

ARTICLE VII
GENERAL PROVISIONS

- 7.1 **GENERAL REQUIREMENTS.** Except as hereinafter provided, the following shall generally apply:
- A. **Use.** No building, structure or land shall hereafter be used or occupied and no building or part thereof shall be erected, constructed, moved, or altered except in conformity with the regulations herein specified for the district in which it is or is to be located.
 - B. **Building Heights.** No building shall hereafter be erected, constructed or altered so as to exceed the height limit specified in the regulations herein (Table 9.3) except as otherwise provided in the Ordinance.
 - 1. **Height Exceptions.** The height limits for the various districts shall not apply to church spires, belfries, cupolas, penthouses, or domes not used for human habitation, nor to chimneys, ventilators, skylights, water tanks, parapet walls, cornices, non-commercial communication antennas, or necessary mechanical appurtenances usually carried above the roof level, provided that such features are limited to that height necessary for their proper functioning.
 - C. **Lots.** No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area per family or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public use.
 - D. **Yards.** No part of a yard or other open space required for any building for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend more than two (2) feet beyond the yard area requirements.
 - E. **Multi-Family.** Site plans for all multi-family dwellings intended for occupancy by three or more families shall be submitted to the Planning Commission for approval and at the least shall contain the information required in Section 9.4.
 - F. **One Principal Building on Lot.** Every residential building, including hotels, motels, condominiums, single-family and multi-family dwellings, and duplexes hereafter erected or moved shall be located on a lot, and in no case shall there be more than one (1) principal residential building on a lot except as follows:

1. In any district where multi-family structures, motels, or hotels are permitted, two or more such residential structures may be permitted on a lot provided that no building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings. In Flood Hazard areas identified on the National Flood Insurance Rate Maps, the height of a building shall be measured from the floor level of the first habitable story for purposes of this section. In addition, the front or rear of any building may be no closer to the front or rear of any other building than forty (40) feet. The side of any building shall be no closer to the side, front or rear of any other building than thirty (30) feet.

G. Yard Requirements. Yard requirements shall be modified subject to the following conditions:

1. On double frontage lots, the required front yard shall be provided on each street.
2. Whenever a rear property line of a lot abuts upon an alley, one-half (1/2) of the alley width shall be considered as a portion of the required rear yard.
3. An unroofed porch shall not project into a required front yard for a distance exceeding five (5) feet.

7.2 NON-CONFORMANCE. It is the intent of this Ordinance to administer the elimination of non-conforming uses, buildings, and structures so as to avoid any unreasonable invasion of established private property rights. Any structure or use of land existing at the time of the enactment of this Ordinance and amendments thereto, not in conformity with its use regulations and provisions, may be continued subject to the following provisions:

A. Unsafe Structures. Any structure or portion thereof declared unsafe by the Building Official may be restored to a safe condition, provided that said restoration cost does not exceed 50% of the structures fair market value.

B. Alterations. Any change in a non-conforming building site or yard area is subject to the following:

1. Any improvements, alterations, repairs or installation of new fixtures or equipment for an existing non-conforming structure may be accomplished by the owner of the structure upon obtaining the proper permits from the Building Official, provided that such improvements will bring into conformity, if possible, or that it will at least not increase, unnecessarily, the non-conformity and will in all other respects, meet the requirements of the district in which it is located.

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2. Should a non-conforming building be moved, all non-conforming yard areas shall be eliminated.
 3. A non-conforming use of land shall be restricted to the lot occupied by such use as of the effective date of this Ordinance. A non-conforming use of a building or buildings shall not be extended to include either additional buildings or land after the effective date of this Ordinance.
 4. A non-conforming business, house, manufactured/mobile home, building, structure or other improvement or one that is hereafter removed, damaged or destroyed by fire, storm or other disaster to an extent greater than fifty percent (50%) of its estimated fair market value, may not be improved, repaired, rebuilt or replaced on the same lot. Furthermore, a transfer of title to property that becomes non-conforming to any zoning regulation adopted in this Ordinance shall not be encumbered or burdened by the provisions of this Ordinance except as otherwise provided by law.
- C. Change in Use. A non-conforming use, which is changed to a conforming use, shall not be permitted to revert to the original or a less restrictive use.
- D. Discontinuance. A non-conforming use which became such upon the adoption of this Ordinance and which has been discontinued for a continuous period of four months shall not be re-established and any future use shall be in conformity with the provisions of this Ordinance.
- E. Adjacent Land. The presence of a non-conforming use in a zoning district shall not be allowable as legal grounds for the granting of variances or zoning amendments for other surrounding properties by the Board of Adjustment or the City Council.
- F. Access to Public Streets. Access to public streets shall be maintained in accordance with the following requirements:
1. Each principal building shall be placed on a lot or parcel, which provides frontage on a public or private street having a right-of-way of not less than fifty (50) feet.
- G. Lots of Record. Where the owner of a lot of record or his successor to the title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, the following exceptions may be allowed:
1. Where a lot, tract or parcel of land has an area or width that does not conform to the requirements of the district in which it is located, said lot may be used for a single-family dwelling in any Residential District, provided the lot to be so used has a minimum area of 4,000 square feet

and a minimum lot width at the building line of 40 feet, provided it is located where public sewer is available. In Business/Commercial and Industrial Districts, such lot may be used for any use permitted in the district in which it is located.

2. When two or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of application and such lots have a frontage or lot area less than is required by the use district in which they are located, such lots may be platted or reparcelled so as to create one or more lots which conform to the minimum frontage and area requirements of the use district.
3. Buildings or structures located on substandard lots of record may be improved provided that such improvement is not detrimental to the area, does not increase the non-conformance, or is required by other laws or ordinances of the City.

7.3 SCREENING, LIGHTING AND SPACE.

- A. In any Commercial District, any operation not conducted within a building, such as drive-in businesses, outdoor recreation, outdoor storage of materials, and outdoor servicing activities, shall be enclosed by a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height where necessary to conceal such areas or facilities from a residential district adjoining or facing across a street in the rear or on the side of the principal building or use.
- B. In any district where reference is made requiring adequate screening of a specified operation, such screening shall be a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height.
- C. Outdoor lighting of all types shall be directed so as to reflect away from all adjacent properties and shall be so situated as not to reflect directly into any public right-of-way.
- D. All screening, lighting, space, etc., shall be in good condition and appearance. The Building Official may cause to be removed, replaced, repaired or corrected at the owner's expense, any screening, lighting and space improperly maintained.
- E. All automobile repair, automobile wrecking, commercial garages and junk yards shall screen from public view all motor vehicles by screening as defined herein.

7.4 SURFACE DRAINAGE. Owners and developers of the larger paved areas such as those in connection with apartment complexes, shopping centers, etc., shall be responsible for increased runoff resulting from these developments, which cause flood damage to neighboring property. The Building Official shall, in consultation with the City

Engineer, determine that reasonable provisions for properly handling surface drainage in accordance with good engineering practices have been made in the applicant's design, and report these findings for the Planning Commission's consideration in acting on building applications. If such provisions are not made in the applicant's design, the Planning Commission shall make such recommendations as may be available to the applicant as a condition of the building permit issuance.

7.5 **EROSION AND SEDIMENT CONTROL.** Where more than one acre of land will be disturbed for construction purposes, developers shall be required to submit a sediment and erosion control plan for approval.

7.6 **UTILITIES.**

A. **Septic Tanks.** In areas where there are no city sewerage facilities, septic tanks may be used in accordance with current regulations of the Alabama Department of Public Health and the Clarke County Health Department.

B. **Water and Sewer Connections.** Developments or individual lots in all districts must connect to public or private community water and sewer systems where such systems are reasonably available and the appropriate utility has the capacity to provide the service; otherwise, lots must meet the minimum size. It is the intent of this Ordinance to eliminate by attrition all existing private wells and septic systems in areas where public or private community water and sewer systems are available. Therefore, at such time as any private well or septic system is destroyed or must be replaced, the owner must connect to the public or private community water and sewer system where such systems border any development or lot line or are reasonably available and the appropriate utility has the capacity to provide the service.

7.7 **RESTRICTIVE COVENANTS.** The City has no authority or jurisdiction in the regulation of such restrictions and covenants that shall apply to Real Property.

7.8 **GRANDFATHER CLAUSE.** Any use of buildings or land existing on the date and not in compliance with its provisions unless restricted by other provisions of this ordinance shall be allowed to continue as a non-conforming use. Any land development projects in the City under legal authority of this Ordinance that are not located in a zoning district designated for their intended use may be permitted to continue provided that:

A. The project was under construction prior to the date of adoption of this Ordinance. For the purposes of this Section, under construction shall mean that a legal building or construction permit has been issued and that actual construction has been or will be started within the initial period of validity of the permit, exclusive of any time extensions, or that a permit application has been submitted to the Alabama Department of Environmental Management.

B. The developer complies with other conditions that may be required by the Planning Commission due to the unique circumstances of the land.