNMENT, AND COURTS ON MATTERS OF APPEAL:** It is the intent of the governing authority of the City that all questions of interpretation and enforcement of this Ordinance shall be presented first to the Administrative Official. Other than those applications and matters upon which the terms and provisions of this Ordinance may require action and decision by the said Board of Adjustment, only the appeals taken in the manner and form as provided in this Ordinance from the actions and decision of the Administrative Official will be considered and acted upon by the Board of Zoning Adjustment. However, any interested party who is aggrieved by any action or decision of the said Board of Adjustment may take an appeal therefrom to a court of law, as provided for in the State Law.

**4. Board of Adjustment Fees (Ord. No. 31-73)**

All applications to the Board of Adjustment for interpretations, special exceptions, or variances relative to residential properties must be accompanied by a check payable to the City of Montgomery, Alabama, or cash in the amount of twenty-five dollars (\$25.00) to defray the cost of processing. All applications to the Board of Adjustment for interpretations, special exceptions, or variances relative to commercial, office, industrial, or multiple residential properties must be accompanied by a check payable in like manner or cash in the amount of fifty dollars (\$50.00). Application for variances concerning repair and/or alteration to an existing residential structure shall be accompanied by cash or check in the amount of ten dollars (\$10.00) made payable to the City of Montgomery.

**ARTICLE IV  
AMENDMENT**

**1. Procedure**

The regulations and number, area, and boundaries of districts established by this article may be amended, supplemented, changes, modified, or repealed by the City Council, but no amendment shall become effective unless it is first submitted to the City Planning Commission for its recommendation. The City Planning Commission upon its own initiative may hold public hearings, public notice of which shall be given, for the consideration of any proposed amendment to the provision of this article or to the Zoning Map of Montgomery, and report its recommendations to the City Council. The Provisions of Section 779 of Title 37 of the 1940 Code of Alabama, as the same may be amended, shall apply to all changes and amendments.

**2. Zoning Amendment Applications (Ord. No. 31-73)**

- a. Text Amendments. All proposed amendments submitted to the Planning Commission involving a text change to the Zoning Ordinance shall include a written statement giving the reasons for the proposed change; and, in the case of additions to or changes in the existing wording, the suggested wording of the amendment shall be in the style and format of the existing Ordinance. All applications for such amendment shall be accompanied by a check made payable to the City of Montgomery, Alabama, or cash in the amount of fifty dollars (\$50.00) to defray the cost of processing.
- b. Map Amendments. All proposed amendments involving a change to the Zoning Map of the City of Montgomery submitted to the Planning Commission for consideration shall be accompanied by a legal description of the property in question and a current plan of the land area made by a registered civil engineer or land surveyor. This plat shall show the current zoning district classification of the subject land area and all abutting properties. In addition, the proposed amendment shall be accompanied by a check payable to the City of Montgomery, or cash in an amount according to the following schedule:

Base Fee (required of all applications regardless of the amount of land area involved) .....	\$75.00
Additional fee for each acre or portion thereof, more than ten and up to and including	
one hundred .....	\$1.00 per acre
For each acre or portion thereof, more than one hundred .....	\$.50 per acre

- c. Publication of Legal Notice. When a request requires publication of a legal notice, the Planning Controls Division shall prepare the required notice and submit it to the appropriate newspaper for publication. The cost of such publication shall be billed directly to the applicant by the newspaper in which the notice appears. Payment of the above fees is not required of employees or agents of the City of Montgomery submitting proposed amendments in the course of performance of their official duties.
- d. Posting of Notice. When posting of notice is required on the property in question, such posting shall be accomplished by the Planning Controls Division. Signs shall be posted on the property in the following manner:
  - (1) At one hundred fifty (150) foot intervals along the street frontage of the property;
  - (2) With a minimum of one (1) sign for each side of the property with street frontage;

- (3) At those points determined by the Planning Controls Division to be necessary, if not required in (1) or (2) above;
  - (4) Such signs shall be posted at least fifteen (15) days prior to the date of the hearing at which the property in question is to be acted upon.
- e. Notification of Adjoining Property Owners. The Planning Controls Division shall, in the case of proposed map amendments, mail notice of public hearing before the Planning Commission meeting to all adjoining property owners as their names are shown on County tax records. Such notice shall be mailed at least fifteen (15) days prior to the hearing to the address as shown on the County tax records.

## **ARTICLE V LEGAL STATUS PROVISIONS**

### **1. Interpretation and Purpose**

In their 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, which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances or regulations is mandatory. This Ordinance shall not lower the restriction of plats, deeds, or private contracts if such are greater than the provisions of this Ordinance, i.e. that which is more restrictive shall apply.

### **2. Saving Clause**

If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance, which is not in and of itself invalid or unconstitutional

## **ARTICLE VI GENERAL PROVISIONS**

### **1. Reductions in Lot Area Prohibited (Ord. No. 69-83)**

No lot shall be reduced in area so that yards and other open spaces total less than the minimum area required under this Ordinance, unless and until the Planning Commission has granted a variance as provided for in the Subdivision Regulations of the City of Montgomery.

### **2. Corner Visibility in All Districts Except B-1-a, B-1-b, B-2, and M-3.**

In all districts except as noted above, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of three and one-half (3 ½) feet and fifteen (15) feet above street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two streets, or railroads, or of a street and a railroad right-of-way line.

### **3. Future Street Lines**

On any lot which, at the time of adoption of this Ordinance or at the time this Ordinance is changed by amendment hereafter, may be reduced in area by widening a public street line as indicated on the duly adopted Major Street Plan; or as same may be hereafter amended, the minimum required yards, the minimum required lot area, the minimum required lot width, and the maximum building area shall be measured by considering the future street lines as the lot lines of such lot.

#### 4. Location of Accessory Structures on Residential Lots

Accessory structures in residential districts and on any lot used primarily for residential purposes shall conform to the following regulations:

- a. No accessory structure shall be erected in any required front or side yard. Accessory structures shall not exceed two (2) stories in height, and shall not cover more than thirty percent (30%) of any required rear yard, and shall be at least five (5) feet from all lot lines and ten (10) feet from any other structure on the same lot.
- b. On any lot adjoining along its side lot line another lot, which is in a residential district, no part of any accessory building shall be located within sixty (60) feet of any front lot line.
- c. On any corner lot adjoining in the rear of another lot which is in a residential district, no part of any structure within twenty-five (25) feet of the common lot line shall be nearer the side street lot line than the least depth of any required front yard for a dwelling on such adjoining lot along such side street.
- d. Plant nurseries and greenhouses are permitted provided no sales are made from the premises, and provided further that all accessory structures and material storage facilities larger than three hundred (300) square feet in area are located not less than twenty (20) feet from all property lines, and no closer than ten (10) feet to any other structure.
- e. Satellite antennas (radio and television) are permitted in addition to other accessory structures provided the unit, dish, rod, or other component of the structure does not exceed twenty-four (24) feet in height, thirteen (13) feet in diameter, and shall meet all setback requirements as set forth in this section of the Ordinance (Ord. No. 31-73). Roof mounted satellite antennas shall not exceed thirteen (13) feet in diameter, and shall not extend over fifteen (15) feet above the height limits established for the district in which it is located; and no such antennas shall be used for any type commercial use or advertising purposes. All other satellite antennas in residential districts shall be permitted only on appeal to the Board of Adjustment. Commercial satellite antennas shall be approved by the Planning Commission as set forth in Article 1, Classification and Establishments of Districts, Section 12. Development Plan (Ord. No. 13-64; Ord. No. 35-65; Ord. No. 31-73; Ord. No. 69-83).

#### 5. Off-Street Loading

- a. On the same lot with every structure or use hereafter erected or created, there shall be provided and maintained space (when required in Section VII) for loading and unloading of materials, goods, or things, and for delivery and shipping, so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.
- b. Where any structure is enlarged, or any use is extended so that the size of the resulting occupancy comes within the scope of this Section, the full amount of off-street loading space shall be supplied and maintained for the structure or use in its enlarged or extended size. Where the use of a structure or land or any part thereof is changed to a use requiring off-street loading space under this Article, the full amount of off-street loading space shall be supplied and maintained to comply with this Article.
- c. For the purpose of this Section, an off-street loading space shall be an area at least twelve (12) feet wide by forty-five (45) feet long with fourteen and one-half (14 ½) foot vertical clearance. Each off-street loading space shall be accessible from a street or alley, and arranged for convenient and safe ingress and egress by motor truck and/or trailer combination.
- d. Off-street loading space shall be provided and maintained in accordance with the following schedule:
  - (1) For each retail store, storage building, warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:

(a) Over 10,000 square feet, but not over 25,000 square feet:	1 space
(b) Over 25,000 square feet, but not over 60,000 square feet:	2 spaces
(c) Over 60,000 square feet, but not over 120,000 square feet:	3 spaces
(d) Over 120,000 square feet, but not over 200,000 square feet:	4 spaces
(e) Over 200,000 square feet, but not over 290,000 square feet:	5 spaces
(f) For each additional 90,000 square feet over 290,000 square feet or fraction thereof:	1 space
  - (2) For each apartment building having over fifty (50) dwelling units 1 space

- (3) For each auditorium convention hall, exhibition hall, museum, hotel, apartment-hotel, office building, sports arena, stadium, hospital, sanitarium, welfare institution, or similar use which has an aggregate gross floor area of:
  - (a) Over 10,000 square feet, but not over 40,000 square feet: 1 space
  - (b) For each additional 60,000 square feet over 40,000 square feet, or major fraction thereof: 1 space
- (4) For any use not specifically mentioned in this Section, the requirements for off-street loading for a use, which is so mentioned, and to which the unmentioned use is similar, shall apply.
- e. Off-street loading facilities supplied to meet the needs of one use shall not be considered as meeting the off-street loading needs of any other use.
- f. No area or facility supplied to meet the required off-street parking facilities for a use shall be utilized for or deemed to meet the requirements of this article for off-street loading facilities.
- g. Nothing in this section shall prevent the collective, joint, or combined provisions of off-street loading facilities for two or more buildings or uses provided that such off-street loading facilities are equal in size and capacity to the combined requirements of the several buildings or uses, and are so located and arranged as to be usable thereby.
- h. Plans for buildings or uses requiring off-street loading facilities under the provisions of this article shall clearly indicate the location, dimensions, clearance and access of all such required off-street loading facilities.

**6.1 Use and Maintenance of Parking Lots in Office (O-1) or Residential (R-60-a) and (R-60-m) Districts.**

Off-street parking space shall be maintained in accordance with the following specifications:

- a. Shall be used only by (1) passenger vehicles or (2) vehicles up to one-half (1/2) ton manufacturer's capacity rating having wheels not to exceed seventeen (17) inches; and (3) not be used for the parking or storage of automobile trailers;
- b. Shall not be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.
- c. Shall be graded for proper drainage and provided with a paved surface maintained at all times in such a manner as to prevent the release of dust and to be free of dust, trash and debris.
- d. Shall be provided with entrances and exits so located as to minimize traffic congestion;
- e. Shall be provided with wheel guards or bumper guards so located that no part of parked vehicles will extend beyond the parking space;
- f. Lighting facilities shall be so arranged that they neither unreasonably disturb occupants of adjacent residential properties, nor interfere with traffic;
- g. May have not more than one (1) attendant shelter building conforming to all setback requirements for structures in the district, and such shelter building shall contain not more than fifty (50) square feet of gross floor area;
- h. PROTECTIVE WALL: The parking area shall be provided with a continuous wall not over five (5) feet in height and not less than three (3) feet in height, located on the perimeter of the parking area and next to the yards required in this Section.
- i. YARDS: Along any street the lot shall provide a front yard not less than twenty (20) feet in depth nor less than the front yard of any existing residential structure immediately adjacent and on either side of the lot. The front yard space shall not be used or occupied for any purpose except as permitted or required in this Section. No rear yards or side yards are required except as specified in this paragraph.

- j. LANDSCAPING: All front yard spaces between the walls required by this Section and the street line, shall be planted and kept in lawn that is maintained so as to present a healthy, neat, and orderly appearance. The required yard shall be kept free from refuse and debris.
- k. Sign for identification of the use, provided it complies with the following requirements:
  - (1) Such sign shall not exceed twenty (20) square feet in area, nor five (5) feet in height.
  - (2) Such sign may be illuminated by a non-oscillating, concealed light source, but illumination by any spot light or flood light shall be prohibited.
- l. Provision shall be made by means of gate or chain so that the lot may be closed at night to prevent unauthorized persons from parking on the lot.

## **6.2 Residence Lots that May be Used for Off-Street Parking**

When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, permit the use of a lot or lots under the same ownership in a residential district immediately adjacent to any office, business or industrial district, even if separated therefrom by an alley, for the parking of passenger cars, provided no fee is charged, under such safeguards and conditions as the Board may require for the adequate protection of the more restricted property. Applicable paragraphs of Section 6 above shall be used as a guide in granting this special permission (Ord. No. 34-65).

## **7. Fences and Walls**

Fences and walls may be erected, placed, maintained or grown along a lot line of property zoned for office or residential use, or adjacent thereto a height not exceeding seven (7) feet above the ground except in a R-20-t, R-24-t, PGH-35 and PGH-40 District where an eight (8) foot height limit shall be permitted, provided the main structure has yard space as required by this Ordinance, except that no such fence or wall located in a required front or street side yard shall exceed a height of three (3) feet. The height of walls shall be measured from the lowest ground elevation on either side of a joint property line (Ord. No. 49-65; Ord. No. 69-83).

## **8. Transitional Use (Omitted June 1, 1977) (Ord. No. 26-77)**

## **9. Abatement of Uses Creating Hazards or Nuisances**

The Board of Adjustment may require the conduct of any conforming or non-conforming, which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, radio interference, explosion hazard, or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort, and convenience. The Board may direct the Administrative Official to issue an abatement order, but no such order may be directed only after a public hearing by the Board, notice of which shall be sent by certified mail to the owners or operators of the property on which the use is conducted, in addition to due notice by advertisement in a newspaper of general circulation. A hearing to consider issuance of an abatement order shall be held by the Board either upon petition signed by any person affected by the hazard or nuisance, or upon the initiative of the Board. An abatement order shall be directed by the Board only upon reasonable evidence of hazard or nuisance, and such order shall specify the date by which the hazard or nuisance shall be abated.

## **10. Group Housing Projects (Ord. No. 31-73)**

In the case of a housing project consisting of a group of two (2) or more buildings to be constructed on a plat of ground of at least one (1) acre not subdivided into the customary street and lots, and not to be so subdivided, or where existing or contemplated street and lot layout make it impractical to apply the requirements of this Ordinance to the individual buildings in such housing projects, the application of such requirements to such housing projects shall be done by the Planning Commission. This will be done in a manner that will be in harmony with the character of the neighborhood, will insure substantially the same character of the occupancy, a density of land use no higher, and a standard of open space at least as high as required by this Ordinance in the district in which the proposed project is to be located; and will provide layout, design, and public utilities in harmony with the general requirements and minimum standards of design of the Subdivision Regulations of the municipality. An office to help in the management of the group housing project shall be considered a permitted accessory use.

In no case shall the Board of Adjustment authorize a use of a building height or building area restricted in the district in which the housing project is to be located.

Group housing is not permitted in the following districts: R-125, R-100, R-85, R-75-s, R-65-s, R-60-s, R-50, R-20-t, R-24-t, PGH-35, PGH-40, R-99-s, R-99-p, Agr-1, Agr-2, O-1, O-2, B-2, B-3, B-4, B-5, M-1, M-2, and M-3.

#### **10.1 Townhouses (Ord. No. 31-73)**

- a. No building permit shall be issued for townhouses, and the Board of Adjustment shall not issue a special exception involving townhouses, except upon a favorable or conditionally favorable report from the Planning Commission. Prior to issuing a favorable report the Planning Commission shall seek the advice and recommendations of the Planning Controls Division, and shall determine that the proposed townhouses are designed in such a manner as to be in harmony with the character of the surrounding neighborhood. Where conditions are attached by the Planning Commission, they shall be included as part of the building permit. If special exception is involved, the Board of Adjustment shall not grant such exception except with the conditions attached by the Planning Commission, but the Board may add conditions in granting approval.
- b. It is the intent of this Ordinance that townhouses in areas where they are or may be permitted:
  - (1) May be appropriately intermingled with other types of housing;
  - (2) Shall not form long, unbroken lines of row housing; and
  - (3) Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space and serving the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.
- c. In line with the general considerations above, the following site plan and design criteria are established:
  - (1) Not more than six (6) contiguous townhouses shall be built in a row with the same front line, and not more than twelve (12) townhouses shall be contiguous. In groups of townhouses consisting of more than six (6) units, the required difference in front line shall be a minimum of three (3) feet.
  - (2) Minimum width for the portion of the lot on which a townhouse is to be constructed shall be twenty (20) feet.
  - (3) Minimum lot area shall be two thousand (2,000) square feet.
  - (4) No portion of a townhouse or accessory structure in or related to one townhouse complex shall be closer than twenty (20) feet to any portion of a townhouse or accessory structure related to another townhouse complex, or to any building outside the townhouse area.
  - (5) Each townhouse shall be constructed on its own lot. Townhouses constructed in condominium developments may be excepted from this requirement by the Planning Commission.
  - (6) No side yards shall be required except at the unattached end as a townhouse complex, in which case the minimum width shall be ten (10) feet. Minimum depth of front yards shall be twenty (20) feet.
  - (7) Each townhouse shall have on its own lot one yard containing not less than four hundred (400) square feet, reasonably secluded from view from streets or from neighboring property. In condominium townhouse developments not subdivided into individual lots, one (1) yard containing not less than four hundred (400) square feet, reasonably secluded from view from streets or from neighboring property, shall be provided contiguous to, and for the private use of, the occupants of each dwelling unit.
  - (8) Off-street parking shall be provided at the rate of two (2) spaces per townhouse. Insofar as practicable, off-street parking facilities shall be grouped in bays, whether adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.

- (9) In townhouse developments with a total area greater than five (5) acres at least twenty (20) percent of the total area shall be devoted to common open space, exclusive of parking areas or accessory buildings. Such common open areas may include recreational facilities. Provisions satisfactory to the City Council and approved by the City Attorney shall be made to assure that common open areas for the use and enjoyment of occupants of townhouses shall be maintained in a satisfactory manner without expense to the general taxpayer. In addition, the developer of a townhouse development or homeowners association created by the developer by recorded covenants and restrictions, shall preserve for the owners and occupants of the development such lands set aside for open areas, parks, recreational use, and the common off-street parking spaces established for the development.
- (10) Story and building height requirements shall be in accordance with those specified for the district in which the townhouse is located.

## 10.2. Planned Unit Developments (PUD) (Ord. 3-2013)

### Overview

Planned Unit Development (PUD) is defined as tracts of land under unified control consisting of at least 15 contiguous acres under unified control, planned and developed as a whole in a single development operation, or a definitely programmed series of development operations, including all lands and buildings. Suitability of such tracts for the plans and development proposed for the PUD district shall be determined by the existing and prospective character of surrounding development, and by reference to the comprehensive plan.

### Information Required with Application

- A. Land developed for residential and non-residential uses in accordance to a Master or Development Plan must include a map showing all uses and be established as part of the PUD approval process. Plans should include streets, lots or building sites, site plans, setbacks and elevations for all major buildings as intended to be located, constructed, and used; and detailed plans for other uses and improvements on the land as related to the building; and other requirements as noted below to be established as part of the PUD approval process; and
- B. Evidence of provision for operation and maintenance of such areas, improvements, facilities, and services as well be for common use by some or all of the occupants of the development, but will not be provided, operated, or maintained at general expense; and
- C. A traffic analysis indicating the probable effect of the proposed development on traffic patterns and capacities of adjacent street in the immediate area.

### Items to be established as part of PUD approval

- A. **Allowed Uses** – A list of uses to be allowed in a PUD must be established as part of the PUD approval process.
- B. **Lot Size** – Lot size requirements must be established as part of the PUD approval process. The size and width of lots located along any PUD district boundary must have a lot area and width that is at least as large as the lots in any abutting R district. This requirement may be waived if the City Council determines that buffering or other techniques have been used to mitigate any adverse impacts on the compatibility of abutting developments.
- C. **Residential Density** – The maximum allowable residential density must be established as part of the PUD approval process.
- D. **Setbacks** – Setback standards must be established as part of the PUD approval process.
- E. **Height** – Building height standards must be established as part of the PUD approval process.

- F. **Parking** – Off-street parking requirements must be established as part of the PUD approval process.
- G. **Other Items** – The Planning Commission or the City Council may establish additional criteria for the approval or rezoning of the PUD application as they deem appropriate.

### **Development Plan Approval Required**

Approval of a PUD master plan and plat must occur before any building permit is issued and before any development takes place in a PUD district. Permits may be issued for a development phase if a development takes place in a PUD district. Permits may be issued for a development phase if a development plan has been approved for the entire PUD and a plat has been approved for the subject phase.

### **Application Filing**

Complete applications for PUD master plan approval must be filed with appropriate personnel in the Planning Department at the same time that the PUD zoning map amendment application is filed. PUD applications may be filed only by the subject landowner or the subject landowner's authorized agent.

### **Procedure**

PUDs require concurrent approval of a zoning map amendment and major development plan. Those procedures govern unless expressly modified by provisions of this section.

- A. The Planning Commission must hold a public hearing on the proposed PUD zoning map amendment and major development plan. Following the close of the hearing, the Planning Commission must vote to recommend that the proposed PUD zoning map Amendment and development plan be approved; approved with conditions or Modifications; or denied.
- B. After action by the Planning Commission, the City Council must convene its own public hearing on the proposed PUD zoning map amendment and development plan.
- C. Following the close of the public hearing, the City Council may act to approve the proposed PUD zoning map amendment and development plan, approve the proposed PUD zoning map amendment and development plan with modifications, or deny the proposed PUD zoning map amendment and development plan. The City Council may also return the application to the Planning Commission for further consideration, together with a written explanation of the reasons for doing so.

### **Changes to Approved PUD**

- A. Minor changes involving changes to lot size, setbacks, heights and parking must be submitted to the appropriate personnel in the Planning Department, Planning Controls Division to be put on the Planning Commission agenda for review and decision.
- B. Major changes involving use (rezoning) must be submitted to the appropriate personnel in the Planning Department, Planning Controls Division to be put on the Planning Commission agenda for consideration and will then go to City Council for final approval.

### 10.3 Mobile Dwellings (Ord. No. 31-73)

The regulations and requirements in this section are designed to ensure protection of health, safety and welfare of both the residents of mobile dwellings and residents of neighboring property.

#### General Requirements:

No mobile dwelling shall be occupied for dwelling purposes unless the same location is located in a mobile dwelling park or subdivision; except, however, that an individual mobile dwelling shall be allowed as a use permitted on appeal in Agr-1 and Agr-2 zones. Mobile dwellings may be used as accessory structures provided that they are not used for sleeping purposes, and that they meet all requirements of this Ordinance for the appropriate use.

No mobile dwelling shall be admitted to any park unless it meets all code requirements of the City of Montgomery.

No mobile dwelling park can be operated until a permit to operate the park has been obtained from the Building Department.

No building permit shall be issued for construction of a mobile dwelling park, and the Board of Adjustment shall not issue a special exception involving a mobile dwelling park, except upon a favorable or conditionally favorable report from the Planning Commission. Prior to issuing a favorable report the Planning Commission may seek the advice and recommendations of the Planning Controls Division. Where conditions are attached by the Planning Commission, they shall be included as a part of the building permit. If special exception is involved, the Board of Adjustment shall grant such exception with the conditions attached by the Planning Commission, but the Board may add conditions in granting approval.

The following information shall be submitted to the Planning Commission for its evaluation by the person, firm, or organization seeking to develop the land in question:

- a. Area and dimensions of the proposed park.
- b. Location of all drives and mobile dwelling layout.
- c. Location of water and sewer lines, water supply, and sewage disposal areas.
- d. A preliminary drainage plan for the park prepared by a registered engineer.
- e. Location and dimension of all buffers, office structures, and recreational areas and open spaces.
- f. A traffic analysis, showing the effect of the proposed mobile dwelling park on neighborhood streets.

#### Development Standards:

Except where specified, the development standards, which follow apply to mobile dwelling parks and mobile dwelling subdivisions.

- a. Buffers:
  - (1) Each boundary of a mobile dwelling park or subdivision must be at least one hundred (100) feet from any residential property or industrial property line located outside the park or subdivision, unless separated there from by a natural or artificial barrier.
  - (2) A strip of land at least twenty-five (25) feet in width shall be maintained as a landscaped area abutting all mobile dwelling park or subdivision property lines.
- b. Utilities: Each mobile dwelling lot shall have attachments for waste disposal and water supply facilities properly connected to an approved method of sewage disposal and water supply.
- c. Required Open Space:
  - (1) Each mobile dwelling park shall provide land for open space which may be used for recreational purposes, but which may not be used for parking or for accessory structures. Such open space shall total at least thirteen (13) percent of the gross land area of the park.

This requirement does not apply to mobile dwelling subdivisions.

- (2) Mobile dwelling subdivisions greater than five (5) acres in total area shall include open space equal to ten (10) percent of the total area. Such open space may be used for recreational purposes, but may not be used for parking or accessory structures. Provision shall be made, by covenant or other means satisfactory to the City Attorney, to ensure that such open space shall be preserved and maintained for the use of the residents of the subdivision, without expense to the City of Montgomery.

d. Additional Requirements:

- (1) A mobile dwelling park shall consist of not less than ten (10) contiguous acres of land. This requirement does not apply to mobile dwelling subdivisions.
- (2) No mobile dwelling park office or service building shall be closer to a public street right-of-way line than eighty (80) feet.
- (3) No additions shall be made to a mobile dwelling except a canopy and/or porch on three (3) sides, or an addition made by the mobile dwelling manufacturer.
- (4) All mobile dwellings shall be anchored against wind or storm damage via a method approved by the Building Department.
- (5) The space under a mobile dwelling shall not be used for storage.
- (6) At least two hundred (200) cubic feet of enclosed storage area shall be provided for each mobile dwelling lot at a distance of not more than one hundred (100) feet from the particular lot the storage space is intended to serve. The requirement does not apply to mobile dwelling subdivisions.
- (7) All mobile dwellings shall be placed on pads approved by the Building Department, except in the case where the mobile dwelling wheels are sunk in the ground and the mobile dwelling is at ground level.
- (8) All mobile dwelling parks must be divided into lots. Regulations governing lot sizes and spacing requirements are contained in Article VII of this Ordinance.

e. Traffic and Circulation:

- (1) Access to the park or subdivision shall not require intensive use of minor established residential streets.
- (2) All access driveways and interior streets of mobile dwelling parks must be at least thirty (30) feet in width. Requirements contained in the Subdivision Regulations of the City of Montgomery shall govern in the case of mobile dwelling subdivisions.
- (3) All access driveways and interior streets of mobile dwelling parks, and all walkways, shall be had surfaced and lighted at night. This requirement does not apply to mobile dwelling subdivisions.

f. Single Mobile Dwellings: Where single mobile dwellings are permitted by the Board of Adjustment in Agr-1 and Agr-2 Districts, they shall be subject to the following regulations:

- (1) Such mobile dwellings shall be in compliance with all codes of the City of Montgomery.
- (2) The minimum lot size shall be ten thousand (10,000) square feet with a one hundred (100) feet minimum width.
- (3) The lot must have access to a public road.

- (4) A permit must be obtained from the Building Department. Such permit shall remain in force for two (2) years and shall be renewable upon application to the Building Department. In the event the property on which the mobile dwelling is located is rezoned to a classification other than Agr-1 and Agr-2, the mobile dwelling shall then be governed by the regulations for lawful non-conforming uses, as contained in Article I, Section 6, of this Ordinance.
- (5) The Board of Adjustment shall add such additional requirements in individual cases as may be deemed by the Board to be appropriate.

**10.4 Travel Trailers (Ord. No. 31-73)**

The following regulations shall apply to travel trailer parks wherever they may be permitted:

**General Requirements:**

- a. Each travel trailer park shall have direct access to a numbered state or federal highway; or be near an interchange of an interstate highway.
- b. Spaces shall be rented by the day or week only.
- c. Lots in mobile dwelling parks may not be used for travel trailers.

**Development Standards:**

- a. The travel trailer park shall consist of not less than ten (10) contiguous acres of land.
- b. The maximum density of travel trailer parks shall not exceed fifteen (15) sites per acre of usable land, not including land set aside for open space, as defined by this Ordinance; buffer strips or street right-of-way.
- c. Streets in travel trailer parks will be private and properly stabilized. Private streets may be paved as follows:
 

One-way vehicular travel	12 ft. Two-way vehicular travel 20 ft.
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- d. There must be a landscaped buffer strip of not less than fifty (50) ft. in depth along major streets abutting a travel trailer park, and landscaped buffer strips not less than twenty-five (25) ft. in depth along the other boundaries of the park.
- e. Each travel trailer site shall contain a stabilized vehicular parking pad composed of shell, marl, paving or other suitable material.
- f. Each travel trailer park shall provide land for open space. The required open space shall equal not less than ten (10) percent of the gross land area of the park. Such required open space shall not be used for parking or for accessory structures, but may be used for recreational uses.
- g. Sanitary facilities for travel trailer parks shall be in compliance with requirements of the State of Alabama and the County Health Department.
- h. No part of a travel trailer placed on a site shall be closer than ten (10) feet to any part of any other travel trailer. No permanent external apparatuses such as carports, cabanas, or patios may be attached to a travel trailer, and the removal of wheels and the placement of the unit on a permanent foundation is restricted.
- i. Sites may be occupied by travel trailers not exceeding eight (8) feet in width and thirty-six (36) feet in length.

- j. The Board of Adjustment shall not receive applications for special exceptions or variances involving travel trailer parks until such application has been first submitted to the Planning Commission for its review and recommendation. Such application shall be accompanied by information required for mobile dwelling parks, as stated in Article VI of this Ordinance.
- k. After all required improvements have been completed for a park, or an approved construction unit of a park, the Building Department shall certify the completed sites as approved for occupancy. Until a site is approved for occupancy, no travel trailer shall be placed thereon.

#### **10.5 Recreational Vehicles (Ord. No. 31-73)**

The following regulations apply to recreational vehicles stored outside an approved travel trailer park:

- a. Recreational vehicles may not be stored on public streets.
- b. Recreational vehicles shall be stored in such a manner as to be substantially hidden from public view.
- c. Recreational vehicles stored on private property shall be stored behind building setback lines as defined by this Ordinance.
- d. Individual recreational vehicles may be stored on private property as long as they are in compliance with the above requirements. Upon objection by residents of neighboring property the Board of Adjustment shall have the power to modify the above requirements or to revoke the privilege of storing recreational vehicles on private property in individual cases. Provided, however, that such action of the Board shall not take place until after a public hearing on the matter has been held.

#### **10.6 Non-Residential Planned Unit Development (Ord. No. 31-73)**

It is intended to permit, on application and on approval of a suitable Development Plan, Non-Residential Planned Unit Developments in zones B-5, O-2, and M-2, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed as units. Suitability of such tracts for the plans and development proposed shall be determined by the existing and prospective character of surrounding development, and by reference to the comprehensive plan.

Prior to approval of such Non-Residential Planned Unit Developments, the Planning Commission shall seek the advice and technical assistance of the Planning Controls Division as to the suitability of such development in the location proposed.

Upon approval of any Non-Residential Planned Unit Development, the Planning Commission may waive or modify any of the provisions of this Ordinance concerning height, bulk, density, setbacks and the like; provided, however, that waiver or modification of such requirements does not result in adverse effects on the health, safety, morals, and general welfare of the City of Montgomery.

#### **10.7 Modular Dwellings (Ord. No. 69-83)**

The regulations and requirements in this section are designed to ensure protection of health, safety and welfare of both the residents of the modular dwelling and residents of neighborhood property.

##### **General Requirements:**

- a. No modular dwelling shall be occupied for dwelling purposes unless the same is located in the proper zoning district, or unless the proper variance has been granted by the Board of Adjustment as provided for in this Ordinance (Ord. No. 31-73).
- b. It is the intent of this Ordinance that modular dwellings in areas where they are or may be permitted:

- (1) Shall not be a permitted use unless and until it meets and complies with all requirements applicable to a single family dwelling and possesses all necessary permits and other certifications as required by the State, County, and the City Codes, Laws or Regulations that may apply either pursuant to, or adopted after the adoption of this Ordinance, i.e. that which is more stringent shall apply.
- (2) Shall be at least twenty (20) feet in width and shall meet the minimum square footage requirements of any restriction of plats, deeds, or private contract if such are greater than the provisions of this Ordinance, i.e. that which is more restrictive shall apply.
- (3) Shall be placed on a permanent foundation constructed with material customarily used in conventional type residential developments and shall be attached and/or anchored thereto in compliance with all applicable State, County or City Codes, Standard Regulations, or Laws and ,with manufacturer installation specifications, i.e. that which is more stringent shall apply.
- (4) Minimum distance from top of the foundation to the eaves of the dwelling shall be eight (8) ft. as measured at the highest elevation of the foundation to the lowest elevation of the eaves.
- (5) Shall have a pitched roof composed of a material customarily used on conventional dwellings including asbestos, fiberglass, shake, asphalt or tile.
- (6) Shall be allowed as a use permitted in the following
  - Districts: R-50 R-60-s
  - R-60-d R-99-s
- (7) Shall be allowed as a use permitted on appeal to the Board of Adjustment as a special exception in the following Districts:
  - AGR-1 AGR-2

#### **10.8 Patio-Garden Home (PGH-35) (Ord. No. 69-83)**

- a. No building permit shall be issued for patio homes and the Board of Adjustment shall not issue a special exception or variance involving patio homes, except upon favorable or conditionally favorable report from the Planning Commission. Prior to issuing a favorable report, the Planning Commission shall seek the advice and recommendations of the Planning Controls Division, and shall determine that the proposed patio homes are designed in such a manner as to be in harmony with the character of the surrounding neighborhood. Where conditions are attached by the Planning Commission, they shall be included as part of the building permit. If special exception or variances are involved, the Board of Adjustment shall not grant such exception except with the conditions attached by the Planning Commission, but the Board may add conditions in granting approval.
- b. It is the intent of this Ordinance that patio homes in areas where they are or may be permitted may be appropriately intermingled with other types of housing; shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space; and serve the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.
- c. In line with general considerations above, the following site plan and design criteria are established:
  - (1) Not more than two (2) contiguous patio homes shall be connected.
  - (2) Each patio home shall be constructed on its own lot, shall be a minimum width of thirty-five (35) feet at the building line, and minimum lot area shall be three thousand five hundred (3,500) square feet.
  - (3) Each patio home lot shall have one (1) side yard with a minimum of eight (8) feet. Minimum depth of front yards shall be twenty (20) feet. Minimum depth of rear yards shall be fifteen (15) feet. *Side yards may be averaged, but shall not be less than six (6) feet. Fireplace and chimney may be placed in the side or rear yard set back provided they do not project beyond the thirty (30) inch permitted roof overhang, and provided they do not restrict or obstruct any drainage or drainage easement, either existing or proposed.*

- (4) The required eight (8) foot side yard must be kept perpetually free of permanent obstructions, accessory structures, walls and fences without gates.
- (5) Privacy fences or walls may be placed on or along any lot lines provided that such fences or walls are not constructed in such a manner as to block any local lot drainage and provided gates or other openings are provided that will not restrict access for fire protection. An eight (8) foot maximum height limit will be permitted for privacy fences or walls located on or along any required side or rear yard.
- (6) Each patio home shall have on its own lot one yard containing not less than five hundred twenty-five (525) square feet, reasonably secluded from view of streets or neighboring property.
- (7) Maximum lot coverage permitted for the main dwelling shall be one hundred (100) percent of the permitted building area, not including coverage permitted or accessory buildings or structures.
- (8) Off-street parking shall be provided at the rate of two (2) spaces per dwelling unit and shall be located within the interior of the lot. *Garages shall not be credited toward the parking requirements if said garage is a part of the main dwelling or attached to the main dwelling.*
- (9) The exterior walls of the patio home, or any accessory structures located on the zero-foot side yard setback, shall not project over the property line. Roof overhang may penetrate the maintenance and drainage easement of the adjacent lot a maximum of thirty (30) inches, provided the roof shall be so designed that water runoff shall be restricted to the drainage easement area.
- (10) No windows, doors, or other openings shall be permitted on the zero (0) foot side line of any patio home unit. Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual wall maintenance easement of three (3) feet in width along and parallel to the adjacent lot shall be provided.
- (11) Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual drainage easement shall be provided which shall be approved by the City Engineering Department. Fences and walls may be located on or along this easement provided gates or other openings that will not block local lot drainage are maintained. A Hold Harmless Agreement shall be required.
- (12) The lot adjacent to the zero (0) setback side yard must be under the same ownership at the time of initial construction (ensuring that a developer does not infringe on the property rights of owners of adjacent tracts) or a ten (10) foot side setback shall be required, *provided the adjacent property is not zoned for patio homes or is not a permitted use in the adjacent zoning district.*
- (13) No accessory structures shall be erected in a required front, side, street side yard, or open space. Accessory structures shall be permitted in the rear yard and shall not exceed one and one half (1 1/2) stories in height; and shall not cover more than twenty-five (25) percent of the required rear yard; and shall be permitted a zero (0) foot setback from the rear yard, and side property lines, and five (5) feet from any other structure on the same lot. These requirements shall not apply to unattached open carports and garages.
- (14) Unattached garages and carports shall be permitted in addition to the twenty-five (25) percent coverage for accessory structures, but shall not exceed six hundred (600) square feet in area; shall not be placed in any required front, side or street side yard or open space; shall not exceed one and one half (1 1/2) stories in height; and shall be permitted a zero (0) setback from the rear and side property lines, and five (5) feet from any other structure on the same lot.

## 10.9 Patio-Garden Home (PGH-40) (Ord. No. 69-83)

- a. No building permit shall be issued for patio homes, and the Board of Adjustment shall not issue a special exception or variance involving patio homes, except upon a favorable or conditionally favorable report from the Planning Commission. Prior to issuing a favorable report, the Planning Commission shall seek the advice and recommendations of the Planning Controls Division, and shall determine that the proposed patio homes are designed in such a manner as to be in harmony with the character of the surrounding neighborhood. Where conditions are attached by the Planning Commission, they shall be included as part of the building permit. If special exceptions or variances are involved, the Board of Adjustment shall not grant such exception except with the conditions attached by the Planning Commission, but the Board may add conditions in granting approval.
- b. It is the intent of this Ordinance that patio homes in areas where they are or may be permitted may be appropriately intermingled with other types of housing; shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space; and serve the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.
- c. In line with the general considerations above, the following site plan and design criteria are established:
  - (1) Not more than two (2) contiguous patio homes shall be connected.
  - (2) Each patio home shall be constructed on its own lot, shall be a minimum width of forty (40) feet at the building line, and minimum lot area shall be four thousand (4,000) square feet.
  - (3) Each patio home lot shall have one (1) side yard with a minimum of ten (10) feet. Minimum depth of front yards shall be twenty (20) feet. Minimum depth of rear yards shall be fifteen (15) feet. *Side yards may be averaged, but shall not be less than eight (8) feet. Fireplace and chimney may be placed in the side or rear yard setback provided they do not project beyond the thirty (30) inch permitted roof overhang, and provided they do not restrict or obstruct any drainage or drainage easement, either existing or proposed.*
  - (4) The required ten (10) foot side yard must be kept perpetually free of permanent obstructions, accessory structures, walls and fences without gates.
  - (5) Privacy fences or walls may be placed on or along any lot lines provided that such fences or walls are not constructed in such a manner as to block any local lot drainage and provided gates or other openings are provided that will not restrict access for fire protection. An eight (8) foot maximum height limit will be permitted for privacy fences or walls located on or along any required side or rear yard.
  - (6) Each patio home shall have on its own lot one (1) yard containing not less than six hundred (600) square feet, reasonably secluded from view of streets or neighboring property.
  - (7) Maximum lot coverage permitted for the main dwelling shall be one hundred (100) percent of the permitted building area, not including coverage permitted for accessory buildings or structures.
  - (8) Off-street parking shall be provided at the rate of two (2) spaces per dwelling unit and shall be located within the interior of the lot. *Garages shall not be credited toward the parking requirements if said garage is a part of the main dwelling or attached to the main dwelling.*
  - (9) The exterior walls of the patio home, or any accessory structures located on the zero (0) foot side yard setback, shall not project over the property line. Roof overhang may penetrate the maintenance and drainage easement of the adjacent lot a maximum of thirty (30) inches, provided the roof shall be so designed that water runoff shall be restricted to the drainage easement area.
  - (10) No windows, doors, or other openings shall be permitted on the zero (0) foot side line of any patio home unit. Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual wall maintenance easement of three (3) feet in width along and parallel to the adjacent lot shall be provided.
  - (11) While adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual drainage easement shall be provided which shall be approved by the City Engineering Department. Fences and walls may be located on or along this easement provided gates or other openings that will not block local lot drainage are maintained. A Hold Harmless Agreement shall be required.

- (12) The lot adjacent to the zero (0) setback side yard must be under the same ownership at the time of initial construction (ensuring that a developer does not infringe on the property rights of owners of adjacent tracts) or a ten (10) foot side setback shall be required, *provided the adjacent property is not zoned for patio homes or is not a permitted use in the adjacent zoning district.*
- (13) No accessory structures shall be erected in a required front, side, street side yard, or open space. Accessory structures shall be permitted in the rear yard and shall not exceed one and one half (1 1/2) stories in height; shall not cover more than twenty-five (25) percent of the required rear yard; and shall be permitted a zero (0) foot setback from the rear yard and side property lines, and five (5) feet from any other structure on the same lot. These requirements shall not apply to unattached open carports and garages.
- (14) Unattached garages and carports shall be permitted in addition to the twenty-five (25) percent coverage for accessory structures, but shall not exceed six hundred (600) square feet in area; shall not be placed in any required front, side, or street side yard or open space; shall not exceed one and one half (1 1/2) stories in height; and shall be permitted a zero (0) setback from the rear and side property lines, and five (5) feet from any other structure on the same lot.

#### **10.10 Office Complex (Ord. No. 69-83)**

- a. No building permit shall be issued for an office complex, and the Board of Adjustment shall not issue a special exception or variance involving an office complex, except upon a favorable or conditionally favorable report from the Planning Commission. Prior to issuing a favorable report, the Planning Commission shall seek the advice and recommendations of the Planning Controls Division, and shall determine that the proposed office complex is designed in such a manner as to be in harmony with the character of the surrounding neighborhood. Where conditions are attached by the Planning Commission, they shall be included as part of the building permit. If special exceptions or variances are involved, the Board of Adjustment shall not grant such exception except with the conditions attached by the Planning Commission, but the Board may add conditions in granting approval.
- b. It is the intent of this Ordinance that office complexes in areas where they are or may be permitted:
  - (1) May be appropriately intermingled with other types of offices.
  - (2) Shall not form long, unbroken lines of offices.
  - (3) Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space, and serve the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.
- c. In line with the general considerations above, the following site plan and design criteria are established:
  - (1) Not more than six (6) contiguous offices shall be built in a row with the same front line, and not more than twelve (12) offices shall be contiguous. In groups of offices consisting of more than six (6) units, the required difference in front line shall be a minimum of three (3) feet.
  - (2) Minimum width for the portion of the lot on which an office is to be constructed shall be twenty (20) feet.
  - (3) Minimum lot area shall be three thousand (3,000) square feet.
  - (4) No portion of an office or accessory structure in or related to one office complex shall be closer than twenty (20) feet to any portion of an office unit or accessory structure related to another office complex, or to any building outside the complex area.
  - (5) Each office shall be constructed on its own lot. Offices constructed in condominium developments may be excepted from this requirement by the Planning Commission.
  - (6) No side yards shall be required except at the unattached ends of office complexes, in which case the minimum width shall be twenty (20) feet. Minimum depth of the front yard shall be twenty (20) feet, and the minimum depth of the rear yard shall be twenty (20) feet.

- (7) Off-street parking shall be provided at the rate of one space per two hundred (200) square feet of gross floor area. Insofar as practicable, off-street parking facilities shall be grouped in bays, whether adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the office unit it is intended to serve.
- (8) Story and building height requirements shall be in accordance with those specified for the district in which the office complex is located.

**10.11 Railroad Cars (Ord. No. 69-83)**

For the purpose of this Ordinance the following regulations shall apply to the use of railroad cars other than in general railway operation.

- a. Railroad cars may be utilized in the following named districts and shall be preceded by the submission of a development plan to the Planning Commission in compliance with the provisions of this Ordinance (Ord. No. 31-73).

- B-2      M-1
- B-3      M-2
- B-4      M-3
- B-5

- b. Railroad cars shall be a permitted use in an Agr-I, Agr-II and Flood Hazard (FH) Districts as an accessory use for storage purposes, provided no lot or parcel of land used in conjunction with it is less than five (5) acres. Any lot or parcel of land less than five (5) acres shall be permitted on appeal to the Board of Adjustment, as a special exception.
- c. All railroad cars approved by the Planning Commission, Board of Adjustment, or an administrative official shall be as compatible in appearance with the surrounding property as is reasonably possible, and shall comply with any and all special conditions and safeguards placed on said approval.
- d. All foundations for use in conjunction with railroad cars shall be approved by the Chief Building Official whether or not the railroad cars are to be a temporary or permanent use.

**10.12 (Reserved)**

**10.13 Cemeteries**

For the purposes of this ordinance the following regulations shall apply to establish a cemetery:

- A. make application to the Planning Controls Division of the City;
- B. applicant will submit six copies of a detailed development plan showing all planned improvements for proposed cemetery, together with a report from the Montgomery County Health Department indicating its suitability of the proposed cemetery site;
- C. the Planning Controls Division will circulate among the city departments for review, copies of the development plan;
- D. the Planning Controls Division will place the development plan on the agenda of the Planning Commission, notify adjoining and adjacent property owners by certified letter and public notice will be given as required;
- E. the Planning Commission will make a recommendation to the Council for or against their approval; and

- F. upon approval by the Council, petitioner may obtain a building permit and commence development of the cemetery.

#### **10.14 Overlay District (Ord. No. 4-2004)**

For the purpose of this ordinance the City Council may approve certain additional activities in addition to those permitted or permitted on appeal in the underlying zoning district. Such additional activities and the area in which they are permitted shall be clearly described.

##### **10.14.1 Vending District (Ord. No. 5-2004)**

###### **I. Findings and Purpose**

- a) The primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic.
- b) Vending on the public sidewalks promotes the public convenience by contributing to an active and attractive pedestrian environment.
- c) Reasonable regulation of sidewalk vending is necessary to protect the public health, safety and welfare.
- d) The regulations contained in this ordinance do not prohibit free speech but merely regulate activities which are commercial in nature.
- e) The granting of licenses for the use of public sidewalks is subject to such conditions as the City of Montgomery may impose to protect the public interests, welfare and convenience.

###### **II. Definitions**

For purposes of this article, the following definitions shall apply:

- a) Vending district means the zone or area specifically designated for sidewalk vending.
- b) Cart means any portable vending device, pushcart, or any other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for the displaying, storing or transporting of articles offered for sale by a vendor, and which does not exceed four (4) feet in width, six (6) feet in length, excluding trailer hitch or handle bars, and five (5) feet in height, excluding canopy or cover. A cart that is towable by means of a trailer hitch is permitted provided it does not exceed the aforementioned size limits.
- c) Vendor means any person engaged in the selling, or offering for sale, of food, beverages, or merchandise on the public streets or sidewalks, from a cart.
- d) City means The City of Montgomery.

###### **III. Permitted Areas**

Begin at the southeast intersection of South Court Street and Washington Avenue, thence proceed as follows:

- west to the west side of South Court Street;
- north from the west side of South Court Street diagonally to the east boundary of the One Court Square building thence along said east building boundary, to include the park at Court Square adjacent to and on the east side of said building, to the southwest intersection of Commerce Street;
- northwest along the southwest side of Commerce Street to the southwest intersection of Bibb Street;
- southwest along the southeast side of Bibb Street to the southwest intersection of Molton Street;
- northwest along the southwest side of Molton Street to the northwest intersection of Water Street;
- northeast along the northwest side of Water Street to the southwest intersection of Commerce Street;
- northwest along the southwest side of Commerce Street to the southwest ROW of CSX Railroad;
- northeast along southwest right-of-way of CSX Railroad to the southeast intersection of North Court Street and Pollard Street;

- south along the east side of North Court Street to the southeast intersection of Madison Avenue;
- west along the south side of Madison Avenue to the southeast intersection of Coosa Street;
- southeast along the northeast side of Coosa Street to the northeast intersection of First Alabama Plaza (being a point on the north side of Monroe Street);
- east along the north side of Monroe Street to the northeast intersection of North Union Street;
- south along the east side of North Union Street to the southeast intersection of Washington Avenue;
- west along the south side of Washington Avenue to the southeast intersection of South Court Street and Washington Avenue and the point of beginning.

#### **IV. Permitted Merchandise**

No merchandise shall be sold by a vendor from a cart in a vending district except the merchandise approved. Permitted merchandise shall be limited to food and non-alcoholic beverages such as, but not limited to, biscuits or sandwiches made from biscuits, hot dogs, sausages, bagels, pastries, candy, fresh fruit, tamales, burritos, kebabs, sushi, chicken, beef or pork meat, prepackaged sandwiches, chips, popcorn, nuts, pretzels, ice products, ice cream, milk products, frozen yogurt, hot and cold beverages containing no alcohol, and condiments related to permitted merchandise. Tobacco products are not permitted merchandise.

#### **V. License Required**

- a) It shall be unlawful to sell, or offer for sale, any food, beverage or merchandise on any street or sidewalk within the city from a cart without first obtaining a business license therefore.
- b) A nonexclusive license for not more than one (1) year may be granted for the operation of one (1) or more carts at locations within a vending district.
- c) An annual license fee of \$300 per cart shall be paid in advance. One business license for each cart shall be required at the applicable rate pursuant to the business license ordinance.
- d) A license may not be transferred in any manner.
- e) The provisions of this article shall not apply to festivals, community projects, or public events which occur on a periodic basis and which are specifically approved by City Council. (Jubilee Cityfest is an example of a public event for which this license would not be valid and to which vendors must obtain an additional permit from the festival sponsor for time and locations available within the Jubilee Cityfest.)

#### **VI. Application for License**

The application for a vendor's license shall include the following information:

- a) The name, home and business address of the applicant, and the name and address of the owner, if other than the applicant, of the cart to be used in the operation of the vending business.
- b) A description of the type of food, beverage or merchandise to be sold.
- c) A list of the proposed location or locations of the vending cart(s) for which a license is sought.
- d) A description and photograph or drawing of the cart or carts proposed to be used.
- e) The location and description of off-street cart storage facilities.
- f) The method and routes for transporting carts to and from sidewalk locations and storage facilities.
- g) The names, addresses and percentage of stock owned by shareholders in a corporate applicant, and the percentage interest of each partner in a partnership applicant.
- h) Copy of insurance policy or binder.
- i) Such information as the applicant may choose or as may be requested by the city.

#### **VII. Issuance**

- a) Any license issued pursuant to this ordinance shall be subject to modification by ordinance at any time deemed necessary for protection of public interests. Any license shall be granted as a privilege and not as a matter of right. Vending at any location may be temporarily suspended or relocated by the city upon reasonable notice when private or public construction or activities of the city make it in conflict with, unsafe or impractical to allow vending.

- b) In determining the acceptability of an application, the city may consider any factors presented in the application, at a public hearing, or in any staff report or investigation of matters related to the past record and ability of the applicant to perform conditions of this ordinance and the license in a manner which serves the public interests.
- c) If an applicant is denied a license then not later than 30 days after the filing of completed application for a vendor's license, the applicant shall be notified in writing of the reason for denial of the license.
- d) It will be presumed that the owner of a food service business (restaurant) selling the same merchandise approved for a location within 100 feet of the principal public entrance to the food services business area can best serve the public convenience and interests.

#### **VIII. Inspection and Insurance**

- a) A certificate of inspection or compliance as required by applicable health regulations and evidence of compliance with the health code shall be filed with the city clerk before any sales are made from carts.
- b) Proof an insurance policy, issued by an insurance company licensed to do business in the State of Alabama, protecting the owner and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the owner shall be filed with the city clerk prior to issuance of the license and annually. Such policy shall be a general liability policy naming the vendor as insured and the City of Montgomery as an additional insured in an amount not less than \$500,000 per occurrence and \$1,000,000 aggregate combined single limit for bodily injury, personal injury and property damage. The policy shall specifically provide that the insurer shall provide written notice to the City of Montgomery at least 30 days prior to cancellation, termination or modification of the coverage provided to the city.

#### **IX. Locations**

No cart location in a vending district shall be:

- a) Within 100 feet of the principal public entrance to any food service business (restaurant) area not owned by the vendor which restaurant sells merchandise approved for sale by a vendor.
- b) At any location which does not provide a clear passageway for pedestrians of at least four (4) feet in width.
- c) Within 10 feet of any entranceway to any building.
- d) Within 50 feet of any driveway entrance to a police or fire station, or within 25 feet of any other driveway.
- e) At any location where it would obstruct pedestrian traffic at crosswalks or sight clearance at intersection.
- f) Within 25 feet of any bus stop sign.
- g) Away from curbside of street.
- h) In a vehicle parking space or travel lane of any street.
- i) Within 100 feet of the entrance of a church, temple, synagogue or mosque.

#### **X. Prohibited Conduct**

No vendor shall:

- a) Vend on any sidewalk except those permitted by this or any other City of Montgomery ordinance.
- b) Vend between: 12 Midnight and 6 a.m. (Ord. 39-2013)
- c) Leave any cart unattended.
- d) Store, park, or leave any cart overnight on any street or sidewalk.
- e) Sell food or beverages for immediate consumption unless there is a litter receptacle which is available for patrons' use.
- f) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor.
- g) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the cart.
- h) Set up, maintain or permit the use of any table, crate, carton, rack, or any other device to increase the selling or display capacity of the cart.
- i) Solicit or conduct business with persons in motor vehicles.
- j) Sell anything other than that for which a license to vend has been issued.



**10.14.2 SmartCode (Ordinance No. 3-2006)** (see separate document)

**11. Definitions** (Ord. No. 31-73) (Ord. No. 69-83)

For the purpose of this Ordinance words used in the present tense include the future, the singular number includes the plural, and the plural the singular. Words and terms are defined as follows:

**Accessory Structure or Use:** Is one which:

- a. Is subordinate to and serves the principal building or principal use;
- b. Is subordinate in area, extent, or purpose to the principal building or principal use served;
- c. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
- d. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.

**Accessory Use:** A use customarily incidental and subordinate to the principal use or building; and located on the same lot with such principal use or building.

**Administrative Official:** Such person or persons designated by the City Council to administer and enforce this Ordinance.

**Alteration and 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; and
- c. Any change in the interior accommodations of a building or structure.

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

**Antennas and/or Aerial:** A usually metallic structure or device (as a dish, rod, or wires) for radiating or receiving radio and television transmission waves whether conventional or by satellite, for the purpose of carrying, magnifying and transferring the signals into the interior of buildings.

**Apartment:** A building, which is used as a residence for three (3) or more families living in separate dwelling units.

**Awning:** A shelter attached to, and hanging from, a vertical surface of a building without any other support from the ground.

**Block:** The word block as herein used shall be construed to be that portion on either side of the street considered, upon which the building is proposed, bounded by the nearest intersecting streets.

**Boarding House:** A building other than a hotel, cafe, or restaurant where for compensation meals are provided for three (3) or more persons.

**Building:** Any structure having a roof supported by columns or walls, including tents, lunch wagons, dining cars, trailers, and similar structures whether stationary or moving.

**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 street property line or lines that it is permissible to build a structure, either to be in compliance with this chapter, or in compliance with a plat, deed, or private contract.

**Condominium:** A multi-unit dwelling, group of multi-unit dwellings, townhouse complex, group of townhouse complexes, or any combination thereof; each of whose residents, known as unit owners, enjoys exclusive ownership of his individual apartment or dwelling unit holding fee simple title thereto, while retaining an undivided interest, as a tenant in common, in the common facilities and areas of the building or buildings and grounds which are used by all the residents.

**Small Dry Cleaners:** Cleaning plants using non-flammable, non-explosive type cleaning solvent; occupying not more than one thousand five hundred (1,500) square feet of floor space; operating not more than two (2) delivery and pickup trucks; and employing not more than four (4) persons, exclusive of sales clerks and truck drivers.

**Large Dry Cleaners:** Cleaning plants occupying more than one thousand five hundred (1,500) square feet of floor space, and employing more than four (4) persons exclusive of sales clerks and truck drivers.

**Dwelling:** A house or other building used primarily as an abode for one (1) or two (2) families; except that the word dwelling shall not include boarding or rooming houses, tents, tourist camps, hotels, trailers, trailer camps, or other structures designated or used primarily for transient residents.

**Dwelling-One Family:** A dwelling containing only one (1) dwelling unit. **Dwelling-Two Family:** A dwelling containing two (2) dwelling units.

**Dwelling-Multi-Family:** Any dwelling containing at least two (2), but not more than four (4) dwelling units, excluding row dwellings.

**Dwelling Unit:** A building or a portion thereof, designed for and occupied by one (1) family for living and sleeping purposes with kitchen facilities for the exclusive use of the one (1) family.

**Drive-In Restaurant:** A restaurant or public eating business so conducted that food, meals, or refreshments are brought to the motor vehicles for consumption by the customer or patron.

**Drive-In Theatre:** A theatre so arranged and conducted that the customer or patron may view the performance while seated in a motor vehicle.

**Family:** Any number of individuals living together as a single house-keeping unit, and doing their cooking on the premises.

**Home Occupation:** A use conducted entirely within a dwelling and carried on solely by the inhabitant thereof, using no more than twenty-five percent (25%) of total floor area; and which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof; and in which any signs advertising said home occupation are limited to one (1) sign not over two (2) square feet in area; and also in which there is no public display of goods. Examples of home occupations are: dressmaking, the taking of boarders and the leasing or renting of rooms, tutoring, and teaching the fine arts; but shall not include beauty parlors, furniture upholstery, and offices for any professional or business use.

**Hotel:** Any building or portion thereof which contains at least ten (10) guest rooms intended for occupancy by individuals for compensation, whether paid directly or indirectly.

**Illegal Non-Conforming Building:** Any structure which was erected or altered outside the provisions of a prior Zoning Ordinance.

**Illegal Non-Conforming Use:** Any use which on the effective date of this Ordinance was operating outside the provisions of a prior Zoning Ordinance, such as a dine and dance establishment operating in a residential zone in defiance of zoning restrictions.

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

**Legal Non-Conforming Structure:** Any structure which was lawfully erected or altered in conformity with all applicable municipal ordinances, or through variance granted by the Board of Adjustment, but which structure does not comply with all the provisions this Ordinance establishes for structures in the district in which the same is located.

**Legal Non-Conforming Use:** A use which, on the effective date of this Ordinance, was lawfully operated in accordance with the provisions of any prior Zoning Ordinance, or through variance granted by the Board of Adjustment, but which use is not a permitted use as established by this Ordinance in the district in which the use is located.

**Living Quarters:** Housing providing facilities for sleeping and bathing. **Lot:** A piece, parcel, or lot of land occupied or intended to be occupied by one (1) main building, accessory buildings, uses customarily incidental to such main buildings, and such open spaces as are provided in this Ordinance, or as are intended to be used with such piece, parcel or plot of land. Two (2) or more platted lots may be combined to create a lot as defined herein.

**Mobile Dwelling:** Any vehicle or similar portable structure, mounted or designed for mounting on wheels, used or intended for use for permanent dwelling purposes including structural additions, except parked and unoccupied camping-type trailers. Any vehicle or structure shall be deemed to be a mobile dwelling whether or not the wheels have been removed therefrom and whether or not resting on temporary or permanent foundations.

**Mobile Dwelling Park:** A tract of land under unified control which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance, which is intended for the express purpose of providing a satisfying living environment for mobile dwelling residents on a long term occupancy basis.

**Mobile Dwelling Subdivision:** A tract of land with individually owned lots, which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance and Subdivision Regulations of the City of Montgomery, which is intended for the express purpose of providing a satisfying living environment for mobile dwelling residences on a long term occupancy basis.

**Modular Dwelling:** A dwelling unit constructed by the assembly of two (2) or more pre-manufactured units, sections or modules to be placed on a permanent foundation, thereby creating a permanent residence which shall comply with all provisions as set forth in Article VI General Provisions, Section 10.7 (Modular Dwelling); and Article VII District Regulations of this Ordinance (Ord. No. 31-73); the Montgomery Building Code; and any State, County, or City code, laws, or regulations that may apply either pursuant to or created and adopted after the adoption of this Ordinance.

**Motor Court:** A building or group of buildings containing one (1) or more guest rooms having separate outside entrances for each such room or suite of rooms, and for which rooms or suites of rooms automobile parking space is provided.

**Non-Conforming Use:** A use of any structure or land which originally lawful does not conform with the provisions of this Ordinance or any subsequent amendments thereto for the district in which it is located.

**Non-Residential Planned Unit Development:** For the purpose of this Ordinance Non-Residential Planned Unit Development is defined as:

- a. Land under unified control, planned and developed as a whole in a single development operation, or a definitely programmed series of development operations, including all lands and buildings;
- b. Land developed for non-residential uses in accordance with a Development Plan approved by the Planning Commission; and
- c. Tracts of land under unified control consisting of at least ten (10) contiguous acres of land. Offices: Space or rooms used for professional, administrative, clerical and similar uses.

**Office Complex:** A group of not less than four (4) nor more than twelve (12) offices connected by party walls.

**Parking Space:** The space necessary to park an automobile. Not less than an area nine (9) feet wide by eighteen (18) feet long shall be provided for each parking space, and all parking spaces required shall be provided with necessary lanes and maneuvering areas.

**Patio-Garden Home:** A single family dwelling located on its own lot, having only one (1) side yard required or two (2) single family dwellings connected by a firewall as required by the Building Code with only one (1) side yard required per dwelling, with six hundred (600) square feet of court yard, patio or open space provided per dwelling, or as otherwise stated in this Ordinance.

**Planned Unit Development:** For the purposes of this Ordinance a Planned Unit Development is defined as:

- a. Land under unified control, planned and developed as a whole in a single development operation or a definitely programmed series of development operations, including all lands and buildings; and
- b. Developed primarily for residential uses, with such other uses as may be permitted upon approval of the Planning Commission.

**Recreational Vehicle:** For the purposes of this Ordinance, a recreational vehicle shall consist of any of the following as herein defined:

- a. A travel trailer is a vehicular portable structure mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a stock passenger automobile; primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use.
- b. A camping trailer is a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other pliable material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location, providing temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- c. A truck camper is a portable structure designed to be loaded onto, or affixed to, the bed/or chassis of a truck, constructed to provide temporary living quarters for recreation, camping, or travel use.

- d. A motor home is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car, primarily designed to provide temporary living quarters for recreation, camping and travel.
- e. A boat is any recreational vehicle designed or intended for operation on water. Boats and trailers to transport the same shall be considered a recreational vehicle, and subject to the same requirements and restrictions applying to other recreational vehicles.

**Rooming House:** Any building or portion thereof which contains not less than three (3) or more than nine (9) guest rooms, which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly.

**Road-Side Stand:** A structure for display and sale of products, with no space for customers within the structure itself.

**Self-Service Laundry:** A structure containing washing machines, usually drying machines, and dry cleaning machines which are coin-operated by the customer. It may or may not have an attendant.

**Semi-Public Buildings:** Structures for the use of a group the membership of which is open to the public, such as churches, Y.M.C.A. and Y.W.C.O. facilities, private schools, hospitals and nursing homes, colleges, health clubs, country clubs, tennis clubs, etc.; but not including profit-making organizations.

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

**Streets:** Any public way set aside for common travel more than twenty-one (21) feet in width if such existed at the time of enactment of this Ordinance; or such right-of-way forty (40) feet or more in width if established thereafter.

**Structure:** Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including among other things signs, billboards, fences, walls and satellite television and radio antennas; but not including telephone poles, overhead wires, wire fences and other fences less than three (3) feet high, retaining walls or terraces.

**Travel Trailer Park:** A tract of land under unified ownership which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance, and which is intended for the express purpose of providing a satisfactory living environment for travel trailer residents on a temporary basis.

**Townhouse Complex:** A group of not less than four (4), nor more than twelve (12) townhouses connected by party walls.

**Townhouse:** A single-family residential building attached to a series of other single-family residential buildings by not more than two (2) party walls. Townhouses shall be built in groups of not less than four (4), nor more than twelve (12) townhouses connected by party walls. As used herein, townhouse refers to single-family residential buildings, as described above, intended for sale to individuals or families, and not to residential units intended for rental purposes, whatever their configuration, and platted on individual lots.

**Traffic Analysis:** As used in this Ordinance, the term traffic analysis shall be deemed to consist of the following:

- a. The current capacities of existing streets adjacent to the development;
- b. Current traffic counts on these streets; and
- c. The developer's estimate of the amount of traffic that will be generated by the proposed development.

Information required in a. and b. above shall be limited to the information, which is available to the developer from City, County, and State agencies.

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

**Yard:** An open space on the lot with the main building left open, unoccupied and unobstructed by structures from the ground to the sky except as otherwise provided in this chapter. Yards shall be measured from the wall of the structure to the property line, unless the overhang exceeds thirty (30) inches, in which case the yard shall be measured from the overhang plus 30 inches. (Thus, if a ten (10) ft. side yard is required and the roof overhangs five (5) ft., the wall must be twelve and one half (12 1/2) ft. from the side property line.)

- a. Front Yard: The yard extending across the entire width of the lot between the main building, 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 in the block.

- b. Rear Yard: The yard extending across the entire width of the lot between the main building, including covered porches, and the rear lot line.
- c. Side Yard: The yard extending along a side lot line, from the front yard to the rear yard, between the main building, including covered porches and carports, and such lot line.

## **ARTICLE VII DISTRICT REGULATIONS**

### **1. Regulations Applying to All Districts**

#### **a. Uses Permitted**

- (1) Public utilities (but not including power and gas substations and pumping stations).
- (2) Public buildings of a governmental nature, including public schools and libraries.
- (3) Recreational facilities, including parks, playgrounds, stadiums, etc.
- (4) Accessory structures.
- (5) Home occupations.

#### **b. Uses Permitted on Appeal:** (Ord. No. 31-73) (Ord. No. 126-79)

- (1) Public utilities, not otherwise specified, including power and gas substations and pumping stations.
- (2) Public buildings of a proprietary nature.
- (3) General hospitals for humans (including nursing homes).
- (4) Semi-public buildings and uses, including private school and churches.
- (5) Lights for recreational facilities, including private and semi-public tennis courts, ball fields, etc. located in residential districts, provided the lights are designed for this use. Spot lights or flood lights shall be restricted on such courts and play fields.

#### **c. Minimum Yard Size:** (Public and Semi-Public Buildings) Structure shall not be nearer than 35 feet to any property line.

#### **d. Maximum Height:** (Public and Semi-Public Buildings) No Limit. (Ord. No. 31-73)

#### **e. Off-Street Automobile Parking:**

- (1) Churches, auditoriums, stadiums, and similar uses: One parking space for each five (5) seats.
- (2) Schools: Five (5) spaces for each school room.
- (3) Hospitals: One (1) space for each three (3) beds.
- (4) Other uses permitted in Article VII, Sub-Section 1, shall be provided parking spaces as determined by the Board of Adjustment.

#### **f. Off-Street Loading and Unloading:**

See Article VI-5. (Ord. No. 13-64)

**2. Residential Districts**  
(Ord. No. 31-73)

Very Low Density

R-125  
R-100  
R-85

ITEM	DISTRICT		
	R-125	R-100	R-85
Classes of structures or uses permitted	A	A	A
Classes of structures or uses permitted on appeal	F	F	F
Classes of structures or uses restricted	B,C,D,E & G	B,C,D,E & G	B,C,D,E & G
Required lot areas, width, etc.:			
Minimum lot area, one family, in sq. ft.	20,000	14,000	12,000
Minimum lot width at building line, in ft.	125	100	85
Minimum depth of front yard, in ft.	50	35	35
Minimum depth of rear yard, in ft.	40	30	30
Minimum width of each side yard, in ft.	20	12	10
Side yard abutting a street	50	35	30
Maximum building area, percent of gross lot area	20%	25%	25%
Maximum building height: Feet	35	35	35
Stories	2	2	2
Off-street parking requirements:			
Car spaces per family dwelling unit	3	2	2

**CLASS:**

- “A” Single family dwellings.
- “B” Residential structures containing two family units.
- “C” Residential structures containing two, three or four family units.
- “D” Apartments for any number of families.
- “E” Lodges and clubs, not operated for a profit; offices; hotels.
- “F” Agriculture, poultry, and livestock raising, but not including the operation of chicken brooder houses; and provided no structure, pen or corral housing animals be located closer than 200 ft. to any property line.
- “G” Any commercial or industrial use not specifically permitted.

**2. Residential Districts** (continued)  
(Ord. No. 31-73)

R-75-s  
R-75-d  
R-75-m

ITEM	<u>DISTRICT</u>		
	R-75-s	R-75-d	R-75-m
Classes of structures or uses permitted	A	A & B	B,C & H
Classes of structures or uses permitted on appeal	F	F	F
Classes of structures or uses restricted	B,C,D,E,G & H	C,D,E,G & H	A,D,E & G
Required lot areas, width, etc.:			
Minimum lot area, one family, in sq. ft.	10,000	10,000	10,000
Each additional family		2,500	2,500
Minimum lot width at building line, in ft.	75	75	75
Minimum depth of front yard, in ft.	30	30	30
Minimum depth of rear yard, in ft.	30	30	30
Minimum width of each side yard, in ft.	10	10	10
Side yard abutting a street	30	30	30
Maximum building area, percent of gross lot area	40%	40%	40%
Maximum building height: Feet	35	35	35
Stories	2	2	2
Off-street parking requirements:			
Car spaces per family dwelling unit	2	2	2

**CLASS:**

- “**A**” Single family dwellings.
- “**B**” Residential structures containing two family units.
- “**C**” Residential structures containing two, three or four family units.
- “**D**” Apartments for any number of families.
- “**E**” Lodges and clubs, not operated for a profit; offices; hotels.
- “**F**” Agriculture, poultry, and livestock raising, but not including the operation of chicken brooder houses; and provided no structure, pen or corral housing animals be located closer than 200 ft. to any property line.
- “**G**” Any commercial or industrial use not specifically permitted.
- “**H**” Townhouses.



**2. Residential Districts** (continued)  
(Ord. No. 31-73)

R-60-s  
R-60-d  
R-60-m  
R-60-a

ITEM	DISTRICT			
	R-60-s	R-60-d	R-60-m	R-60-a
Classes of structures or uses permitted	A	A & B	B,C & H	B,C,D & H
Classes of structures or uses permitted on appeal	B & F	C & F	D,E & F	E & F
Classes of structures or uses restricted	C,D,E,G & H	D,E,G & H	A & G	A & G
Required lot areas, width, etc.:				
Minimum lot area, one family, in sq. ft.	7,200	7,200	7,200	7,200
Each additional family		1,500	1,500	None
Minimum lot width at building line, in ft.	60	60	60	60
Minimum depth of front yard, in ft.	20	20	20	20
Minimum depth of rear yard, in ft.	20	20	20	20
Minimum width of one side yard, in ft. (see note)	10	10	10	10
Minimum width of other side yard, in ft. (see note)	5	5	5	5
Side yard abutting a street	20	20	20	20
Maximum building area, percent of gross lot area	50%	50%	60%	60%
Maximum building height: Feet	35	35	35	35
Stories	2	2	2	2
Off-street parking requirements:				
Car spaces per family dwelling unit	1	1	1	1

**CLASS:**

- “A” Single family dwellings.
- “B” Residential structures containing two family units.
- “C” Residential structures containing two, three or four family units.
- “D” Apartments for any number of families.
- “E” Lodges and clubs, not operated for a profit; offices; hotels.
- “F” Agriculture, poultry, and livestock raising, but not including the operation of chicken brooder houses; and provided no structure, pen or corral housing animals be located closer than 200 ft. to any property line.
- “G” Any commercial or industrial use not specifically permitted.
- “H” Townhouses.

**NOTE:** Minimum distance between main structures shall be 15 ft.

**2. Residential Districts** (continued)  
(Ord. No. 31-73)

R-50

<b>ITEM</b>	<b>DISTRICT R-50</b>
Classes of structures or uses permitted	A
Classes of structures or uses permitted on appeal	B & F
Classes of structures or uses restricted	C,D,E & G
Required lot areas, width, etc.:	
Minimum lot area, one family, in sq. ft.	6,000
Each additional family	1,200
Minimum lot width at building line, in ft.	50
Minimum depth of front yard, in ft.	20
Minimum depth of rear yard, in ft.	20
Minimum width of one side yard, in ft. (see note)	9
Minimum width of other side yard, in ft. (see note)	5
Side yard abutting a street	9
Maximum building area, percent of gross lot area	50%
Maximum building height:    Feet	35
Stories	2
Off-street parking requirements:	
Car spaces per family dwelling unit	1

**CLASS:**

- “**A**” Single family dwellings.
- “**B**” Residential structures containing two family units.
- “**C**” Residential structures containing two, three or four family units.
- “**D**” Apartments for any number of families.
- “**E**” Lodges and clubs, not operated for a profit; offices; hotels.
- “**F**” Agriculture, poultry, and livestock raising, but not including the operation of chicken brooder houses; and provided no structure, pen or corral housing animals be located closer than 200 ft. to any property line.
- “**G**” Any commercial or industrial use not specifically permitted.

**NOTE:** Minimum distance between main structures shall be 14 ft.

**2. Residential Districts** (continued)  
(Ord. No. 31-73)

Mobile Dwelling Park R-99-p  
Mobile Dwelling Subdivision R-99-s

ITEM	DISTRICT	
	R-99-p	R-99-s
Classes of structures or uses permitted	A,B,C,D & F	A,C & D
Classes of structures or uses permitted on appeal	None	None
Classes of structures or uses restricted	E	B,E & F
Densities:		
Maximum mobile dwellings per acre	8	6
Minimum lot size, in sq. ft.	4,000*	6,000*
Clearances:		
Side, feet	20	25
End, feet	15	20
Enclosed storage space required, per mobile dwelling in cubic feet	200	-0-
Off-street parking requirements:		
Parking spaces per mobile dwelling lot	2	2
Required open space, percent of gross area	13%	10%**
Prior approval of development plan	Required	Required

**CLASS:**

“A” Mobile dwellings.

“B” Office and service uses associated with the operation of mobile dwelling parks.

“C” Accessory structures, self-service laundries.

“D” Lodges and clubs not operated for profit.

“E” Any use or structure not specifically permitted.

“F” Travel trailer parks – in areas designated for travel trailer parks.

\* In no case shall a mobile dwelling be placed on a lot less than three (3) times the area of the mobile dwelling.

\*\* This requirement applies only to subdivisions with a total area greater than 5 acres.

**2. Residential Districts** (continued)  
(Ord. No. 31-73)

Townhouse

R-24-t  
R-20-t

ITEM	DISTRICT	
	R-24-t	R-20-t
Classes of structures or uses permitted	A & B	A & B
Classes of structures or uses permitted on appeal	C,D,E & F	C,D,E & F
Classes of structures or uses restricted	G	G
Required lot area, width, etc.:		
Minimum lot area, one family, in sq. ft.	2,400	2,000
Minimum lot width at building line, in ft.	24	20
Minimum depth of front yard, in ft.	20	20
Minimum width of each side yard, in ft.	16	10
(required only at unattached ends of townhouse complex)		
Maximum building height: Feet	35	35
Stories	2	2
Off-street parking requirements: car spaces per dwelling unit	2	2
Prior approval of development plan	Required	Required

**CLASS:**

“A” Single family dwellings, townhouses, and patio-garden homes.

“B” Residential structures containing two, three, or four units; requirements in accordance with regulations for R-20-t & R-24-t (Townhouse) Districts.

“C” Residential structures containing two, three, or four units; requirements in accordance with regulations for R-65-m (Residential) District.

“D” Residential structures containing two, three, or four units; requirements in accordance with regulations for R-60-m (Residential) District.

“E” Apartments for any number of families.

“F” Lodges and clubs not operated for a profit. Membership must be limited to residents of the immediate area.

“G” Any use not specifically permitted.

**NOTE:** See Article VI, Section 10.1, for additional requirements applying to townhouses in all zones.

**NOTE:** See Article VI, Section 10.8 and 10.9, for additional requirements applying to patio homes in a Townhouse District.



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**Classes of Structures Permitted:**

- “A” Single family dwellings.
- “B” Residential structures containing two, three, or four family units.
- “C” Apartments for any number of families.
- “D” Townhouses.

**Classes of Structures Permitted with Specific Recommendation of the Planning Commission:**

- “A” Restaurants; stores selling food, general merchandise, apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair; banks; post offices; offices and similar services.
- “B” Lodges and clubs not operated for profit.
- “C” Business or professional offices, public buildings, hospitals for humans, veterinary offices and/or hospitals, nursing homes.
- “D” Nurseries or kindergartens.

**Classes of Uses Permitted on Appeal:**

Due to the flexibility and range of authority granted the Planning Commission in the review and approval of Planned Unit Developments; and as Planned Unit Developments are to be developed in accordance with a unified, comprehensive plan that shall provide for all appropriate uses and structures; in Planned Unit Development Districts the powers of the Board of Adjustment shall be limited to the granting of variances as to yard and height requirements and signs where permitted, and shall not include the power to grant special exceptions.

**Classes of Structures or Uses Restricted:**

- “A” Any commercial, industrial, or agricultural use not specifically permitted by the Planning Commission when granting final approval of PUD.
- “B” Mobile dwellings.

**Minimum Area:**

The minimum area required to qualify for a PUD District shall be not less than 15 contiguous acres of land.

**Ownership:**

The tract of land for a PUD must be either in one ownership, or the subject of an application filed jointly by the owners of all the properties included (the holder of a written option to purchase land shall for purposes of such application be deemed to be an owner of such land).

**Location of PUD District:**

This district shall be applicable to any area of the City or the Police Jurisdiction thereof where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of the PUD District as stated in Article VI of this Ordinance.

**Land Use and Density:**

Because land is used more efficiently in PUD Districts, improved environmental quality can often be produced with a greater number of dwellings units per net acre than usually permitted in traditionally zoned residential districts. The City Planning Commission, with the technical advice and assistance of the Planning Controls Division, shall determine in each case the appropriate land use pattern and dwelling unit density for individual projects, including the amount of land to be reserved for common open space and/or recreational uses. These determinations shall be completely documented and justified.

**3. Business Areas**  
(Ord. No. 31-73)

Central Business

B-1-a  
B-1-b

ITEM	DISTRICT	
	B-1-a	B-1-b
Classes of businesses or services permitted	A & C	A,B,C & D
Classes of businesses or services permitted on appeal	B & D	E
Classes of businesses or services restricted	E & F	F
Minimum yard size:		
Front yard, in feet	None*	None*
Rear yard, in feet	None	None
Maximum height:	No limit	No limit
Maximum building area, percent of gross lot area	100%	60%
Off-street parking requirements:		
Parking spaces per each 200 sq. ft. of gross floor area	½ **	½ **
Off-street loading	None	(See Art. VI-5)
Prior approval of development plan	Required	Required

**CLASS:**

“**A**” Stores selling food, general merchandise, apparel, furniture, house wares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair; offices, banks, post offices, and similar services; and dwellings for any number of families. A mixed use is allowed for dwellings for any number of households and other permitted uses in this district on the same parcel of land.

“**B**” Automobile filling stations\*, drive-in eating places, motels, automobile repair.

“**C**” Any retail business or service not specifically restricted herein, places of amusement and assembly, hotels, and outdoor advertising structures.

“**D**” Large dry cleaners and laundries; wholesale business; manufacturing incidental to a retail business where articles are sold at retail on the premises, not specifically restricted herein.

“**E**” Animal clinics, hospitals or kennels; coal yards; rag storage and baling.

“**F**” Industrial uses not specifically permitted herein.

\* Set-back requirements for pump islands at service stations is at least 10 ft. from all property lines.

\*\* Off-site parking may be provided to meet this requirement provided previous approval is obtained from the Planning Commission.

**3. Business Areas** (continued)  
(Ord. No. 31-73)

Individual Stores  
Commercial Highway  
B-2  
B-3

ITEM	DISTRICT	
	B-2	B-3
Classes of business or services permitted	A, B & C	A, B & C
Classes of business or services permitted on appeal	D & G	D & G
Classes of business or services restricted	E & F	E & F
Minimum yard size:		
Front yard, in ft.	--*	30*
Rear yard, in ft.	--*	20
Maximum height:		
Feet	45	45
Stories	3	3
Maximum width of sidewalk, in feet	7	--
Maximum building area, percent of gross lot area	50%	30%
Off-street loading	(See Article VI-5)	
Off-street parking requirements:		
Parking spaces per each 200 sq. ft. of gross floor area	½	1 ¼
Prior approval of development plan	Required	Required

**CLASS:**

- “**A**” Stores selling food, general merchandise, apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair; offices, banks, post offices, and similar services.
- “**B**” Automobile filling stations\*, drive-in eating places, motels, automobile repair.
- “**C**” Any retail business or service not specifically restricted herein, places of amusement and assembly, hotels, and outdoor advertising structures.
- “**D**” Large dry cleaners and laundries; manufacturing incidental to a retail business where articles are sold at retail on the premises, not specifically restricted herein; animal clinics, hospitals or kennels.
- “**E**” Coal yards, rag storing and baling.
- “**F**” Any industrial use not specifically permitted.
- “**G**” Travel trailer parks.

\* Set-back requirements for pump islands at service stations located in B-2 Districts shall be at least 10 ft. from all property lines, and in the B-3 District they shall be at least 20 ft. from all property lines. No part of any sign or canopy shall be closer to the street property lines than 10 ft.

NOTE: Buildings housing clubs, lounges, taverns, dance halls, musical entertainment facilities and other similar places of assembly, the minimum setback for structures shall be 250 ft. from any residential district boundary. In the case of multi-tenant structures, the distance for setback shall be measured from nearest door of the above-mentioned facilities to the nearest residential district line. Facilities operating prior to the adoption of this ordinance shall be deemed legal non-conforming (Ordinance No. 42-2003).

**3. Business Areas** (continued)  
(Ord. No. 31-73)

Local Shopping                      B-4  
Shopping Community                B-5

ITEM	DISTRICT	
	B-4	B-5
Classes of business or services permitted	A & B	A,B & C
Classes of business or services permitted on appeal	C & D	D
Classes of business or services restricted	E & F	E & F
Minimum yard size:		
Front yard, in ft.	60*	60*
Rear yard, in ft.	30	30
Maximum height: Feet	35	35
Stories	2	2
Maximum width of sidewalk, in feet	10	12
Maximum building area, percent of gross lot area	25%	20%
Off-street loading	(See Article VI-5)	
Off-street parking requirements:		
Parking spaces per each 200 sq. ft. of gross floor area	1 ¼	1 ½
Prior approval of development plan	Required	Required

**CLASS:**

- “**A**” Stores selling food, general merchandise, apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair; offices, banks, post offices, and similar services.
- “**B**” Automobile filling stations\*, drive-in eating places, motels, automobile repair, small dry cleaners, self-service laundry; and outdoor advertising structures.
- “**C**” Any retail business or service not specifically restricted herein, places of amusement and assembly, and hotels.
- “**D**” Large dry cleaners and laundries; manufacturing incidental to a retail business where articles are sold at retail on the premises, not specifically restricted herein.
- “**E**” Animal clinics, hospitals or kennels; coal yards; rag storage and baling.
- “**F**” Any industrial use not listed above.

\* In a B-4 or B-5 district a canopy may extend to within 10 ft. of the street right-of-way line, and no part of any sign shall be closer to the street right-of-way line than 10 ft. Set-back requirements for pump islands at service stations in a B-4 and B-5 district shall be at least 20 ft. from all property lines.

NOTE: Buildings housing clubs, lounges, taverns, dance halls, musical entertainment facilities and other similar places of assembly, the minimum setback for structures shall be 250 ft. from any residential district boundary. In the case of multi-tenant structures, the distance for setback shall be measured from nearest door of the above-mentioned facilities to the nearest residential district line. Facilities operating prior to the adoption of this ordinance shall be deemed legal non-conforming (Ordinance No. 42-2003).

**4. Industrial Districts**  
(Ord. .No. 31-73)

Light Industry M-1  
Industrial Park M-2  
General Industry M-3

ITEM	DISTRICT		
	M-1	M-2	M-3
Classes of industry, businesses or services permitted	A & D	A	A,B,C & D
Classes of industry, businesses or services permitted on appeal	B	C	E
Classes of industry, businesses or services restricted	E	B,D & E	--
Minimum yard size:			
Front yard, in ft.	20	30	--
Rear yard, in ft.	--	30	--
Side yard, in ft.	--	30	--
Maximum height:			
Feet	35	35	35
Stories	2	2	2
Maximum building area, percent of gross lot area	50%	25%	25%
Off-street loading		(See Article VI-5)	
Off-street parking requirements:			
Parking spaces per each work	½	½	½
Parking spaces per each company garaged vehicle	1	1	1
Prior approval of development plan	Required	Required	Required

**CLASS:**

- “**A**” Light industrial operations not obnoxious, offensive, or detrimental to neighboring property by reason of dust, smoke, vibration, noise, odor, or effluents; and including the following types of businesses or industry: ice cream plants and creameries; cold storage plants, ice plants, bottling and central distribution plants; baking plants; textile mills; dyeing plants; warehouses; large dry cleaners and laundries; trucking terminals and similar types; quarters for a watchman.
- “**B**” Animal clinic, hospital or kennels; coal yard; lumber yard or mill; auto wrecking; gasoline, oil, gas, or alcohol storage above ground in excess of 500 gallons; grist or flour mill; scrap paper, rag storage or baling conducted entirely within a structure.
- “**C**” Any industrial or industrial service use, except those which in the opinion of the Building Inspector would cause noise, smoke, gas, vibration, fumes, dust, or other objectionable conditions which affect a considerable portion of the City.
- “**D**” Any use permitted in a B-2 district.
- “**E**” Slaughter house; stockyard; bag cleaning; central mixing plant for cement, mortar, plaster, or paving material curing; tanning or storage of hides; distillation of bones, coal, tar, or woods; fat rendering; forge plant; manufacture of acetylene, acid, alcohol, ammonia, bleaching powder, brick, pottery, terra cotta or tile, concrete blocks, candles, disinfectants, dyestuffs, fertilizers, illuminating or heating gas including storage, paint, turpentine, varnish, soap, and tar products; wool pulling or scouring; junk yards; cotton waste reclaiming; and auto salvage yards.

NOTE: Buildings housing clubs, lounges, taverns, dance halls, musical entertainment facilities and other similar places of assembly, the minimum setback for structures shall be 250 ft. from any residential district boundary. In the case of multi-tenant structures, the distance for setback shall be measured from nearest door of the above-mentioned facilities to the nearest residential district line. Facilities operating prior to the adoption of this ordinance shall be deemed legal non-conforming (Ordinance No. 42-2003).



**Classes of Structures or Uses Permitted:**

- “A” Public buildings and uses.
- “B” Semi-public buildings and uses including private schools; YMCA and YWCO facilities; hospitals and nursing homes; colleges, country clubs, golf courses, and churches; together with all structures normal and incidental to such institutions.

**Classes of Structures Permitted on Appeal** (Ord. No. 40-2007)

Corrections related housing and facilities including prisons, jails, halfway houses, or group housing for any corrections related purpose including community based corrections or treatment for inmates, parolees, convicts, or end of sentence convicts.

The Board of Adjustment shall determine on appeal that (1) such facilities are located to avoid adverse impact on residential districts or neighborhoods, educational facilities, churches or religious facilities and child care facilities; (2) such facilities are located to avoid an over-concentration of corrections-related facilities in a particular neighborhood or region of the City and (3) such facilities will include adequate off-street parking and loading spaces to ensure that the facility’s parking and loading demands do not spill over on to local streets or otherwise overburden surrounding streets or cause undue congestion. Unless alternative parking and loading plans are expressly approved by the Board of Adjustment based on reliable projections of actual parking and loading demands of the subject facility, the minimum off-street parking requirement for corrections related facilities shall be one (1) space for each three (3) beds (based on maximum legal occupancy). The off-street loading requirement for corrections related facilities shall be one (1) space for facilities between 10,000 sq. ft. and 25,000 sq. ft.; two (2) spaces for facilities between 25,000 sq. ft. and 60,000 sq. ft.; and a total of three (3) spaces for facilities exceeding 60,000 sq. ft. (all measurements represent gross floor area).

Upon its approval or disapproval, the Board of Adjustment shall refer the matter to the City Council for final action.

**Classes of Structures or Uses Restricted:**

Any residential, business, or industrial use not specifically permitted herein.

**Required Lot Area, width, etc.:**

Minimum lot area, in sq. ft.	40,000
Minimum lot width at building line, in feet	200
Minimum depth of front yard, in feet	50
Minimum width of each side yard, in feet	50
Maximum building area, percent of gross lot area	25%

**Off-street Parking Requirements:** Same as requirements for Article VII, Section 1 (Ord. No. 13-64).

## 7. Utilities District

U

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### Uses Permitted:

- “A” Public utilities, including power and gas substations and pumping stations.
- “B” Radio and television stations and towers.
- “C” Public buildings.

### Minimum Yard Size:

Structures or towers shall not be nearer than 50 feet to any property line.

### Off-street Parking:

Radio or television stations: 300 sq. ft. of parking space per each 100 sq. ft. of building area.

(Rev. 9/1/363)

## 8. Flood Hazard District

FH

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### Classes of Structures or Uses Permitted:

- “A” Agriculture; poultry and livestock raising; kennels; together with such single family dwellings as are occupied by the farm owner or resident farm workers, provided no structure housing animals is located closer than 200 ft. to a residential district boundary.
- “B” Accessory uses.
- “C” Outdoor advertising signs, except facing a residential district.
- “D” Public utility structures and facilities.
- “E” Public uses.

### Classes of Structures or Uses Permitted on Appeal:

Commercial recreational facilities involving only light frame structures primarily for purposes of shelter and equipment storage.



The following regulations shall apply in all WR Districts.

**Uses Permitted:**

- “A” Boat docks, slips, piers, wharves, anchorage, and moorages for yachts and pleasure boats.
- “B” Yacht clubs.
- “C” Boat rentals, boat livery, and boats for hire.
- “D” Boat and marine motor sales and display, yacht broker, marine insurance broker.
- “E” Boat and marine motor service and repair while boats are in the water.
- “F” Retail sale of boating, fishing, diving, and bathing supplies and equipment.
- “G” Restaurants and refreshment stands.
- “H” Seaplane base.
- “I” A fishing pier, if approved as a “Conditional Use”.
- “J” Other uses: Other uses or enterprises similar to the above, which, in the judgement of the Administrative Official, are similar to and not more objectionable to the general welfare than the USES listed. “OTHER USES” so determined shall be regarded as “LISTED USES”. In no instance, however, shall the Administrative Official determine, nor the regulations be so interpreted, that the “USE” shall be permitted in a district when such “USE” is specifically listed as first permissible in a less restricted district.

**Uses Restricted in this District:**

- “A” Drydocks and shipyards.
- “B” Commercial fishing boats.
- “C” Fish houses, canning, smoking or curing of fish.
- “D” Wholesale or retail sale of fish and seafoods.
- “E” Marine warehouse or freight terminal.
- “F” Dwellings, except as accessory to a permitted use.

**Height:**

No building or structure shall be erected or altered to a height exceeding two (2) stories (said 2 stories not to exceed 35 ft.).

**Area:**

There shall be no required area or width of lot.

**Yards:**

There shall be provided a front yard of not less than 20 ft. for any plot having dedicated street frontage.

**1. Purpose.**

The purpose of the “Q” (Qualified District) is to provide for regulation of commercial, manufacturing or residential uses of land and structures in order that uses and development of said land, buildings and structures will be harmonious and compatible with and not have an undesirable or detrimental impact on surrounding development. The purpose of this Section is also to protect the public welfare and the property value of surrounding property by securing an appropriate development that is in harmony with the objectives of the City of Montgomery Master Plan as adopted by the Montgomery Planning Commission.

**2. Zone Districts That May Be Combined with a “Q” (Qualified) District.**

Rezoning for a “Q” (Qualified) District must be combined with another zone district and may not be requested which is not so combined with another district. Rezoning for a “Q” (Qualified) District may not be combined with PUD, R-125, R-100, R-85, R-75-s, R-75-d, R-65-s, R-65-d, R-60-s, R-60-d, R-50, R-24-t, R-20-t, PGH-35 and PGH-40 Zoning Districts.

**3. Uses permitted in a “Q” (Qualified) District.**

The uses permitted in a “Q” (Qualified) District shall be limited to those set out in the rezoning ordinance passed by the City Council, except that any such use(s) shall be permitted in the district this is qualified.

**4. Standards That May Be Required in a “Q” (Qualified) District.**

In addition to permitted uses as set forth in Subsection 3 above, the “Q” (Qualified) rezoning ordinance passed by Council may impose standards on the subject property with respect to buffers, ingress and egress, development plans, drainage, and environmental plans as well as other considerations that may be necessary to make the proposed development compatible with surrounding development. All applicable limitations and/or standards within the “Q” (Qualified) District shall be considered to apply permanently to the specific uses permitted in said zone.

**5. Expiration of Development Plan. (Time Limit on Development)**

In the event that construction, in accordance with a development plan (when required) is not begun within two years from the date of approval by the City Council of the “Q” Qualified District, said development plan shall become null and void.

**6. Amendments to “Q” (Qualified) District.**

1. In the event that more permitted uses than those set forth in the “Q” (Qualified) District rezoning ordinance passed by Council are desired for the subject property, the City Council will, after proper notification, hold a public hearing on the matter to determine its validity.
2. Applicants for amendments pertaining only to standards, which may be required as set forth in Subdivision 4 above, need only be presented to and approved by the Planning Commission.

## **ARTICLE VIII AIRPORT HAZARD AREAS**

### **1. Designated**

For the purpose of this ordinance the following area or areas have been designated as airport hazard areas:

- a. The area within two (2) miles of Dannelly Field, a municipally owned airport of the City of Montgomery; and as more particularly shown or described on the "Airport Zoning Map of the Dannelly Field Area of Montgomery". Said map and all explanatory matter thereon are hereby adopted and made a part of this Ordinance.
- b. The area extending within two (2) miles of Maxwell Air Force Base, a United States owned airport, as more particularly shown or described on the map entitled "Standards for Determining Obstructions to "Air Navigation, Maxwell A.F.B., Montgomery, Alabama"; said map and all explanatory matter thereon are hereby adopted and made a part of this Ordinance. Sections 12 and 13, Township 16 North, Range 17 East; and Sections 7 and 18, Township 16 North, Range 18 East; are excluded from this Ordinance as defined in the shaded areas shown on the map entitled "Standards for Determining Obstructions to Air Navigations, Maxwell A.F.B., Montgomery, Alabama".

### **2. Districts Established**

For the purpose of this Ordinance, airport hazard areas are hereby divided into the same number and types of districts, and with the same designations or names as listed in Article VII of this Ordinance, and boundaries of the said districts are hereby established as shown on the "Zoning Map of The City of Montgomery".

### **3. District Regulations**

District regulations contained in Article VII of this Ordinance shall apply within an airport hazard area, except only those regulations concerning uses and height are mandatory in any area outside the customary police jurisdiction of the City.

### **4. Additional Regulations**

Within an airport hazard area the following additional regulations shall apply:

- a. District height regulations shall apply to trees as well as to structures, except as hereinafter modified.
- b. Within an Agricultural 1 or 2 District, no structure or tree shall exceed two and one-half (2 1/2) stories or thirty- five (35) feet in height, except as hereinafter modified.
- c. Within an M-3 Industrial District, no structure or tree shall exceed three stories or forty-five (45) feet in height, except as hereinafter modified.
- d. Height regulations concerning trees shall be enforced only when a failure to do so would allow an obstruction to air navigation to occur or exist.
- e. Height exceptions contained in Article I (8) of this chapter shall not apply and exceptions to height regulations shall only be granted by the Board of Adjustment when said Board is satisfied that an exception will not create a hazard to air navigation, and The Board of Adjustment may impose reasonable conditions which it deems necessary to effectuate the purposes of this Ordinance.
- f. Maps entitled "Standards for Determining Obstructions to Air Navigations", Dannelly Field Area of Montgomery, Alabama, and Maxwell Air Force Base, shall serve as a guide or standard to the Board of Adjustment in its granting of exceptions to height limitations in an airport hazard area. Said maps and all explanatory matter thereon are hereby adopted and made a part of this Ordinance.

### **4. Administration and Enforcement**

Within an airport hazard area The Board of Adjustment (Article III) shall act as the "Administrative Agency" provided for in Sections 9 and 10 of Act. No. 370 of the 1953 Session of the Alabama Legislature, and shall have all responsibilities and powers conferred by said section.

The provisions of this Ordinance within an airport hazard area shall be administered and enforced by the Administrative Official, and Article II of this Ordinance shall apply in administering and enforcing the provisions herein.

**ARTICLE IX**  
**OUTDOOR ADVERTISING SIGNS AND STRUCTURES**  
(Ord. No. 31-73; Ord. No. 69-83)

**1. General**

- a. This Article is promulgated pursuant to Section V of the "Highway Beautification Act-Outdoor Advertising", enacted by the Legislature of Alabama in the Third Special Session of 1971.
- b. In accordance with customary use in the geographical jurisdiction of the City of Montgomery, Alabama, the following restrictions are placed on outdoor advertising structures to be erected in said jurisdiction in areas adjacent to Federal Interstate and primary highways.
- c. Upon the effective date of Article IX, no outdoor advertising structure shall be erected or maintained adjacent to an interstate or primary highway in the geographical jurisdiction of the City of Montgomery, except the following:
  - (1) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions;
  - (2) Outdoor advertising structures advertising the sale or lease of property upon which they are located;
  - (3) Outdoor advertising structures advertising activities conducted on the property on which they are located; and
  - (4) Outdoor advertising signs in existence in business areas on the effective date of this Ordinance; and outdoor advertising signs to be erected in areas zoned commercial, industrial, or business which adhere to the guidelines set forth in Article IX, Section 3, governing size, lighting, and spacing of structures.

**2. Definitions**

- a. "Business area" shall mean any part of an adjacent area which is at any time zoned for business, industrial, or commercial activities under the authority of any law of this State;
- b. "Adjacent area" shall mean an area which is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way of any interstate or primary highway; which six hundred sixty (660) foot distance shall be measured horizontally along a line normal or perpendicular to the centerline of the highway;
- c. "Centerline" of the highway shall mean a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a non-divided highway;
- d. "Erect" shall mean to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of the sign structure;
- e. "Interstate highway" shall mean any highway at any time officially designated as a part of the National System of Interstate and Defense Highways by the Director of the State Highway Department, and approved by the appropriate authority of the Federal Government;
- f. "Maintain" shall mean to allow to exist;
- g. "Primary highway" shall mean any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by the Director of the State Highway Department, and approved by the appropriate authority of the Federal Government; and
- h. "Sign, billboard, structure," shall mean any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designated, intended, or used to advertise or inform; any part of the advertising or informative contents of which is visible from any place on the main-traveled way of any portion of an interstate highway or primary highway.

### 3. Guidelines for Outdoor Advertising Structures

#### a. Size of Signs:

- (1) The maximum area for any one (1) sign shall be one thousand two hundred (1,200) square feet, with a maximum height of thirty (30) feet and maximum length of sixty (60) feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members.
- (2) The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign.
- (3) A sign structure may contain one (1) or two (2) signs per facing, and may be placed double-faced, back to back, or V-type provided that if two (2) signs are used facing the same direction, the aggregate total area shall not exceed one thousand two hundred (1,200) square feet.

#### b. Lighting:

- (1) Signs shall not be erected or maintained which contain, include or are illuminated by any flashing, intermittent, or moving lights; except those giving public service information such as, but not limited to time, date, temperature, weather or news.
- (2) Signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of traveled-way of any interstate or primary highway, and are of such intensity or brilliance as to cause glare or impair the vision of the driver of any motor vehicle.
- (3) Signs shall not be erected or maintained which shall be so illuminated that they obscure or interfere with any official traffic signs, device, or signal.

#### c. Spacing:

- (1) Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal, or device; or which obstructs or physically interferes with the driver's view of approaching, merging, or intersecting traffic.
- (2) Signs shall not be erected or maintained which do not comply with all applicable municipal codes and ordinances, including but not limited to zoning, building and sign codes.
- (3) Signs shall not be erected or maintained closer to another sign than the following prescribed distances, except for signs described as directional and other official signs, signs advertising the sale or lease of property upon which they are located, signs advertising activities conducted on the property on which they are located, and signs or devices which advertise or designate exclusively the location of the facilities of any public utility located along the interstate or primary highway for the convenience or protection of the using public or the protection of facilities of the public utility. The minimum distance between points on the centerline directly opposite signs shall be as follows:
  - (A) On all interstate highways, one thousand (1,000) feet between sign structures on the same side of the highway;
  - (B) On all other highways, five hundred (500) feet between sign structures oriented to the same highway; and
  - (C) Except that the minimum distance between sign structures may be two hundred fifty (250) feet if at least one sign structure contains no sign more than one hundred fifty (150) square feet in area.

#### d. Height:

- (1) On all interstate highways and freeways and/or major arterial highways, height of sign structures shall be limited to fifty (50) feet maximum or thirty (30) feet above the grade of the highway to which it is oriented, whichever is greater, unless a variance to exceed this height has been granted by the Board of Adjustment.
- (2) On primary highways located within the zoning authority of incorporated cities, the height of sign structures shall be governed by the zoning district the structure is to be located, unless a variance to exceed this height has been granted by the Board of Adjustment.

e. General:

- (1) Signs shall not be erected or maintained which imitate or resemble any official traffic sign, signal or device.
- (2) Signs shall not be erected or maintained upon trees, or painted or drawn upon rocks or other natural features.
- (3) Signs shall not be erected or maintained which are structurally unsafe or in substantial disrepair.
- (4) Signs which are obsolete shall be removed.

#### 4. Non-Conforming Structures

a. Continuance:

A lawful non-conforming structure existing at the effective date of this Ordinance may be continued, except as hereafter provided, although such structure does not conform with the provisions of this Ordinance.

b. Extension and Alteration:

A lawful non-conforming structure shall not be extended or structurally altered. This is not to be interpreted to apply to alterations incident to the change of advertising message or customary maintenance of the sign structure.

c. Restoration to Safe Condition:

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

d. Restoration After Damages:

No non-conforming billboard or structure which has been damaged by fire or other causes to the extent of more than sixty percent (60%) of its current replacement value at the time of such damage, shall be rebuilt or restored except in conformity with the provisions of this Ordinance.

e. Abandonment:

A non-conforming billboard or structure which has been discontinued for a continuance period of one year shall not be re-established.

f. Discontinuance of Non-Conforming Structures:

The non-conforming structure shall be removed in accordance with provisions of Alabama Act 276, Sections VII, VIII, and IX, within five (5) years from the effective date of this Ordinance, or within five (5) years from the date the use becomes non-conforming, whichever is later, except that outdoor advertising signs may continue longer than five (5) years at the discretion of the Board of Adjustment. Notwithstanding any other provisions of this Ordinance, no sign, display or device otherwise required to be removed under this act for which just compensation is authorized to be paid by Director (State of Alabama Highway Department), shall be required to be removed if the Federal share of at least seventy five percent (75%) and the remaining State share of the just compensation to be paid upon removal of such sign, device, or display is not available for such removal.