

ZONING ORDINANCE

- 2008 -

CITY OF FORT PAYNE

100 Alabama Avenue N.
Fort Payne, Alabama 35967-2052



Administered by the
City Planner and Zoning Administrator
Phone: (256) 845-5180

ORIGINALLY ADOPTED:

April 6, 1976

AMENDED:

June 14, 1988 (Ordinance No. 88-7)
June 25, 1989 (Ordinance No. 89-7)
January 14, 1992 (Ordinance No. 92-1)
December 22, 1992 (Ordinance No. 92-9)
December 13, 1994 (Ordinance No. 94-13)
June 25, 1996 (Ordinance No. 96-9)
May 6, 1997 (Ordinance No. 97-18)
August 19, 1997 (Ordinance No. 97-21)
October 21, 1997 (Ordinance No. 97-25)
February 15, 2000 (Ordinance No. 2000-3)
June 5, 2001 (Ordinance No. 2001-13)
February 4, 2003 (Ordinance No. 2003-1)
September 6, 2005 (Ordinance No. 2005-13)
and
April 15, 2008 (Ordinance No. 2008-05)

Article I

AUTHORITY AND ENACTMENT

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS
FOR THE CITY OF FORT PAYNE, ALABAMA,
AND AMENDMENT THEREOF,
IN ACCORDANCE WITH THE PROVISIONS OF AND THE AUTHORITY GRANTED BY
SECTION 11-52-70 ET SEQ., *CODE OF ALABAMA, 1975*,
AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

CONTENTS

<u>Article I</u>		<u>2</u>
<u>Article II Title, Short Title, Official Zoning Map</u>		<u>5</u>
Section 2-1.	Title	5
Section 2-2.	Short Title	5
Section 2-3.	Official Zoning Map	5
Section 2-4.	Replacement of Official Zoning Map	5
<u>Article III Rules for Interpretation of District Boundaries</u>		<u>6</u>
Section 3-1.	Boundary Interpretations	6
Section 3-2.	Use Districts Named	6
<u>Article IV</u>		<u>7</u>
Section 4-1.	R-1 (Low Density Residential District)	8
Section 4-2.	R-2 (Medium Density Residential District)	9
Section 4-3.	R-3 (High Density Residential District)	10
Section 4-4.	R-4 (Garden Home Residential District)	11
Section 4-5.	C-1 (Neighborhood Shopping District)	12
Section 4-6.	C-2 (Central Business District)	13
Section 4-7.	C-3 (Highway Business District)	14
Section 4-8.	C-4 (General Business District)	15
Section 4-9.	M-1 (Light Industrial District)	16
Section 4-10.	M-2 (General Industrial District)	17
Section 4-11.	R-F (Rural Farm District)	18
Section 4-12.	AG (Agriculture District)	19
Section 4-13.	NOD (Neighborhood Office District)	20
<u>Article V Regulations for Manufactured Home Parks</u>		<u>21</u>
Section 5-1.	Purpose	21
Section 5-2.	Procedure	21
Section 5-3.	License Required	21
Section 5-4.	Requirements	22
<u>Article VI General Provisions</u>		<u>24</u>
Section 6-1.	Application of Regulations	24
Section 6-2.	Non-Conforming Uses	24
Section 6-3.	Interpretation of District Regulations	26
Section 6-4.	Off-Street Parking Requirements	26
Section 6-5.	Off-Street Loading and Unloading Requirements	29
Section 6-6.	Location of Accessory Buildings	29
Section 6-7.	Sign Compliance	30
Section 6-8.	Site Plan Review and Approval	32
Section 6-9.	Visibility at Intersections	32
Section 6-10.	Mobile Buildings	32
Section 6-11	Height Limitations of Objects and Uses around the Fort Payne Municipal Airport (Isbell Field)	33
<u>Article VII Exceptions and Modifications</u>		<u>35</u>
Section 7-1.	Existing Lots	35
Section 7-2.	Minimum Required Front Yard for Dwellings	35
Section 7-3.	Height Limitations	35
<u>Article VIII Telecommunication Facilities</u>		<u>36</u>
Section 8-1	Purpose	36
Section 8-2	Applicability	36
Section 8-3	Availability of Suitable Existing Towers or Other Structures	36
Section 8-4	Capacity	37
Section 8-5	Minimum Lot Area and Setbacks	37
Section 8-6	Monopole Towers	37
Section 8-7	Aesthetics, Lighting and Buffers	37
Section 8-8	Federal Requirements	37
Section 8-9	Building Codes and Safety Standards	37

Section 8-10	Radio Frequency Standards	38
Section 8-11	Permits	38
Section 8-12	Application Requirements	39
Section 8-13	Retention of Expert Assistance and Reimbursement by Applicant.	40
Section 8-14	Factors Considered in Granting Conditional Use Permits for Towers and Antennas	40
Section 8-15	Removal of Abandoned Antennas and Towers	41
<u>Article IX Administration, Enforcement, Building Permits, Certificate of Occupancy, and Penalties</u>		<u>41</u>
Section 9-1.	Administrative Officer	41
Section 9-2.	Remedies	41
Section 9-3.	Penalties for Violation	41
<u>Article X Zoning Board of Adjustment</u>		<u>42</u>
Section 10-1.	Establishment of a Zoning Board of Adjustment	42
Section 10-2.	Meeting, Procedure, and Records	42
Section 10-3.	Hearings, and Notices	42
Section 10-4.	Powers and Duties of the Zoning Board of Adjustment	42
Section 10-5.	Abatement of Noise, Smoke, Gas, Vibration, Fumes, Dust, Fire and Explosion Hazard or Nuisance	44
Section 10-6.	Decisions of the Zoning Board of Adjustment	44
Section 10-7.	Appeal from the Decision of the Board of Adjustment	44
<u>Article XI Amendments</u>		<u>45</u>
Section 11-1.	Initiation of Amendments	45
Section 11-2.	Application	45
Section 11-3.	Action by the Governing Body	45
<u>Article XII Definition of Terms</u>		<u>46</u>
Section 12-1.	Interpretation of Commonly Used Terms and Words	46
Section 12-2.	Definitions of Commonly Used Terms and Words	46
<u>Article XIII Legal Status Provisions</u>		<u>50</u>
Section 13-1.	Severability	50
Section 13-2.	Effect on Existing Zoning Ordinance	50
Section 13-3.	Effective Date	50

Article II Title, Short Title, Official Zoning Map

SECTION 2-1. TITLE

The Ordinance shall be known and may be cited as "The Zoning Ordinance of the City of Fort Payne, Alabama."

SECTION 2-2. SHORT TITLE

This Ordinance and all subsequent amendments, attachments, and supplements thereto shall be known as the "Fort Payne Zoning Ordinance."

SECTION 2-3. OFFICIAL ZONING MAP

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

- 2-3-1. The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: *"This is to certify that this is the Official Zoning Map of the City of Fort Payne, Alabama,"* together with the date of the adoption of this Ordinance.
- 2-3-2. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries of other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
- 2-3-3. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Article IX, Section 9-3.
- 2-3-4. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

SECTION 2-4. REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: *"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Fort Payne, Alabama."*

Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Article III Rules for Interpretation of District Boundaries

SECTION 3-1. BOUNDARY INTERPRETATIONS

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 3-1-1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers or other bodies of water, shall be construed to follow such center lines.
- 3-1-2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 3-1-3. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- 3-1-4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- 3-1-5. Boundaries indicated as parallel to or extensions of features indicated in subsections 3-1-1 through 3-1-4 indicated on the Official Zoning Map shall be determined by the scale of the Map.
- 3-1-6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 3-1-1 through 3-1-5 above, the Board of Adjustment shall interpret the district boundaries.
- 3-1-7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

SECTION 3-2. USE DISTRICTS NAMED

For the purpose of this Ordinance, the City of Fort Payne, Alabama, is hereby divided into the following use districts:

- R-1..... LOW-DENSITY RESIDENTIAL**
- R-2..... MEDIUM-DENSITY RESIDENTIAL**
- R-3..... HIGH-DENSITY RESIDENTIAL**
- C-1..... NEIGHBORHOOD SHOPPING**
- C-2..... CENTRAL BUSINESS**
- C-3..... HIGHWAY BUSINESS**
- C-4..... GENERAL BUSINESS**
- M-1..... LIGHT INDUSTRIAL**
- M-2..... GENERAL INDUSTRIAL**
- R-F RURAL FARM**
- AG..... AGRICULTURE**
- NOD..... NEIGHBORHOOD OFFICE**

Article IV

USE DISTRICTS

R-1.....LOW-DENSITY RESIDENTIAL Page 6

R-2.....MEDIUM-DENSITY RESIDENTIAL Page 7

R-3.....HIGH-DENSITY RESIDENTIAL Page 8

C-1.....NEIGHBORHOOD SHOPPING Page 9

C-2.....CENTRAL BUSINESS Page 10

C-3.....HIGHWAY BUSINESS Page 11

C-4.....GENERAL BUSINESS Page 12

M-1.....LIGHT INDUSTRIAL Page 13

M-2.....GENERAL INDUSTRIAL Page 14

R-FRURAL FARM Page 15

AG.....AGRICULTURE..... Page 16

NOD.....NEIGHBORHOOD OFFICE Page 17

SECTION 4-1.

R-1(LOW DENSITY RESIDENTIAL DISTRICT)

R-1

The intent of this district is to provide areas for low density detached dwellings, free from incompatible land uses and residential densities.

4-1-1. *Permitted Uses:*

- Detached single family dwellings and accessory uses.
- Signs, subject to the provisions of Article VI Section 6-7.
- Home occupations as defined in Article XII.
- Churches, cemeteries and private schools.
- Publicly owned facilities, including: parks, playgrounds, and golf courses, community centers, police and fire stations, libraries, schools, and similar facilities.
- Public utility structures, including electric sub-stations, gas metering stations, sewage pumping stations, and similar structures.

4-1-2. *Conditional Uses:* Telecommunications facilities; group home; bed and breakfast and tourist home, provided the dwelling contains a minimum floor area of 2,400 square feet, and the dwelling and lot conform to the minimum standards of the R-1 Zoning District.

4-1-3. *For Conditional Uses:* (Site plan approval by the Planning Commission deleted by Ordinance No. 92-1)

4-1-4. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
40	40	10*	15,000	100	35	2½	25%	See § 6-4

* Corner lots shall have sufficient extra width to permit establishment of a building line at least fifteen (15) feet from the side street property line.

SECTION 4-2.

R-2(MEDIUM DENSITY RESIDENTIAL DISTRICT)

R-2

The intent of this district is to provide areas for medium density detached dwellings, free from incompatible land uses and residential densities.

4-2-1. *Permitted Uses:*

- All uses permitted in the R-1 District (Low Density Residential)
- Detached single family dwellings and accessory uses.
- Signs, subject to the provisions of Article VI Section 6-7.

4-2-2. *Conditional Uses:* Telecommunications facilities; group home; bed and breakfast and tourist home, provided the dwelling contains a minimum floor area of 2,400 square feet, and the dwelling and lot conform to the minimum standards of the R-2 Zoning District.

4-2-3. *For conditional Uses:* (Site plan approval by the Planning Commission deleted by Ordinance No. 92-1)

4-2-4. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
35	40	10*	10,500	75	35	2½	25%	See § 6-4

* Corner lots shall have sufficient extra width to permit establishment of a building line at least fifteen (15) feet from the side street property line.

SECTION 4-3.

R-3

(HIGH DENSITY RESIDENTIAL DISTRICT)

R-3

The intent of this district is to provide areas for the development of higher density attached dwellings, free from incompatible land uses.

4-3-1. *Permitted Uses:*

- All uses permitted in the R-2 District (Medium Density Residential)
- Detached single family dwellings, duplexes, or two-family homes, townhouses, condominiums and apartments; and accessory structures.
- Signs, subject to the provisions of Article VI Section 6-7.
- Nursing homes
- Day care centers and nurseries
- Boarding house, bed and breakfast, tourist home and group home.

4-3-2. *Conditional Uses:* Telecommunications facilities and Inn

4-3-3. *For Conditional Uses:* (Site plan approval by the Planning Commission deleted by Ordinance No. 92-1)

4-3-4. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
30	35	8*	Single Family: 7,200	60	35	2½	30%	See § 6-4
			Two Family: 9,000	65				
			Each Additional Unit: Add 3,000	Each Additional Unit: Add 5				

* Corner lots shall have sufficient extra width to permit establishment of a building line at least fifteen (15) feet from the side street property line.

SECTION 4-4. R-4(GARDEN HOME RESIDENTIAL DISTRICT) **R-4**

The intent of this district is to provide areas for high density detached dwellings, free from incompatible land uses and residential densities.

4-4-1. *Permitted Uses:*

- Detached single family dwellings and accessory uses, except that detached accessory buildings are prohibited.
- Publicly owned facilities, including: parks, playgrounds, community centers, police and fire stations
- Public utility structures including electric sub-stations, gas metering stations, sewage pumping stations and similar structures

4-4-2. *Dimensional Requirements:*

Minimum Yard Size			Density		Maximum Building Height		Off-St. Parking
Front Yard (Feet)	Rear Yard (Feet)	Side Yard (Feet)	Max. Units Per Acre	Min. width in ft. at building line	In Feet	In Stories	Number of Spaces
20*	25	None**	8	50	35	2 1/2	See Sec. 6-4

* Front yard may be reduced to five (5) feet if vehicle access is from the rear or side of the dwelling.

** Each lot shall have at least one side yard of ten (10) feet or more. Dwellings on corner lots shall be setback at least fifteen (15) feet from the side street property line.

4-4-3 *Minimum Acreage Requirement:*

In order for a lot or parcel to be eligible for R-4 District designation, it shall contain at least one (1) acre.

The intent of this district is to provide areas of retail trade for the most frequent daily needs of the immediate neighborhood. Because these establishments will be located near single family residential areas, permitted uses, size of establishments and building set-backs, are more restrictive than in the other retail shopping districts.

4-5-1. *Permitted Uses:*

- Neighborhood retail establishments, including: general merchandise, grocery, apparel, hardware, drugs and sundries, convenience stores, jewelry and gift, florist, sporting goods, and pet shops; provided the total floor area for each use shall not exceed 5,000 square feet.
- Neighborhood services including: day care centers, dry cleaning and laundry pick-up stations, laundromats, coin-operated car wash, barber and beauty shops, shoe repair, branch bank, branch post office; provided the total floor area for each use shall not exceed 2,500 square feet.
- Professional offices, provided the total floor area for each use shall not exceed 2,500 square feet.
- Churches, cemeteries, and private schools
- Publicly owned facilities, including: parks, playgrounds and golf courses, community centers, police and fire stations, libraries, schools and similar facilities
- Public utility structures, including electric sub-stations, gas metering stations, sewage pumping stations and similar structures
- Signs, subject to the provisions of Article VI, Section 6-7.
- Inn

4-5-2. *Conditional Uses:*

- Funeral homes and nursing homes
- Service stations
- Restaurants, not including drive-in restaurants
- Telecommunications facilities
- Other neighborhood retail and service establishments not specifically listed, which in the opinion of the Board of Adjustment, are within the intent of this district.

4-5-3. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
30	20	10*	20,000	None	35	2	50%	See § 6-4

* Required only on lot adjoining a lot in a residential district.

4-5-4. *Off Street Loading and Unloading:* Shall be provided as required in Article VI, Section 6-5.

4-5-5. *Required Buffers:* Where this district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

The intent of this district is to provide a concentrated central core of retail and service establishments; and areas for central administrative business, financial, government, and professional offices and related services. The regulations are designed to promote convenient pedestrian shopping and stability of retail development, by encouraging continuous retail frontage in a concentrated area.

4-6-1. *Permitted Uses:*

- All permitted uses in the C-1 District, except the maximum floor area criteria shall not apply to those uses in this district; plus:
- Retail establishments including: antiques, auto accessories and parts, appliances, bakery, banks, dry goods, department stores, furniture, hobby and crafts, notions, office and medical equipment and supplies, paint and wallpaper, restaurant except drive-in restaurant, toys, reading material, seed and feed.
- Motels and hotels
- Movie theaters, except drive-in
- Office Buildings, to include government administrative offices and facilities.
- Hospitals, nursing homes and funeral homes
- Signs subject to the provisions of Article VI, Section 6-7.

4-6-2. *Conditional Uses:*

- Service stations
- Building, electrical, plumbing and heating supply; no outside storage is permitted.
- Manufacturing incidental to retail business, where articles are sold at retail on the premises.
- Telecommunications facilities
- Other retail and service establishments not specifically listed which, in the opinion of the Board of Adjustment, are within the intent of this district.
- Loft apartments

4-6-3. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
None	None	None	None	20	65	5	None	None

4-6-4. *Off Street Loading and Unloading:* Shall be provided as required in Article VI, Section 6-5.

4-6-5. *Required Buffers:* Where the district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

The intent of this district is to encourage the development of a complete variety of retail and service establishments to serve persons traveling by automobile and local residents. These areas should generally be located along major highways and designed to provide attractive appearance, ample parking and to minimize traffic congestion.

4-7-1. Permitted Uses:

- All permitted uses in the C-2 District except manufacturing incidental to retail sales, plus:
- Animal hospital and veterinary clinic, no outside kennels
- Automobile sales and service, car wash and service stations; where all repairs are conducted entirely within an enclosed building and no outside storage
- Bowling alley, miniature golf, outdoor theaters, game rooms and other recreational uses conducted for profit
- Building, electrical, plumbing and heating supply; no outside storage is permitted
- Home improvement centers and retail lumber yards
- Manufactured home sales
- Drive-in restaurants
- Planned Shopping Centers, subject to the provisions of Article VI, Section 6-8.
- Seaming and sewing operations and alterations of hosiery, clothing, upholstery and fabric goods.
- Signs, subject to the provisions of Article VI, Section 6-7.

4-7-2. Conditional Uses:

- Telecommunications facilities
- Other retail and service establishments not specifically listed, which in the opinion of the Board of Adjustment, are within the intent of this district.

4-7-3. Dimensional Requirements:

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
35	35	**	*	None	35	2	None	See § 6-4

* It is the intent of the Ordinance that lots of sufficient size be used for any business or service use to provide adequate parking and loading space in addition to the space required for the other normal operations of the business or service.

** A lot adjoining along its side lot line a lot which is in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

4-7-4. Off Street Loading and Unloading: Shall be provided as required in Article VI, Section 6-5.

4-7-5. Required Buffers: Where this district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

The intent of this district is to provide areas for mixed commercial, wholesale and light industrial uses, subject to conditions intended to eliminate any adverse impacts of said uses off the premises.

4-8-1. *Permitted Uses:*

- All permitted uses in the C-3 District, plus:
- Agricultural and industrial supplies, no outside storage
- Animal hospital, veterinary clinic with outside kennels
- Farm equipment sales and service, where all service work is conducted entirely within an enclosed building, and no outside storage
- Hosiery mills where knitting and finishing activities are conducted, but not including dye operations
- Industrial equipment sales and repair
- Laundries and dry cleaning plants
- Printing and publishing establishments
- Repair or service shops where all work is performed entirely within an enclosed building and no outside storage
- Wholesale businesses, no outside storage
- Signs, subject to the provisions of Article VI, Section 6-7.

4-8-2. *Conditional Uses:*

- Telecommunications facilities
- Other retail, wholesale, service and light industrial uses not specifically listed, which in the opinion of the Board of Adjustment, are within the intent of this district, and limit repair, service or storage activities to an enclosed building.

4-8-3. *Dimensional Requirements*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
**	None	None	*	None	65	5	None	See § 6-4

* It is the intent of the Ordinance that lots of sufficient size be used for any business or service use to provide adequate parking and loading space in addition to the space required for the other normal operations of the business or service.

** None specified, except new buildings shall be set back not less than the average of the setbacks of the existing buildings within one hundred feet of each side thereof, or 40 feet, whichever distance is less.

4-8-4. *Off Street Loading and Unloading:* Shall be provided as required in Article VI, Section 6-5.

4-8-5. *Required Buffer:* Where this district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

SECTION 4-9.

M-1

(LIGHT INDUSTRIAL DISTRICT)

M-1

The intent of this district is to provide for areas for light industrial uses which by their nature are not obnoxious, offensive or detrimental to neighboring property by reason of dust, smoke, vibration, noise, odor, appearance or effluents.

4-9-1. *Permitted Uses:*

- All permitted uses in the C-4 District, except said uses are not subject to the limitations concerning outside repair, service or storage activities; plus:
- Farm machinery assembly and repair, industrial equipment sales and repair, truck terminal
- Food processing, bakeries, bottling plants, dairies, ice and cold storage plants and freezer lockers
- Furniture industries, wood working shops, electronics, appliance manufacturing and repair, pharmaceuticals
- Hosiery mills including dye operations
- Welding and machine shops, metal fabrication, machine tool shops, sheet metal and roofing shops, tire recapping and retreading
- Public works and private contractor storage yards
- Warehouse
- Signs, subject to the provisions of Article VI, Section 6-7.

4-9-2. *Conditional Uses:*

- Telecommunications facilities
- Other light industrial uses not specifically listed which, in the opinion of the Board of Adjustment, are within the intent of this district.

4-9-3. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
**	None	***	*	None	45	3	None	See § 6-4

* *It is the intent of the Ordinance that lots of sufficient size be used for any industrial related use to provide adequate parking and loading space in addition to the space required for the other normal operations of the business or service.*

** *None specified, except new buildings shall be set back not less than the average of the setbacks of the existing buildings within one hundred feet of each side thereof, or 40 feet, whichever distance is less.*

*** *Side Yards - None specified, excepting a lot adjoining its side lot line another lot which is in a residential district, there shall be a side yard not less than ten (10) feet wide.*

4-9-4. *Off Street Loading and Unloading:* Shall be provided as required in Article VI, Section 6-5.

4-9-5. *Required Buffers:* Where this district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

The intent of this district is to provide areas for industrial uses which by their nature, may be offensive or detrimental to neighboring property by reason of dust, smoke, vibration, noise, odor, appearance or effluents.

4-10-1. *Permitted Uses:*

- All permitted uses in the M-1 District, plus:
- Concrete and asphalt plants
- Feed or grain mills
- Junk yards and auto salvage yards, provided that the premises be surrounded by either a solid wall or fence at least six feet high or a buffer strip as defined in Article XII.
- Saw mills
- Mining or excavation activities associated with borrow pits, sand or gravel quarries, and mining operations
- Sanitary landfill
- Wastewater treatment plant
- Signs, subject to the provisions of Article VI, Section 6-7

4-10-2. *Conditional Uses:*

- Telecommunications facilities
- Volatile uses and volatile industries, provided no residential district is located within 500 feet of the volatile materials.

4-10-3. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
**	None	None	*	None	45	3	None	See § 6-4

* *It is the intent of the Ordinance that lots of sufficient size be used for any industrial or related use to provide adequate parking and loading space in addition to the space required for the other normal operations of the business or service.*

** *None specified, except new buildings shall be set back not less than the average of the setbacks of the existing buildings within one hundred feet of each side thereof, or 40 feet, whichever distance is less.*

4-10-4. *Off-Street Loading and Unloading:* Shall be provided as required in Article VI, Section 6-5

4-10-5. *Required Buffers:* Where this district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as specified in Article XII.

The intent of this district is to preserve the rural character of those areas which are located outside the urbanized portion of the city by permitting agriculture and agriculture related uses, low density residential development and other uses which are characteristic of rural areas.

4-11-1. *Permitted Uses:*

- Agriculture uses such as the raising of crops and the raising of livestock, poultry, ratite birds, sheep, goats and swine, except that not more than five swine may be kept on any premises. All buildings and structures which house said animals shall not exceed one thousand (1,000) square feet of ground coverage area. Ground application of sewage lagoon waste, animal carcasses or composted animal carcasses is prohibited.
- Public or private non-profit recreation uses, including: campgrounds, golf courses, country clubs, riding trails, resort areas, hunting and fishing facilities, and similar uses
- Water supply works, flood control or watershed protection works, and fish or game hatcheries
- Public utility structures and facilities, and publicly owned buildings, schools, libraries, fire and police stations, and community centers
- Churches, private schools and cemeteries
- Single family dwellings and accessory structures
- Manufactured homes, provided that the minimum lot size shall be one acre, and the manufactured home is not located within 200 feet of a dwelling. A maximum of one manufactured home may be located on such lot or parcel, unless the lot or parcel has been approved as a manufactured home park.
- Home occupations as defined in Article XII.
- Signs, subject to the provisions of Article VI, Section 6-7

4-11-2. *Conditional Uses:*

- Airport, landing fields and hangars
- Nursing homes and similar uses
- Animal hospital with outside kennels
- Manufactured home which does not conform to the minimum criteria for a manufactured home as a permitted use.
- Manufactured home parks, subject to the provisions of Article V
- Telecommunications facilities
- Group homes

4-11-3. *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
40	40	10*	40,000	150	35	2½	25%	See § 6-4

* Except any structure used for the housing of livestock of any kind shall not be located closer than one hundred (100) feet of any property line or line of a district other than an R-F District.

The intent of this district is to provide areas for agriculture uses, which by virtue of their size, intensity of land use, or effect upon nearby properties, may not be suited to location near residential areas.

4-12-1. Permitted Uses:

- The same permitted uses as the Rural Farm District, except that the limitation of the number of swine permitted on a premises and the 1,000 square foot limitation on the size of buildings which house permitted animals and livestock shall not apply to permitted uses in the AG Agriculture District.

4-12-2. Conditional Uses:

- The same conditional uses as the Rural Farm District, plus sewage lagoons and other facilities for the storage, disposal or treatment of animal wastes, provided all such uses are an accessory use on the premises.

4-12-3. Dimensional Requirements:

Property which is the subject of an AG-2 Agriculture District zoning application shall contain at least 10 acres. Sewage lagoons and other facilities for the storage, disposal or treatment of liquid waste shall be 1,300 feet from any property line. Facilities for the handling of dry, solid waste shall be 350 feet from any property line.

DIMENSIONAL REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES, EXCEPT BUILDINGS IN EXCESS OF ONE THOUSAND SQUARE FEET WHICH HOUSE LIVESTOCK AND FOWL, SEWAGE LAGOONS AND OTHER FACILITIES FOR THE STORAGE, DISPOSAL OR TREATMENT OF ANIMAL WASTES

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
40	40	10*	43,560	100	35	2½	25%	See § 6-4

* Except any building, used for the housing of livestock or fowl, which does not exceed one thousand (1,000) square feet of ground coverage area, shall not be located closer than one hundred (100) feet to any property line or zoning district boundary.

DIMENSIONAL REQUIREMENTS FOR BUILDINGS IN EXCESS OF ONE THOUSAND SQUARE FEET WHICH HOUSE LIVESTOCK AND FOWL

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Acres	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
100	100	100	10	200	35	2½	25%	See § 6-4

The intent of this district is to preserve and enhance historic neighborhoods that are predominately residential but also have a small number of professional offices.

4-13-1 *Permitted Uses*

- Dwelling – single family detached
- Home Occupations as defined in Article XII

4-13-2 *Conditional Uses*

- Professional offices (Certified public accountants, public accountants, registered land surveyors, psychologists, professional counselors, architects, attorneys, psychiatrists, landscape architects, interior designers, audiologists, draftsmen, steel detailers, radio engineers, optometrists, licensed massage therapists).
- Signs subject to the provisions of Article VI, Section 6-7-5a. 1,2; with a maximum height limitation of five (5) feet.
- Other neighborhood commercial establishments not specifically listed, which in the opinion of the Planning Commission, are within the intent of this district and do not adversely affect the residential nature of this district may be allowed.

4-13-3 *Dimensional Requirements:*

Minimum Yard Size			Minimum Lot Size		Maximum Building Height		Building Area	Off-St. Parking
Front Yard (Ft.)	Rear Yard (Ft.)	Side Yard (Ft.)	Area (Sq. Ft.)	Width in Ft. at Bldg. Line	In Feet	In Stories	Percentage of Lot Size	In Car Spaces
20	20	15	None	None	35	2	50%	See § 6-4

4-13-4 *Required Buffers:* Where this district abuts a lot in a residential district, there shall be provided and maintained along said property line a continuous visual buffer as defined in Article XII.

Article V Regulations for Manufactured Home Parks

SECTION 5-1.

PURPOSE

The purpose of this Article is to provide requirements for the development of manufactured home parks while deriving for the city the advantage of improved appearance, compatibility of uses, optimum service by community facilities and adequate vehicular access and circulation.

SECTION 5-2.

PROCEDURE

No manufactured home park shall hereafter be developed, redeveloped, altered, or expanded without a Conditional Use Permit and in conformity with the regulations of this Ordinance. An application for a Conditional Use Permit shall be made of forms furnished by the Zoning Administrator. The application shall be accompanied by five (5) copies of a preliminary site plan of the manufactured home park showing the following, either existing or as proposed:

- A. The proposed title of the project and the name of the owners, engineer, architect, designer, or landscape architect of the development.
- B. The north arrow point, scale and date. The scale of the site plan shall be not less than 1" = 50'.
- C. Vicinity map showing the location of the project in relation to the surrounding community.
- D. Existing zoning and zoning district boundaries.
- E. The boundaries of the property involved, the general location of all existing easements, section lines, and property lines, existing streets, buildings, and other physical features in or adjoining the project.
- F. Names and addresses of all adjacent landowners.
- G. The approximate location and sizes of sanitary and storm sewers, water mains, culverts, and other underground facilities in or near the project.
- H. Acreage in total project; acres to be developed.
- I. Location of manufactured homes on stands and dimensions of each stand. Location and number of sanitary conveniences including toilets, washrooms, laundries, and utility rooms to be used by the occupants of units.
- J. Roadways and driveways including the width and the type of surface treatment, curbs, and other physical characteristics.
- K. A typical stand detail showing the patio, if any, and manufactured home with the location of utility connections including gas, water and sewer, and electrical.
- L. Location and type of buffer strip.
- M. Location and size of recreation areas.
- N. Any area within or adjacent to the proposed manufactured home park subject to periodic inundation by storm drainage, overflow, or ponding, shall be clearly shown and identified on the plan.
- O. Any and all other physical improvements as specified in Section 5-4.

SECTION 5-3.

LICENSE REQUIRED

It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained upon any property owned, leased or controlled by him, a manufactured home park without having first secured a license for each such park from the City Council pursuant to this Article. The license shall expire on September 30th of each year but may be renewed under the provisions of this Section for additional periods of one year. The annual license fee shall be *twenty-five dollars (\$25.00) plus two dollars (\$2.00) per unit*. In the event an application is made during the license year, the fee for such license shall be prorated in proportion to the number of months remaining in the license year on the basis of one-twelfth of the annual license fee per month.

The application for such license fee shall be accompanied by a surety bond in the sum of *one thousand dollars (\$1,000.00)*. This bond shall guarantee the collection by the licensee of any fine or forfeiture including legal costs imposed upon or levied against such license for a violation of the provisions of this Ordinance. The bond shall be for the use and benefit and may be prosecuted and recovered thereon by any person who may be injured or damaged by reason of the licensee violating the provisions of this Article. A fee of *ten dollars (\$10.00)* shall be paid for each transfer of license.

The application for a license or a renewal thereof shall be made on forms furnished by the City Clerk and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person, that the applicant is authorized by him to construct or maintain the park and make the application), and such a legal description of the premises, upon which the park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by one (1) copy of the park plan and one (1) copy of the Conditional Use Permit.

SECTION 5-4.

REQUIREMENTS

Any development, redevelopment, alteration, or expansion of a manufactured home park within the City of Fort Payne shall be done in compliance with these requirements:

- 5-4-1. *Location:* A manufactured home park shall be located only in the R-F District and with a Conditional Use Permit for that purpose as provided in this Ordinance.
- 5-4-2. *Basic Minimum Requirements:*
- a. *Area Requirements:* The minimum size of a manufactured home park shall be ten (10) acres.
 - b. *Stand Requirements:* Each stand shall provide a minimum area of 5,000 square feet and a minimum width of 40 feet.
 - c. *Buffer:* There shall be constructed and maintained a permanent screening device as specified in Article XII.
 - d. *Open Space Requirements:* The minimum front yard setback shall be fifteen (15) feet from the nearest corner of the manufactured home to the front line of the stand. The minimum distance between manufactured homes shall be twenty (20) feet on the sides and fifteen (15) feet on the rear.
 - e. *Height Regulations:* The height limit for any manufactured home in the park shall be eighteen (18) feet. The height of the manufactured home frame above the ground elevation, measured at 90 degrees to the frame, shall not be greater than three (3) feet.
 - f. *Soil and Ground Cover:* Exposed ground surfaces in all parts of every park shall be paved, covered with stone screenings or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and eliminating dust.
 - g. *Drainage:* The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a licensed professional engineer.
 - h. *Design and Location of Storage Facilities:* Storage facilities with a minimum capacity of 200 cubic feet per stand shall be provided on the stand, or in compounds located within one hundred (100) feet of each stand. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be faced with masonry porcelain steel, baked enameled steel or other materials equal in fire resistance, durability and appearance, or of an equal material approved by the Municipal Building Inspector.
 - i. *Parking:* Every manufactured home stand shall have two (2) off-street parking spaces.
 - j. Each manufactured home shall be placed and anchored in compliance with the rules of the *Alabama Manufactured Housing Commission Administrative Procedures Code*. A permanent underpinning shall be erected between the ground and the lower edge of the manufactured home, on all sides. The underpinning shall be vented, with adequate access to utility connections installed in the rear of the mobile home. There shall be no exposed wheels, towing mechanisms, undercarriage or chassis, once the manufactured home is placed and underpinned.
- 5-4-3. *Access and Traffic Circulation:* Internal streets shall be privately owned, built and maintained and shall be designed for safe and convenient access to all stands and parking spaces and to common use of park facilities.
- a. An internal street or common access route shall be provided to each stand. The street shall be a minimum of thirty (30) feet in width. The internal street shall be continuous or shall be provided with a cul-de-sac having a minimum radius of sixty (60) feet. No internal street ending in a cul-de-sac shall exceed four hundred (400) feet in length.
 - b. All streets shall be constructed to meet the minimum specifications for streets within the City of Fort Payne except the curbing. A concrete lay-down curb or acceptable substitute shall be used as approved by the Public Works Director / City Engineer.
 - c. Every manufactured home stand shall have two (2) off-street parking spaces. Off-street parking shall be hard surfaced with all-weather materials.
 - d. Internal streets shall be maintained free of cracks, holes, and other hazards at the expense of the licensee.
 - e. All streets within each park shall be numbered or named in an approved manner.
 - f. Interior streets shall intersect adjoining public streets at ninety degrees (90) and at locations which will eliminate or minimize interference with the traffic on those public streets.
 - g. At each entrance to the park, an 18" by 24" sign should be posted stating "Private Drive, No Thru Traffic." The licensee may also post a speed limit sign on this same post.
- 5-4-4. *Park Lighting:* Adequate lighting shall be provided in a manner approved by the City of Fort Payne Improvement Authority. All electric and telephone lines should be placed underground when possible.
- 5-4-5. *Recreation Area:* All manufactured home parks shall have at least one recreation area located to be free of traffic hazards, easily accessible to all park residents and centrally located where topography permits. Not less than ten (10) percent of the gross park area shall be devoted to recreational facilities. Such space shall be maintained in a usable and sanitary condition by the licensee.
- 5-4-6. *Utility Requirements:* Each manufactured home shall be connected to the municipal water system and to the municipal sewage disposal system if available. The design and specifications of the utility systems shall meet city specifications and shall be approved by the City Engineer. If the municipal utility system is not available, then a private central system shall be required until such time as the municipal system becomes available. The design and specifications of such systems shall meet Health Department specifications and shall be installed under inspection of the appropriate City Department.

Article VI General Provisions

SECTION 6-1. APPLICATION OF REGULATIONS

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- 6-1-1. No building, structure, mobile home or manufactured home or land shall hereafter be used or occupied; and no building, structure, mobile home or manufactured home, or part thereof, shall hereafter be erected, constructed, reconstructed, moved, relocated or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 6-1-2. *No building or other structure shall hereafter be erected or altered:*
- a. To exceed the height or bulk;
 - b. To accommodate or house a greater number of families;
 - c. To occupy a greater percentage of lot area; or
 - d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.
- 6-1-3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard open space, or off-street parking or loading space similarly required for any other building.
- 6-1-4. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- 6-1-5. All territory which may hereafter be annexed to the City shall be considered to be in the R-F, Rural Farm District until otherwise classified.

SECTION 6-2. NON-CONFORMING USES

Any parcel of land, use of land, building or structure existing at the time of enactment of this Ordinance, or any amendment hereto, that does not conform to the requirements of the district in which it is located may be continued and maintained subject to the following provisions:

- 6-2-1. *Non-Conforming Vacant Lots:* This category of non-conformance consists of vacant lots for which plats or descriptions have been recorded in the Office of the Probate Judge of DeKalb County, which at the time of enactment of this Ordinance fail to comply with the dimensional requirements for the districts in which they are located. Any such nonconforming lot may be used for any of the uses permitted by this Ordinance in the district in which it is located, provided as follows:
- a. Such vacant lot of record does not adjoin another lot of record to which it can be combined as called for in Article VII, Section 7-1.
 - b. Minimum requirements of the district for front yard, side yard, rear yard, and off-street parking shall be complied with.
- 6-2-2. *Non-Conforming Occupied Lots:* This category of non-conformance consists of lots occupied by buildings or structures at the time of enactment of this Ordinance that fail to comply with minimum requirements for area, width, front yard, side yard, and rear yard for the districts in which they are located.
- 6-2-3. *Non-Conforming Open Uses of Land:* This category of non-conformance consists of lots used for storage yards, used car lots, auto wrecking, junk yards, and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this Ordinance, in the district in which it is located. A legally established non-conforming open use of land may be continued except as follows:
- a. When a non-conforming open use of land has been changed to a conforming use, it shall not thereafter revert to any non-conforming use.
 - b. Non-conforming open uses of land shall not be changed to any but conforming uses.
 - c. A non-conforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became non-conforming.
- 6-2-4. *Non-Conforming Single Family Dwellings:* A single family dwelling, which was lawful prior to the adoption or amendment of this zoning ordinance, but which fails, by reason of such adoption or amendment, to conform to the present requirements of this Zoning Ordinance, may always be used as a single family dwelling, and shall not be subject to any other provisions of Section 6-2.

6-2-5. *Non-Conforming Uses or Structures:* This category of non-conformance consists of buildings or structures used at the time of enactment of this Ordinance for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- a. An existing non-conforming use of a building or structure may not be changed to another non-conforming use.
- b. When a non-conforming use of a building or structure has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.
- c. A non-conforming use of a building or structure shall not be extended or enlarged except into portions of the structure which, at the time the use became non-conforming were already erected and arranged or designed for such non-conforming use.
- d. Non-conforming existing mobile homes or manufactured homes, in either business or industrial districts may not be enlarged, expanded, structurally altered, nor continued as a residential use after vacation for a continuous period of one hundred eighty (180) days unless the mobile home or manufactured home was vacated due to damage from fire, wind, flood or other casualty loss. In such event, the provisions of Article VI, Section 6-2-5, shall control.
- e. Maintenance and repairs necessary to keep a non-conforming structure in sound condition shall be permitted.
- f. When any non-conforming use of a building, structure or mobile homes or manufactured home is vacated for a continuous period in excess of one hundred eighty (180) days, the building, structure or mobile homes or manufactured home shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- g. *Non-Conforming Mobile Home and Manufactured Home lots:* This category of non-conformance consists of lots or parcels of land occupied by one (1) or more mobile or manufactured homes which are located in a district in which they are not permitted at the time of the enactment of this Ordinance as amended. When any mobile or manufactured home is removed from a non-conforming mobile or manufactured home lot, another mobile or manufactured home shall not thereafter be located upon the nonconforming lot, even as a substitute or replacement for the removed mobile or manufactured home, except as provided in (h) and (i) below.
- h. *Non-conforming Manufactured Home Parks:* This category of non-conformance consists of land occupied by a mobile or manufactured home park which is located in a district in which it is not permitted at the time of the enactment of this Ordinance as amended. Such mobile or manufactured home park may not be enlarged, expanded, continued after vacation for a continuous period in excess of one hundred and eighty (180) days, nor replaced after destruction as required in Section 6-2-6.

Provided, however, that any Manufactured Home Park located in a M-1 or M-2 district may replace an existing home with a replacement manufactured home only if the replacement manufactured home's date of manufacture is within ten (10) years of the date of replacement, and is a substantial upgrade in quality and appearance from the manufactured home being replaced and such installation is in conformity with the rules of the Alabama Manufactured Housing Commission Administration Procedures Code, and upon the sale, transfer or disposition of any ownership interest in the Park, the Park must within 365 days of such sale, transfer or disposition be brought into compliance with Article V, Regulations for Manufactured Home Parks, except Section 5-4-2-a, "Area Requirements."

- i. Except for the purposes of replacement or repair after damage, destruction, abandonment or vacation, which are governed by other provisions of Subsection 6-2-5 and 6-2-6; a non-conforming, owner-occupied mobile or manufactured home in the R-2 (Medium Density) District, located on the subject premises prior to adoption of this sub-section, may be removed from the premises and replaced with a new, not previously occupied, manufactured home, provided:
 - (1) The mobile or manufactured home to be replaced or enlarged, and the property on which it is located, must be owned by the occupant of said home;
 - (2) A mobile home permit or building permit is issued and all required utility permits are obtained;
 - (3) All manufactured homes shall be installed as provided in the rules of the Alabama Manufactured Housing Commission Administrative Procedures Code;
 - (4) In the event that a mobile or manufactured home is replaced pursuant to this Subsection, the substitute manufactured home shall be removed from the premises, at such time as the owner no longer resides in the manufactured home;
 - (5) The replacement manufactured home and/or the improvement or addition, shall comply with all building setbacks of the R-2 District.

6-2-6. *Reconstruction of Damaged Buildings or Structures.*

- a. Except as specified in paragraph b. of this subsection, any non-conforming use which has been damaged by fire, wind, flood or other causes may be repaired and used as before if repairs are initiated in twelve (12) months and completed within two (2) years of such damage, unless such building or structure has been declared by the Building Inspector to have been damaged to an extent exceeding eighty percent (80%) of its assessed value at the time of destruction. If the building or structure is damaged to a degree greater than eighty percent (80%), future use of the building and site must come into conformance with the regulations for the district in which it is located.

- b. Non-conforming mobile homes or manufactured homes owned and occupied by the owner of the subject property at the time said mobile home or manufactured home is damaged by fire, wind, flood or other causes may be repaired and used as before if repairs are initiated in twelve (12) months and completed within two (2) years of such damage, unless such mobile home or manufactured home has been declared by the Building Inspector to have been damaged to an extent exceeding eighty percent (80%) of its reasonable fair market value at the time of destruction. If said mobile home or manufactured home which was owned and occupied by the owner of the subject property at the time the mobile home or manufactured home was damaged to a degree greater than eighty percent (80%), said mobile home may be replaced within three (3) months after the date of destruction and shall conform to all requirements of the Building Codes and zoning district in which it is located. Mobile homes or manufactured homes which were not owned and occupied by the owner at the time that the damage was sustained shall not be repaired, and shall be removed. All mobile homes or manufactured homes which are rehabilitated, reconstructed or repaired pursuant to this Section after a casualty loss shall thereafter conform to all then existing minimum standard housing codes.

6-2-7 *Non-conforming uses or structures in the airport approach, transitional, horizontal, and conical areas.*

The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator or the Federal Aviation Administration or other applicable authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained in a manner consistent with federal or state regulations and at the expense of the City of Fort Payne.

SECTION 6-3. INTERPRETATION OF DISTRICT REGULATIONS

The district regulations shall be enforced and interpreted according to the following rules:

- 6-3-1. *Permitted Uses:* Uses not designated as permitted uses or subject to additional conditions shall be prohibited. Conditional Uses are permitted according to additional regulations imposed. These Conditional Uses can be approved only by the Zoning Board of Adjustment. Additional uses may be added to the Ordinance by amendment.
- 6-3-2. *Minimum Regulations:* Regulations set forth by this Ordinance shall be minimum regulations. If the district requirements set forth in this section are at variance with the requirements of any other lawfully adopted uses, regulations or ordinances the more restrictive or higher standard shall govern.
- 6-3-3. *Land Covenants:* Unless restrictions established by covenants with the land are prohibited by, or are contrary to, the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

SECTION 6-4. OFF-STREET PARKING REQUIREMENTS

In all districts, there shall be provided at the time any building, structure, or use is established, enlarged or increased in capacity, off-street parking spaces for motor vehicles in accordance with the requirements herein specified. Such off-street parking spaces shall be maintained and shall not be encroached upon by structures or other uses so long as the principal building, structure, or use remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance. Except for loft apartments, the provisions of this Section 6-4 shall not apply to the C-2 Central Business District.

- 6-4-1. *Plans:* Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation, shall be submitted to the Building Inspector for review at the time of application for a building permit for the erection or enlargement of a building.
- 6-4-2. *Location of Off-Street Parking Areas:* Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof except that this distance shall not exceed one hundred fifty (150) feet for single-family and two-family dwellings. This distance specified shall be measured from the nearest point of the parking facility to the nearest point of the lot occupied by the building or use that such facility is required to serve.
- 6-4-3. *Parking in Residential Districts:* Parking of motor vehicles in residential districts shall be limited to passenger vehicles and not more than one commercial vehicle of the light delivery type, not to exceed three-fourths (3/4) ton shall be permitted per dwelling unit. The parking of any other type of commercial vehicle, except for those parked on school or church property, is prohibited in a residential zone.
- 6-4-4. *Off-Street Parking Area Design:* Each off-street parking space for automobiles shall be not less than one hundred and sixty-two (162) square feet in area with an access aisle of at least twenty-two (22) feet in width, and shall be of usable shape and condition.
 - a. These shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles.
 - b. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of the parking space. The minimum width of such aisles shall be:
 - c. For ninety (90) degree or perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
 - d. For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet.
 - e. For forty-five (45) degree parking, the aisle shall not be less than fifteen (15) feet in width.
 - f. For parallel parking, the aisle shall not be less than twelve (12) feet in width.

- g. All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence or compact planting strip exists as a parking barrier along the property line.
- h. All off-street parking areas shall be drained so as to prevent drainage to abutting properties, and constructed of asphalt or concrete paving type materials.
- i. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lot or institutional premises.
- j. Any off-street parking area providing space for five (5) or more vehicles shall be effectively screened on any side which adjoins or faces property adjoining a residential lot by a wall, fence, or compact planting not less than four (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
- k. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one or two-family dwellings.

6-4-5. *Collective Parking:* Requirements for the provision of parking facilities with respect to two or more property uses of the same or different types may be satisfied if the permanent allocation of the requisite number of spaces designated is not less than the sum of individual requirements.

6-4-6. *Determining Requirements:* For the purposes of determining off-street parking requirements, the following units of measurement shall apply:

Floor Area: In the case where the floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for parking within the principal building and need not include any area used for incidental service storage, installations of mechanical equipment, ventilators and heating systems and similar uses.

6-4-7. *Schedule of Off-Street Parking Spaces:* The minimum required off-street parking spaces shall be set forth in the following Schedule of Off-Street Parking Spaces. Where a use is not specifically mentioned, the parking requirements of a similar or related use shall apply.

USE:	PARKING SPACE REQUIREMENTS:
Automobile sales and repair	One (1) parking space for each two (2) employees at maximum employment on a single shift, plus two (2) spaces for each 300 square feet of repair or maintenance space.
Automobile car wash	One (1) space for each two (2) employees at maximum employment on a single shift. Reserve spaces equal to five (5) times the capacity of the facility at the location of both ingress and egress.
Bed and Breakfast and Tourist Home	Two (2) spaces, plus one for each bedroom for which a fee is charged to provide overnight accommodations
Bowling alleys	Two (2) spaces for each lane, plus one (1) additional space for each two (2) employees.
Camps for tents and camping trailers	One (1) parking space for each site provided for tents and camping trailers, plus ten (10) additional spaces.
Elementary schools and junior high schools, both public and private	Two (2) spaces for each classroom and administrative office.
Churches	One (1) space for each four (4) seats.
Filling stations (automobile service stations)	Two (2) spaces for each gas pump, plus three (3) spaces for each grease rack or similar facility.
Hospitals	One (1) space for each four (4) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.
Hotels	One (1) space per guest room, plus one (1) additional space for each five (5) employees.
Inn	Five (5) spaces, plus one space for each bedroom for which a fee is charged to provide overnight accommodations, plus spaces required for a restaurant which serves meals to those who are not residents or guests
Kindergartens or nurseries	One (1) space for each employee and four (4) spaces for off-street drop-off and pick-up.
Libraries	One (1) space for each four (4) seats provided for patron use.
Mortuary or funeral homes	One (1) space for each four (4) seats provided in the assembly room or chapel.
Motel	One (1) space per guest room, plus two (2) additional spaces for each twenty (20) units.
Offices: professional, business, or public (including banks)	One (1) space for each 400 square feet of gross floor area.
Medical offices and clinics	Six (6) spaces for each doctor practicing at the clinic, plus one (1) space for each employee.
Places of public assembly: including private clubs and lodges, auditorium, dance halls, theaters, stadiums, gymnasiums, amusement parks, community centers, and all similar places of public assembly	One (1) space for each four (4) seats provided for patron use, plus one (1) space for each 100 square feet of floor or ground areas used for amusement or assembly, but not containing fixed seats.
Boarding houses	One (1) space for each three (3) guest rooms, plus one (1) additional space for the owner, if resident on the premises.
Residential dwellings	One (1) space for each dwelling unit. Dwelling units exceeding three (3), one and one-half (1½) spaces per unit.
Restaurants, drive-in	Parking spaces equivalent to five (5) times the floor space in the main building.
Restaurants, in-door	One (1) space for each three (3) seats or stools, plus one (1) space for each two (2) employees on the shift with the largest employment.

Retail business	One (1) space for each 200 square feet of gross floor area.
Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions	One (1) space for each six (6) patient beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.
Senior high schools and colleges, both public and private	One (1) space for each ten (10) students for whom the school was designed, plus one (1) space for each classroom and administrative office.
Shopping centers	One (1) space for each 200 square feet of gross floor area.
Mobile home parks	Two (2) spaces for each stand.
Wholesaling and industrial uses	One (1) space for each two (2) employees at maximum employment on a single shift.

6-4-8. *Exception:* The parking requirements for all uses proposed on a lot shall be cumulative, unless the Board of Adjustment shall find that the parking requirements of a particular land use occur at different hours from those of other contiguous land uses, such that particular land use parking areas can be advantageously used during nonconflicting hours by the other contiguous land use, in which event the required parking spaces for such particular land use may be reduced by the Board of Adjustment to a minimum of the greatest number of spaces required for any of such contiguous land uses.

SECTION 6-5. OFF-STREET LOADING AND UNLOADING REQUIREMENTS

In connection with every building, structure, or use hereafter erected, except residential structures, which customarily receive or distribute material or merchandise by vehicle, there shall be provided on the same lot with such buildings, off-street loading and unloading space.

6-5-1. *Plans:* Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Building Inspector for review at the time of application for a Building Permit or Certificate of Occupancy.

6-5-2. *Off-Street Loading Area Design:* Each off-street loading and unloading space shall not be less than ten (10) feet in width and fifty-five (55) feet in length with not less than fifteen (15) feet in height clearance.

Any loading-unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed or unless enclosed on all sides by a wall, fence, or compact planting not less than six (6) feet in height.

6-5-3. *Off-Street Loading Area Space Requirements:*

Retail operations: One (1) loading space for each twenty thousand (20,000) square feet of gross floor area, or fraction thereof.	
Building area in square feet:	Number of Spaces:
0 - 40,000	1
40,000 - 100,000	2
100,000 - 160,000	3
160,000 - 240,000	4
240,000 - 320,000	5
320,000 - 400,000	6
Each 90,000 above 400,000	1

SECTION 6-6. LOCATION OF ACCESSORY BUILDINGS

Accessory buildings may be erected on any lot, however, such buildings shall be located so as to comply with the following requirements:

6-6-1. No accessory building shall be erected in any required front or side yard and shall not occupy more than thirty (30) percent of any required rear yard. Accessory buildings shall be at least five (5) feet from the rear lot line and ten (10) feet from the side lot line, except in the R-3 District which shall be eight (8) feet from the side lot line.

In the case of easement or alley, the accessory structure may be built on the easement or alley line.

6-6-2. In the case of a corner lot adjoined in the rear by a lot facing the side street, the accessory structure shall be located in such a manner as to conform with the front and side yard requirements of the adjoining lot.

SECTION 6-7.

SIGN COMPLIANCE

No type of exterior sign may be erected, posted, re-posted, placed, replaced, hung, painted, or repainted in any district except in compliance with this Ordinance.

6-7-1. *Signs not Requiring a Permit:* The following types of signs may be allowed in any district without a permit:

- a. Any on-premise sign not exceeding two (2) square feet in area and bearing only property numbers, names of occupants, or business and professional signs not exceeding two (2) square feet in area.
- b. Temporary, on-premise real estate signs, such as "For Sale" or "For Rent" signs, not exceeding four (4) square feet in area and non-illuminated.
- c. Off-premise directional signs for places of worship, public buildings and public facilities. Such signs shall not exceed six (6) feet in area.
- d. On-premise signs for churches or public buildings to include bulletin boards, lighted or unlighted, not exceeding fifteen (15) square feet in area. Such signs must meet the yard requirements for the district in which they are located.
- e. On-premise signs which do not exceed twenty (20) square feet in area, which advertise the sale of agricultural products which were produced on the premises.
- f. Legal notices, identification, informational or directional signs required by governmental bodies.
- g. On premise signs directing and guiding traffic to parking areas on private property, bearing no advertising matter, and do not exceed two (2) square feet in area.
- h. Other on-premise, outdoor advertising devices including but not limited to plaques, banners, pennants, streamers, and posters are permitted for a period of not more than two (2) weeks after the opening of a new business or sale.

6-7-2. *Signs Requiring a Permit:* No sign, except those listed in Section 6-7-1(a) through (g) shall be erected in any R-F, R-1, R-2 or R-3 district, and no sign except those listed in Section 6-7-1(a) through (h) shall be erected in any C-1, C-2, C-3, C-4, —1, or —2 district, without a permit obtained from the Zoning Administrator. Each sign shall require a separate permit and each permit application shall be accompanied by a non-refundable twenty-five dollar (\$25) fee and plans which show the following:

- a. Location of the proposed site, the property owner, present use, and zoning district.
- b. Location of the sign on the lot in relation to property lines and existing signs and structures, as well as zoning district boundaries.
- c. Complete structural specifications including anchoring and support for projecting signs and outdoor advertising signs.
- d. Any additional information needed to determine if such sign is to be erected in conformance with this Ordinance.

6-7-3. *General Sign Regulations:* All signs shall be subject to the following general regulations.

a. Sign Location

- (1) No sign, when attached to a building, shall project closer than eighteen (18) inches to the curb line and shall be at least ten (10) feet above the level of any walkway it may overhang.
- (2) No sign except those erected for governmental purposes shall be permitted on any public right-of-way.
- (3) Signs in the C-3 District may be placed up to ten (10) feet from the front property line and shall conform to all other provisions of the district.

b. Height of Sign

- (1) Freestanding signs, including supports, shall not exceed a height of twelve (12) feet in a residential district.
- (2) Signs attached to a building wall of a shopping center or in the C-1 District shall not extend above the height of the building wall at the location of the sign. Other signs attached to a building wall may extend not more than five feet above the building wall at the location of the sign.
- (3) Unless otherwise specifically stated, all signs shall conform to the yard and height requirements of the district in which said sign is located.
- (4) In the C-3 District, the maximum height of an on-premise, free standing sign, shall be one hundred (100) feet, when said sign is located west of Interstate Highway 59, within one thousand (1,000) feet of the interchange of Interstate Highway 59 and Alabama Highway 35, measured from the centerline of Interstate Highway 59 and the centerline of Alabama Highway 35.

c. Illuminated and Moving Signs

- (1) A sign may be illuminated if the illumination is confined to or directed to the surface of the sign. No flashing, rotating, or intermittent illumination shall be permitted except signs in the C-2, C-3, C-4, M-1 and M-2 districts.
- (2) The light sources of signs shall be so designed and shielded that they cannot be seen from beyond the property lines on which said sign is located, except that signs with exposed neon tubes shall be permitted in all commercial and industrial districts.

d. Signs Creating Obstructions or Dangerous Signs

- (1) Signs and advertising structures shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building or structure.
- (2) Whenever a sign or outdoor advertising structure becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, the Building Inspector shall order that such sign or advertising structure be made safe or removed. Such order shall be complied with within thirty (30) days of receipt thereof by the person, firm or corporation owning or using the sign or advertising structure or the owner of the building or premises on which such unsafe sign is affixed or erected.
- (3) No sign may project movement or illumination, and shall not interfere with or obstruct the view of traffic, nor shall any sign be confused with any authorized traffic sign, signal or device.

6-7-4. *Signs Allowed in R-F, R-1, R-2 and R-3 Districts*

The following signs only are allowed in the above stated districts: Signs (a) through (g) as specified in Subsection 6-7-1.

6-7-5. *On-Premise Signs Permitted in the C-1 District*

a. Business Identification Signs for Businesses Not Located in a Shopping Center.

- (1) Each building may have one sign affixed flat against the wall of the building, which shall not exceed one quarter ($\frac{1}{4}$) square foot of area for each linear foot of length or height of the wall, whichever is greater. No such sign shall extend above the wall to which it is affixed.
- (2) Each building may have one on-premise free-standing identification sign. Such sign shall not exceed fifteen (15) square feet in area, nor be closer to the front, side or rear property line than one-half ($\frac{1}{2}$) the distance of the required setback.

b. Business Identification Signs for Shopping Centers.

- (1) Each shopping center may have one on-premise free-standing identification sign which shall not exceed thirty (30) square feet in area, nor be closer to the front, side, or rear property line than one-half ($\frac{1}{2}$) the distance of the required setback.
- (2) Each business located in a shopping center building may have one sign affixed flat against the wall of the premises, which shall not exceed one quarter ($\frac{1}{4}$) square foot of area for each linear foot of length or height of the wall, whichever is greater. No such sign shall extend above the wall to which it is affixed.

6-7-6. *On-Premise Signs Permitted in the C-2, C-3, C-4, M-1 and M-2 Districts*

a. Business Identification Signs for Businesses Not Located in a Shopping Center.

Each building may have one sign affixed to the wall of the building and one free-standing sign. The area of the signs shall not exceed two (2) square feet for each linear foot of building frontage; except where the building is located on a corner lot, in which case the building may have one sign affixed to the wall of the building facing each street and one free-standing sign facing each street. The copy area of the signs shall not exceed two (2) square feet for each linear foot of building frontage facing each street.

b. Shopping Centers.

- (1) Each shopping center may have one, on-premise, free-standing sign facing each street. The area of the signs shall not exceed one (1) square foot for each linear foot of building frontage facing each street.
- (2) Each business located in a shopping center building may have one sign affixed flat against the wall of the premises, which shall not exceed one (1) square foot of area for each linear foot of length or height of the wall, whichever is greater. No such sign shall extend above the wall to which it is affixed.

6-7-7. *Off-Premise Signs.*

- a. Except as specifically permitted by sub-section 6-7-1(c) or 6-7-7(b) of this Section, off-premise signs are prohibited in all zoning districts.
- b. Off-premise signs are permitted in the C-3, M-1 and M-2 districts, subject to the following restrictions:
 - (1) Only in locations where said sign is intended to be viewed from the main traveled way of Interstate Highway 59, defined as the through traffic lanes exclusive of frontage roads, auxiliary lanes, and ramps.
 - (2) All such signs shall be spaced at no less than one thousand five hundred (1,500) foot intervals, and shall be no larger than six hundred

(600) square feet in area.

- (3) Each sign structure may have a maximum of two (2) signs which shall have parallel sign faces and be oriented in opposite directions.
- (4) The maximum height of such signs shall be sixty (60) feet above the main traveled way of Interstate Highway 59, measured at the centerline of the interstate highway pavement in the location closest to the sign structure.
- (5) Signs shall not be located within two thousand (2,000) feet of an interstate highway interchange, measured from the centerline of Interstate Highway 59 and the centerline of the intersecting road or highway, at the point of intersection.
- (6) Signs shall not be located within one thousand (1,000) feet of an Alabama Department of Transportation directional or informational sign which is located within the Interstate Highway right-of-way.

SECTION 6-8. SITE PLAN REVIEW AND APPROVAL

(Deleted by Ordinance No. 92-1)

SECTION 6-9. VISIBILITY AT INTERSECTIONS

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one half (2 1/2) feet and ten (10) feet in triangular area formed by a diagonal line between two (2) points on the right-of-way lines, twenty (20) feet from where they intersect. This regulation does not apply in the C-2 Central Business District.

SECTION 6-10. MOBILE BUILDINGS

A mobile building used as a dwelling is a mobile home or a manufactured home. This section applies only to the use of mobile buildings for non-residential purposes.

For the purposes of this Section, a mobile building is defined as a building, transportable in one or more sections, which is built on a permanent chassis, and designed to be occupied and used with or without a permanent foundation.

6-10-1. General Regulations.

- a. Mobile buildings may be used on a permanent basis in the M-1 and M-2 zoning districts, subject to the following restrictions:
 - (1) The mobile building shall only be used for supplemental office or training space.
 - (2) Each lot or parcel shall be limited to one such mobile building.
 - (3) If the mobile building is used for office space, it shall not be the only office space on a lot or parcel, but shall be used to supplement office space located within a permanent building on the lot or parcel.
 - (4) The total floor area of the mobile building on a lot or parcel shall not exceed two thousand (2,000) square feet, or one half of the office space floor area housed in the permanent building located on the same lot or parcel, whichever floor area is less.
 - (5) The mobile building shall be located adjacent to the permanent building which it serves, shall not be located closer than one hundred (100) feet from a single family residential district boundary or public street right-of-way.
- b. Unless otherwise specified in 6-10-2, mobile buildings may be used on a temporary basis, upon application to, and approval of, the Board of Zoning Adjustment, for conditional uses in the residential districts, and for permitted and conditional uses, except retail sales, in the commercial and manufacturing districts, for a period not to exceed six (6) months. Although six (6) months shall be the maximum permitted time period for temporary use of a mobile building, all temporary mobile building permits shall be for the shortest period of time which is justified by the application and accepted by the Board of Zoning Adjustment. Such temporary permits shall be non-renewable.

6-10-2 Special Applications.

- a. **School or governmental offices and classrooms:** Mobile buildings may be used in any zoning district on a temporary basis for a period up to twelve (12) months, upon application to and approval by the Zoning Administrator of the City, for use as classrooms or office facilities accessory to uses by a public school system or any federal, state, county or city governmental agency. Annual extensions of this permit for additional twelve (12) month periods, up to a maximum total time of thirty-six (36) months, may be made upon application to and approval by the Board of Zoning Adjustments. Permits issued under this sub-section shall be exempt from the cash performance bond requirement as stated in Section 6-10-3.
- b. **Construction:** Temporary permits for mobile buildings, used for office or storage purposes which are accessory to construction for which a building permit is currently issued, shall only require approval by the Zoning Administrator of the City. Such permits shall expire with the building permit or completion of construction, whichever time period is shorter. Permits issued under this sub-section shall be exempt from the cash performance bond requirement as stated in Section 6-10-3.

c. Retail sales or gaming:

- (1) Temporary permits for mobile buildings used for the retail sale of food products, wares or fireworks, or for entertainment gaming, shall only require approval by the Zoning Administrator of the City.
- (2) Individual units: From one (1) to three (3) mobile buildings used for these purposes may be temporarily grouped or placed at the same location at the same time in a commercial zoning district for a period up to two (2) months. Such permits may be renewed one time during a twelve (12) month period upon approval by the Zoning Administrator. Permits issued for these individual units in commercial zoning districts are subject to both permit fees as stated below and cash performance bond requirements as stated in Section 6-10-3 for each separate unit.
- (3) Carnivals, circuses, festivals or events: Four (4) or more mobile buildings used and grouped for such purposes under a unified theme, sanction, or business arrangement may be permitted as a single unit in a commercial zoning district, or on property owned by a public agency or governmental unit in any zone, for the duration of the carnival, circus, festival or event not to exceed fourteen (14) days. Such permitted collective groups of mobile buildings in a commercial zoning district shall be subject to a single permit fee of one hundred dollars (\$100.00) and a single cash performance bond requirement as stated in Section 6-10-3.

Exceptions: All permit fees and cash performance bond requirements shall be waived when

- (a) the collective units in the carnival, circus, festival or event are located on property owned by a public agency or governmental unit in any zone, or if
- (b) the carnival, circus, festival or event is located in a commercial zoning district and is specifically sanctioned by the Mayor and City Council and sponsored by a not-for-profit entity, agency or corporation.

- d. Permit fee required: Each permit or permit renewal application made under this section shall be accompanied by a non-refundable twenty-five dollar (\$25.00) fee, unless otherwise specified.

6-10-3. *Cash Bond Requirement.*

Unless otherwise specified in 6-10-2, all applications to erect or place mobile buildings shall be accompanied by a \$1,000.00 cash performance bond. This bond shall be refunded to the applicant in the event that the Board of Zoning Adjustment or the Zoning Administrator, whichever is applicable, denies the application. In the event that the application to place a temporary mobile building is granted, the cash bond will be returned to the applicant if the mobile building is removed before or on the date of the expiration of the temporary permit.

Upon failure of the applicant to remove the temporary building by the expiration date of the temporary permit, the cash bond shall be immediately forfeited to the City of Fort Payne if applicable, and condemnation proceedings will be commenced against the mobile building. If the terms or conditions for use of a mobile building are violated, the permit shall be revoked.

SECTION 6-11
(ISBELL FIELD)

HEIGHT LIMITATIONS OF OBJECTS AND USES AROUND THE FORT PAYNE MUNICIPAL AIRPORT

It is the intent of this section to prevent the creation or establishment of hazards to air navigation.

6-11-1 *Airport Zones*

In order to carry out the provisions of this Ordinance, there are created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Isbell Field. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are defined as follows:

- a. Runway 04 Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- b. Runway 22 Approach Zone: The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- c. Transitional Zones: The transitional zones are the areas beneath the transitional surfaces.
- d. Horizontal Zone: The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways from the center end of the primary surface and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- e. Conical Zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

6-11-2 *Airport zone height limitations*

Except as otherwise provided in Section 6-11, no structure, including a mobile object, shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are established for each of the zones in question as follows:

- a. Runway 04 Approach Zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- b. Runway 22 Approach Zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the runway centerline.
- c. Transitional Zones: Slopes seven (7) feet outward for each foot upward beginning at the Bides of and at the same elevation as the primary runway surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 876.85 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface.
- d. Horizontal Zone: Established at 150 feet above the airport elevation.
- e. Conical Zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

6-11-3 *Use restriction*

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere wit the landing, takeoff, or maneuvering aircraft intending to use the airport.

Article VII Exceptions and Modifications

Compliance with the requirements of this Ordinance is mandatory except that under the specific conditions enumerated in the following Sections, the requirements may be waived or modified as so stated.

SECTION 7-1. EXISTING LOTS

Where a lot of record at the time of the effective date of this ordinance has less area than herein required for the district in which it is located, said lot may nonetheless be used as a building site upon appeal to and approval by the Zoning Board of Adjustment. However, if the non-conforming lot of record is adjacent to vacant property under the same ownership, then the properties shall be re-surveyed into conforming lots.

SECTION 7-2. MINIMUM REQUIRED FRONT YARD FOR DWELLINGS

The minimum required front yard requirements of this Ordinance for dwellings shall not apply on any lot where the average front yard of existing buildings is located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard. In such cases the front yard on such lot may be less than the required front yard, but not less than the average of the front yards of the aforementioned existing buildings.

SECTION 7-3. HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerals and similar structures, except as otherwise restricted in the vicinity of airports.

Article VIII Telecommunication Facilities

SECTION 8-1

PURPOSE

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, these regulations are necessary in order to (1) facilitate the provision of wireless telecommunications services to the residents and businesses of the City; (2) minimize adverse effects of towers through careful design and siting standards; (3) avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and (4) encourage and maximize the use of existing towers, buildings and other structures to accommodate new wireless telecommunications antennas in order to reduce the number of towers needed to serve the community.

SECTION 8-2

APPLICABILITY

- A. This Article shall not apply to antennas, towers and other supporting structures that are an accessory use on the premises where they are located, including, but not limited to:
1. Television receiving antennas and dishes located on the premises of a dwelling, business or public facility, provided the signal is not re-transmitted or sold off the premises.
 1. Amateur radio broadcasting antennas
 2. Radio transmission antennas located on the premises of a business or public facility, which is used for fleet or emergency communications.
 3. Other antennas, towers and supporting structures, the sole purpose of which is accessory to the principal use of the premises, and not listed as being subject to the terms of this Article in the following subsection (b).
- B. This Article shall apply to antennas, towers and other supporting structures that are not an accessory use to the principal use of the premises, or which are a separate business from the principal use of the premises, including, but not limited to:
1. Commercial radio and television broadcasting antennas
 2. Television receiving antennas for cable television systems
 2. Antennas for the delivery of wireless telephone service
 3. Other telecommunications antennas that are not an accessory use of the premises.

All such uses shall be a conditional use, except the following uses which shall be a permitted use in all zoning districts.

1. Installation of antennas on existing towers where the tower height is not increased.
2. Installation of antennas on power poles where the height of the pole is not increased.
3. Installation of antennas owned by public utilities which are accessory to: remote terminal units serving pad mounted switch gear, remote switch controllers and similar telemetry antennas; provided the antenna is attached to a power transmission or distribution pole and does not exceed the height of the pole, or the antenna is attached to a building and does not extend more than ten (10) feet above the roof line of the building or the antenna is ground mounted and does not exceed twenty (20) feet in height. Said antennas shall also be exempt from the permitting requirements of Section 8-11 of this Article.
4. Installation of antennas which are accessory to Supervisory Control and Data Acquisition facilities located within a electric power sub-station, provided the antenna does not exceed the height of the poles or sub-station structure. Said antennas shall also be exempt from the permitting requirements of Section 8-11 of this Article.
5. Installation of antennas on buildings which comply with all of the following conditions.
 - a. The building is not located in a single family residential district.
 - b. The property is not subject to a conditional use, variance or other zoning restriction which exceeds the requirements of the zoning ordinance.
 - c. The antenna does not exceed the maximum building height in the zoning district nor extend more than 12 feet above the roof line of the building.

SECTION 8-3

AVAILABILITY OF SUITABLE EXISTING TOWERS OR OTHER STRUCTURES

No new towers, which are a conditional use under the terms of this Article, shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing tower or structure can accommodate the applicant's needs.

SECTION 8-4 **CAPACITY**

All telecommunication towers and associated compounds shall be designed to accommodate the antennas of at least three service providers.

SECTION 8-5 **MINIMUM LOT AREA AND SETBACKS**

- A. Because of the unique nature of telecommunications facilities, minimum lot area shall be determined on an individual basis by the Board of Adjustment as part of the conditional use process.
- B. Towers shall be placed no closer than a distance equal to the height of the tower from any dwelling located in the Rural Farm District or residential zoning districts. However, because of the unique nature of telecommunications facilities, other required setbacks from property lines shall be determined on an individual basis by the Board of Adjustment as part of the conditional use process. The Board shall consider the following factors when establishing minimum setbacks.
 - 1. The type of telecommunications facility
 - 2. Relationship to other properties and buildings
 - 3. Relationship to the public right-of-way
 - 4. Size of the subject lot or parcel
 - 5. Accessibility for public safety and other purposes
 - 6. Other factors which effect the telecommunications facility, surrounding property and community at large.

SECTION 8-6 **MONOPOLE TOWERS**

Only monopole towers may be located within one thousand (1,000) feet of a single family residential district boundary, the Central Business District boundary, any Historical District and Lookout Mountain Parkway.

SECTION 8-7 **AESTHETICS, LIGHTING AND BUFFERS**

- A. Towers shall either maintain a galvanized steel finish, or subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness.
- B. The design of the buildings and accessory structures and uses shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunication facilities to the natural setting and built environment.
- C. If an antenna is installed on a structure other than a tower, the antenna and accessory uses and structures must be of a color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.
- D. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light that falls onto nearby properties, particularly residences.
- E. No portion of any antenna array may extend beyond the property line.
- F. Accessory buildings, cabinets and structures shall not exceed sixteen (16) feet in height, and shall be compatible with the surrounding area.
- G. Tower compounds shall be surrounded by a buffer strip, as defined in Section XII of this Ordinance, in all cases where natural vegetation surrounding the site is not sufficient to screen its view from any residence.
- H. The City may require a special design of any telecommunications facility where findings of particular sensitivity are made.

SECTION 8-8 **FEDERAL REQUIREMENTS**

All towers and antennas must meet or exceed the current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owners expense.

SECTION 8-9 **BUILDING CODES AND SAFETY STANDARDS**

The owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes, the applicable standards for towers that are published by the Electronic Industries Association, as amended, and all applicable codes adopted by the City.

- A. In addition to any other applicable standards and requirements, the following shall apply to all towers and telecommunications facilities:
1. Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.
 2. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.
 3. At least ten (10) feet of horizontal clearance must exist between any antennas and any power lines, unless more clearance is required to meet Alabama Public Service Commission standards.
 4. All towers and telecommunications facilities must be designed and/or sited so that they do not pose a potential hazard to nearby residences or surrounding properties or improvements. Any tower shall be designed and maintained to withstand without failure, the maximum forces expected from wind, hurricanes, and other natural occurrences, when the tower is fully loaded with antennas, transmitters, and other telecommunications facilities, and camouflaging. Initial demonstration of compliance with this requirement shall be provided by submission of a report to the Building Official prepared by a structural engineer licensed in the State of Alabama describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed. Proof of ongoing compliance shall be provided by submission to the Building Official at least every five (5) years of an inspection report prepared by an Alabama registered structural engineer indicating the number and types of antennas and related telecommunications equipment actually present, and indicating the structural integrity of the tower. Based on this report, the Building Official may require repair of, or if a serious problem exists, removal of the tower or any telecommunications facilities.
- B. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of a tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the City may use the bond or irrevocable letter of credit required in Section 8-11-b to remove such tower.

SECTION 8-10 RADIO FREQUENCY STANDARDS

All applicants shall comply with federal standards for a radio frequency emissions. Within six (6) months after the commencement of any operations utilizing a tower, antenna or related telecommunications facilities, the applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the City finds that the facility does not meet federal standards, the City may require corrective action within a reasonable period of time, and if not corrected, may require removal of the telecommunications facilities. Any reasonable costs incurred by the City, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the applicant.

SECTION 8-11 PERMITS

Except as specifically exempted in Section 8-2 of this Article, towers, antennas and telecommunications facilities are considered structures, requiring issuance of a building permit. In addition to any information required by the Building Code in connection with the issuance of a permit for a tower, antenna or telecommunications facility, the applicant shall, prior to a permit being issued, submit the following to the Building Official:

- A. A maintenance/facility removal agreement, binding the applicant, the property owner (if other than the applicant) and the applicant's and/or owner's successors in interest, to properly maintain the exterior appearance of and ultimately the removal of the tower and telecommunications facilities in compliance with the provisions of this Article and any conditions of approval.
- B. A bond or irrevocable letter of credit, payable to the City of Fort Payne in the amount of fifty thousand dollars (\$50,000), securing the removal of the tower and one antenna, or any costs of monitoring or enforcing the maintenance of any tower by the City, should the owner fail to maintain the tower in accordance with the requirements of this Article, or abandon the use of the tower. A bond or irrevocable letter of credit, payable to the City of Fort Payne in the amount of twenty thousand dollars (\$20,000), securing the removal of each additional antenna, should the owner fail to maintain the tower in accordance with the requirements of this Article, or abandon the use of the tower; shall be executed prior to issuance of a permit for installation of each additional antenna on said tower.
- C. An agreement to pay to the City all costs of monitoring compliance with, and enforcement of, the maintenance, removal, and/or disposal of any tower and telecommunications facilities, and to reimburse the City for all costs incurred to perform the work required of the applicant by this agreement that the applicant may fail to perform. Such agreement for reimbursement shall include all costs of collection and reasonable attorneys fees.
- D. An agreement to allow the City to enter onto the property and undertake any maintenance or removal activities so long as:
 1. The Building Official has provided the applicant written notice requesting the work needed to comply with this Article and providing the applicant at least forty-five (45) days to complete it; and a follow up notice of default specifying failure to comply within the time period permitted, and indicating the City's intent to commence the required work within ten (10) days of the notice; and
 2. The applicant has not filed an appeal within ten (10) working days of the notice of the City's intent to commence the required work. If an appeal is filed, the City shall be authorized to enter the property and perform the necessary work if the appeal is dismissed or final action on it is taken in favor of the City.
 3. Notwithstanding anything contained in this section to the contrary, the City shall not be required to provide the notice described herein if there is a significant risk to the public health and safety requiring immediate remedial measures.

- E. In addition to any building permit fees and conditional use application fees, the applicant shall pay a telecommunications facilities permit fee in an amount that shall be set from time to time by City Council resolution. The fees for towers may be set at different levels than the fees set for antennas. The City Council resolution may further provide for a waiver of fees in the case of:
 - 1. Construction of new towers with excess capacity, where the applicant commits in advance to allow co-location;
 - 2. Co-location of antennas on existing towers and/or alternative tower structures;
 - 3. Location of antennas on existing alternative tower structures;
 - 4. Other conditions which the City believes will minimize the need for construction of new towers.
- F. A statement that the applicant agrees to allow for the potential co-location of additional telecommunications equipment by other providers on the applicant's tower or within the same site location, subject to reasonable conditions.
- G. If the applicant seeks a permit for a tower or telecommunications facility on leased property, a copy of the lease agreement, memorandum of lease, or a verified written statement of the landlord indicating that the landlord is permitted to enter into leases with other telecommunications providers.

SECTION 8-12

APPLICATION REQUIREMENTS

- A. Each applicant requesting a conditional use under this Article shall, in addition to submitting all information required in Section 10-4-3 of this Ordinance, submit the following information.

1. Scaled elevation view and other supporting drawings, calculations, and documentation, signed and sealed by appropriate registered professionals
2. Radio frequency coverage and tower height requirements
3. Other information deemed by the Board as necessary to determine compliance with this Article. Each applicant for an antenna or tower shall submit an inventory of its existing towers that are either within the City or within one-quarter mile of the City's boundaries, including specific information about the location, height, and design of each tower. The City may share such information with other organizations seeking to locate antennas within the City, provided however that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

If the applicant owns the electric power or telephone poles in the area, it is not the intent of this Article to require a map showing all such poles, however, it is the intent of this Article for the applicant to submit a map showing the location and height of all such poles in the vicinity of the property which is the subject of the conditional use.

4. The deposit of funds as required in Section 8-13 of this Article.
- B. Each applicant for an antenna or tower shall submit a copy of its one and five year plans for development of its telecommunications facilities in the City.

SECTION 8-13 **RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY APPLICANT.**

- A. The City may hire any consultants and/or experts necessary to assist the City in reviewing and evaluating an application submitted pursuant to this Article.
- B. The applicant shall deposit with the City, funds sufficient to reimburse the City for all reasonable costs of consultants or experts to advise the City in connection with the review of said application. The initial deposit shall be in the amount of seven thousand five hundred dollars (\$7,500). The funds shall accompany the filing of said application and the City shall establish and maintain a separate escrow account for all such funds. The City's consultants or experts shall bill or invoice the City no less frequently than monthly for its services in reviewing the application and performing its studies. If at any time during the review process this escrow account has a balance less than two thousand five hundred dollars (\$2,500), the applicant shall immediately, upon notification by the City, replenish the escrow account so that it has a balance of at least two thousand five hundred dollars (\$2,500). Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the applicant.
- C. The total amount of the funds set forth in subsection (b) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the City or its consultants or experts to complete the necessary review and analysis.

SECTION 8-14 **FACTORS CONSIDERED IN GRANTING CONDITIONAL USE PERMITS FOR TOWERS AND ANTENNAS**

The City shall consider the following factors in determining whether to issue a conditional use for a telecommunications facility:

1. Height of the proposed tower;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
7. Proposed ingress and egress;
8. An evaluation of the applicant's one and five year plans for development of its telecommunications facilities within the City, as well as those plans on file from other telecommunications providers;
9. Availability of suitable existing towers and other structures
10. Any other information that the City deems reasonably necessary in connection with the review of the application.

SECTION 8-15

REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of twelve months shall be considered abandoned. The City, in its sole discretion, may require an abandoned tower or antenna to be removed. The owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the City may use the bond or irrevocable letter of credit required in Section 8-11-b of this Article to remove said abandoned antenna or tower. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

**Article IX Administration, Enforcement, Building Permits,
Certificate of Occupancy, and Penalties**

SECTION 9-1.

ADMINISTRATIVE OFFICER

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

If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alternations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

The Zoning Administrator will be appointed by the Mayor and City Council to serve at the pleasure of the Mayor and City Council.

SECTION 9-2.

REMEDIES

If any building is erected, constructed, repaired, converted, or maintained or any building, structure, or land is used in violation of this Ordinance, the Zoning Administrator or other appropriate authority or any adjacent or other property owner who would be damaged by such violation, may institute injunction or other appropriate action in proceeding to stop the violation.

SECTION 9-3.

PENALTIES FOR VIOLATION

Any person, firm or corporation who violates the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine of not less than One Dollar (\$1.00), nor more than Five Hundred Dollars (\$500.00), and/or may be imprisoned or sentenced to hard labor for the City for a period not exceeding six (6) months, at the discretion of the Court trying the case. Each day of a violation shall be considered a separate offense.

Article X Zoning Board of Adjustment

SECTION 10-1. ESTABLISHMENT OF A ZONING BOARD OF ADJUSTMENT

A Zoning Board of Adjustment is hereby established. Said Board shall consist of five (5) members, one of which may be a member of the Planning Commission. Each member is to be appointed for a term of three (3) years except that in the first instance one member shall be appointed for a term of three years, two for a term of two years, and two for a term of one year. Thereafter, each member appointed shall serve for a term of three years or until his successor is duly appointed. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Each member may be removed for cause by the appointing authority upon written charges and after a public hearing.

The members of the Board serving on the effective date of this Ordinance under a zoning ordinance effective prior hereto shall be considered as the five (5) members to be appointed by the City Council, and each of these members shall serve the balance of the term to which such member was appointed.

SECTION 10-2. MEETING, PROCEDURE, AND RECORDS

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

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

SECTION 10-3. HEARINGS, AND NOTICES

The Board shall fix a reasonable time for the hearing of appeals or other matters referred to it, and give due notice thereto to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appeal in person, or by agent or by attorney.

SECTION 10-4. POWERS AND DUTIES OF THE ZONING BOARD OF ADJUSTMENT

10-4-1. *Administrative Review:* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.

Appeals to the Board may be taken by any person aggrieved by an officer, department, board or bureau of the City of Fort Payne affected by a decision of the Zoning Administrator or any other city officials based on this Ordinance; not more than fourteen (14) days after the date of the Administrator's decision which is the basis of the appeal, by filing with the Secretary of the Board a written application for appeal specifying the grounds thereof. Said application shall be made on forms provided by the Secretary and shall be accompanied by a non-refundable application fee of \$275.00 and all papers constituting the record upon which the action appealed from was taken. When application for appeal has been filed in proper form with the Secretary, at least fourteen (14) days prior to the hearing at which the appeal will be considered, the Secretary shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the party or parties making the request for appeal. Said notice shall be given at least seven (7) days in advance of the public hearing.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of by a court of record on application, on notice to the Zoning Administrator and on due cause shown.

10-4-2. *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 the Ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-conforming use of neighboring land, building or structures in the same district, or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance.

Application for a variance shall be filed with the Secretary of the Board on forms provided by the Secretary at least fourteen (14) days in advance of the public hearing, and shall be accompanied by:

- a. A non-refundable application fee of \$100.00
- b. A site plan, drawn to scale, showing: property lines, rights-of-way and easements; and the location, dimensions, and building setback for all existing and proposed buildings and structures on the site and adjacent to the site.
- c. A scale drawing which shows all dimensions of the building, structure or area which is the subject of the variance request.
- d. *Variances*

Any applications for variances within airport zones shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation on the air navigation facilities and the safe, efficient use of: navigable air space. Additionally, no application for such a variance to the requirements of the airport zones may be considered by the Board of Adjustment unless a copy of

the application has been furnished to the airport manager and the Fort Payne Airport Board for advise as to the aeronautical effects of the variance. If neither the Airport Manager nor the Fort Payne Airport Board responds to the application within thirty (30) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

Upon receipt of the completed application and appropriate fee, the Secretary shall immediately place the request upon the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the party or parties making the request for appeal and to all adjoining property owners as given in the last assessment roll. Said notices shall be given at least seven (7) days in advance of the public hearing.

Such variances may be granted in such individual cases of unnecessary hardship upon a finding by the Board that the following conditions exist:

- (1) There are exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
 - (2) A personal hardship exists on the part of an individual property owner which will not permit him to enjoy the full utilization of his property which is given to others within the City. A hardship exists only when it is not self-created or when it is not economic in nature.
 - (3) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
 - (4) A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
 - (5) The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
 - (6) The special circumstances are not the result of the actions of the applicant.
 - (7) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
 - (8) The variance is not a request to permit a use of land, building or structure which is not permitted in the district involved.
- e. If a variance is granted, all improvements related thereto shall be completed within one year of the grant or the variance lapses.
- f. If a variance is denied or lapses, a similar request for the same property may not be filed within one year of the denial or lapses.

10-4-3. *Conditional Uses; Conditions Governing Applications; Procedures.*

To hear and decide conditional uses as the Board is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether a conditional use should be granted; including the interpretation and classification of such uses which may not be specifically listed as conditional uses in the Zoning Ordinance; to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

Application for a conditional use shall be filed with the Secretary of the Board on forms provided by the Secretary at least twenty one (21) days in advance of the public hearing, and shall be accompanied by:

- a. A non-refundable application fee of \$250.00
- b. A vicinity map showing location of the site in relation to the surrounding area and zoning of the site and adjacent property
- c. A legal description of the property
- d. A site plan, drawn to scale, showing: the location, use and dimensions of all existing and proposed structures; points of ingress and egress to the property; all public and private roads; off-street parking and loading areas; buffers and greenbelts; and signs

A conditional use application for a Manufactured Home Park shall be accompanied by a site plan and supplementary information as required in Article V of this Ordinance.

- e. Any supplemental information which will assist the Board in reviewing the conditional use request

Upon receipt of the completed application and appropriate fee, the Secretary shall immediately place the request upon the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the party or parties making the request for appeal and to all adjoining property owners as given in the last assessment roll. Said notices shall be given at least fourteen (14) days in advance of the public hearing.

A Conditional Use shall not be granted by the Board unless and until:

- (1) The Board finds that it is empowered under the Section of this Ordinance described in the application to grant a Conditional Use, and that the granting of the Conditional Use will not adversely affect the public interest.

- (2) The Board determines compliance with the specific rules governing individual Conditional Uses and considers the potential arrangement and provisions for the following:
 - (a) Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenient traffic flow control;
 - (b) Provision of off-street parking and loading areas where required, with particular attention to the items in (1) and the economic, noise, glare, and odor effects of the special use on adjoining properties in the area;
 - (c) Utilities, with reference to locations, availability and compatibility;
 - (d) Buffering with reference to type, location, and dimensions;
 - (e) Signs, if any and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (f) Location, use, plan, elevations and dimensions of each building or structure to be constructed;
 - (g) The location, dimension, and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking facilities, pedestrian ways, location and width of roads, streets and sidewalks.
 - (h) General compatibility with adjacent properties and other property in the district.
- f. All conditional uses are subject to Section 6-2.
- g. If a conditional use is granted, the use must be utilized within one hundred eighty (180) days of the grant. If not utilized within one hundred eighty (180) days, the conditional use lapses and the building, structure, mobile home or manufactured home or property shall not thereafter be used except in conformity with the regulation of the district in which the property is located.
- h. If a conditional use is denied or lapses, a similar request for the same property may not be filed within one (1) year of the denial or lapse.

SECTION 10-5. ABATEMENT OF NOISE, SMOKE, GAS, VIBRATION, FUMES, DUST, FIRE AND EXPLOSION HAZARD OR NUISANCE

The Board may require the conduct of any use, conforming or non-conforming which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, radio interference, or explosion hazard or nuisance to surrounding property to be modified or changed to abate such hazard to health, comfort and convenience. The Board of Adjustment may direct the Building Inspector to issue an abatement order, but such order may be directed only after a public hearing by the said Board, notice of which shall be sent by registered mail to the owners and/or operators of the property on which the use is conducted in addition to due notice of 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.

SECTION 10-6. DECISIONS OF THE ZONING BOARD OF ADJUSTMENT

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this Ordinance reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from the may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, 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 of this Ordinance.

SECTION 10-7. APPEAL FROM THE DECISION OF THE BOARD OF ADJUSTMENT

Any party aggrieved by any final judgement or decision of such Board, may within fifteen (15) days thereafter appeal therefrom to the Circuit Court of DeKalb County, by filing with both the Board and said Circuit Court a written Notice of Appeal specifying the judgement or decision from which the appeal is taken. An Appellant will be required to pay a filing fee in the Circuit Court of DeKalb County at the time that Notice of Appeal is filed with that Court. In the case of an appeal, the Board shall cause a transcript of the proceedings in the case to be certified to the Court to which the appeal is taken, and the case in such Court shall be tried de novo.

When appeal is taken to the Circuit Court, a transcript of the proceedings before the Board shall include the minutes of the proceeding, together with true and correct copies of all exhibits, documents or other evidence presented for consideration by the Board. The Board is not required to retain the services of a stenographer or court reporter to record any proceedings before the Board.

Article XI Amendments

SECTION 11-1. INITIATION OF AMENDMENTS

This Zoning Ordinance, including the Zoning Map, may be amended only by the City Council. Proposed changes or amendments may be initiated and proposed to the Planning Commission by the City Council, Planning Commission, Board of Adjustment, or by one or more owners of property within the area proposed to be changed or affected.

SECTION 11-2. APPLICATION

An application for any amendment shall be filed with the Secretary of the Planning Commission on forms provided by the Secretary and shall be accompanied by:

- A. A non-refundable application fee of \$250 shall be paid by the applicant at the time an application is made to the Planning Commission. In addition, a non-refundable fee of \$25 per adjoining property owner to be notified, and the estimated total legal publication costs of the proposed amendment, shall be paid by the applicant at the time such application is made to the Planning Commission. Any excess estimated publication costs over the actual cost of publication shall be refunded to the applicant.
- B. A vicinity map showing location of the site in relation to the surrounding area and zoning of the site and adjacent property
- C. A legal description of the property to be zoned
- D. A site plan, drawn to scale, showing: the dimensions of the property, access to a public street, existing buildings and proposed buildings if applicable.
- E. Any supplemental information which will assist the Commission in reviewing the zoning amendment

Such application shall be filed with the Secretary of the Planning Commission not later than ten (10) days prior to the Commission's meeting at which the application is to be considered.

SECTION 11-3. ACTION BY THE GOVERNING BODY

- 11-3-1. *Notice of Public Hearing.* No amendment to the Zoning Ordinance, including the Zoning Map, shall be adopted by the City Council until after public notice and hearing. Notice of public hearing and proposed ordinance shall be published in a newspaper of general circulation in the City of Fort Payne at least once a week for two (2) consecutive weeks, fifteen days prior to the hearing.
- 11-3-2. *Planning Commission Action.* Before taking such action as it may deem advisable, the City Council shall consider the Planning Commission's recommendations on each proposed zoning amendment.
- 11-3-3. When a zoning amendment is denied by the City Council, the amendment shall not be reconsidered by the City for a period on one (1) year from the date of denial by the City Council.

Article XII Definition of Terms

For the purpose of interpreting this Ordinance, certain words and terms are herein defined. The following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

SECTION 12-1. INTERPRETATION OF COMMONLY USED TERMS AND WORDS

- 12-1-1. Words used in the present tense include the future tense.
- 12-1-2. Words used in the singular number include the plural, and words used in the plural include the singular, unless the natural construction of the wording indicates otherwise.
- 12-1-3. The word "**person**" includes a firm, association, corporation, trust, and company, as well as an individual.
- 12-1-4. The words "**used for**" shall include the meaning "designed for."
- 12-1-5. The word "**structure**" shall include the word "building."
- 12-1-6. The word "**lot**" shall include the words "plot", "parcel", or "tract."
- 12-1-7. The word "**shall**" is always mandatory and not merely directory.
- 12-1-8. The word "**map**" or "zoning map" shall mean the "Official Zoning Map, City of Fort Payne."

SECTION 12-2. DEFINITIONS OF COMMONLY USED TERMS AND WORDS

- 12-2-1 **Accessory Use or Structure:** A use or structure on the same lot with, and of nature customarily incidental or subordinate to, the principal use or structure.
- 12-2-2 **Airport:** Means Fort Payne Municipal Airport (Isbell Field).
- 12-2-3 **Airport elevation:** The highest point of the airport's usable landing area measured in feet from sea level.
- 12-2-4 **Alley:** A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.
- 12-2-5 **Alternative Support Structure:** A building or structure other than a tower, which is used to support an antenna(s), such as a steeple, power pole, water tank, sign, clock tower, light pole and other similar structures.
- 12-2-6 **Antenna:** Any exterior apparatus designed to transmit and/or receive electromagnetic waves.
- 12-2-7 **Approach surface:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the slope of twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
- 12-2-8 **Approach, transitional, horizontal, and conical zones:** These zones are set forth in Section 6-11-1.
- 12-2-9 **Bed and Breakfast:** A single family, owner occupied dwelling, wherein a fee is charged to provide more than two bedrooms as overnight accommodations for guests and where meals may be served to overnight guests but meals are not served to the non-resident general public.
- 12-2-10 **Boarding house:** A dwelling for the residency of two (2) or more boarders on a long term basis, at least month to month, wherein the rooms being rented do not constitute a dwelling unit as defined by this Ordinance.
- 12-2-11 **Buffer Strip:** A buffer strip consists of a planting strip at least ten (10) feet in width composed of evergreen trees, spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and said strip shall be planted and maintained in a healthy, growing condition by the property owner.
- 12-2-12 **Buildable Area:** The portion of a lot remaining after required yards have been provided.
- 12-2-13 **Building:** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or chattels.
- 12-2-14 **Building, Accessory:** A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.
- 12-2-15 **Building Area:** The portion of the lot occupied by the main building, including porches, carports, accessory buildings, and other structures.
- 12-2-16 **Building, Principal:** A building in which is conducted the main or principal use of the lot on which said building is situated.
- 12-2-17 **Building Setback Line:** A line parallel to the property line in front of which no structure may be erected.

- 12-2-18 **Concealment Structure:** A structure which supports and completely conceals an antenna(s), such as steeple, sign, man-made tree, clock tower and similar applications.
- 12-2-19 **Conditional Use:** A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provision for such special exceptions is made in this Zoning Ordinance.
- 12-2-20 **Conical surface:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- 12-2-21 **District:** Any section of the City of Fort Payne in which zoning regulations are uniform.
- 12-2-22 **Dwelling, Single-Family:** A building arranged to be occupied by one (1) family, the structure having only one (1) dwelling unit. A single-family dwelling is a detached dwelling.
- 12-2-23 **Dwelling, Two-Family:** A building arranged to be occupied by two (2) families living independently of each other, the structure having two (2) dwelling units. A two-family dwelling is an attached dwelling.
- 12-2-24 **Dwelling, Multi-Family:** A building arranged to be occupied by three (3) or more families living independently of each other. A multiple-family dwelling is an attached dwelling.
- 12-2-25 **Dwelling Unit:** A building or portion thereof, designed, arranged and/or used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.
- 12-2-26 **Easement:** A grant by the property owner of use, by the public, a corporation, or person(s) of a strip of land for specified reasons, or as created by operations of law.
- 12-2-27 **Family:** One or more persons occupying a dwelling unit and living as a single housekeeping unit, all but two (2) of whom are related within the second degree by birth, adoption or marriage.
- (Notwithstanding the definition in the preceding paragraph, a family shall be deemed to include up to three (3) unrelated persons occupying a dwelling unit and living as a single, non-profit housekeeping unit, if any one or more of said three (3) unrelated occupants is handicapped as defined in Title VIII of the *Civil Rights Act of 1968* as amended by the "*Fair Housing Act Amendments of 1988*" and the "*Alabama Fair Housing Law*", *Code of Alabama*, 24-8-1, et seq. Such unrelated individual(s) shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.)
- 12-2-28 **Group Home:** A single family dwelling which is owned by a non-profit entity and occupied by not more than three unrelated persons who are handicapped as defined in Title VIII of the *Civil Rights Act of 1968* as amended by the "*Fair Housing Act Amendments of 1988*" and the "*Alabama Fair Housing Law*", *Code of Alabama*, 24-8-1, et seq.
- 12-2-29 **Hazard to air navigation:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- 12-2-30 **Height:**
- a. *Airport Zone:* For purposes of determining the height limits in all airport zones set forth in this Ordinance, the datum shall be mean sea level elevation unless otherwise specified.
 - b. *Building:* The vertical distance measured from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.
 - c. *All other structures:* The vertical distance measured from the grade to the highest point of the structure.
- 12-2-31 **Home Occupation:** An occupation conducted entirely in a dwelling unit provided that:
- a. No person other than immediate members of the family residing on the premises shall be engaged in such occupation;
 - b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
 - c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the principal building;
 - d. No home occupation shall be conducted in any accessory building;
 - e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than

in a required front yard or side yard;

- f. There shall be no doctors office for animals or humans conducted in a residential dwelling in a residential area, as a home occupation;
- g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuations in line voltage off the premises;
- h. *The following which are listed for emphasis, shall not be considered home occupations:* beauty shops, barber-shops, band instrument instructor, swimming instructor, studio for group instruction, public dining facility or tearoom, antique or gift shops, photographic studio, fortune-telling or similar activity, outdoor repair, food processing, retail sales, nursery school or kindergarten. The giving of group instruction of any type shall not be deemed a home occupation.
- i. The giving of individual instruction to one person at a time, such as art or piano teaching, shall be deemed a home occupation, provided however, that the provisions of Subparagraph (h) above shall apply to prohibiting individual instruction as a home occupation for those activities listed in Subparagraph (h) above.
- j. Fabrication of articles such as are commonly classified under the terms arts and handicrafts may be deemed a home occupation, subject to the other terms and conditions of this definition, and providing no retail sales are made at the home.

12-2-32 **Horizontal surface:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

12-2-33 **Hotel and Motel:** An establishment wherein a fee is charged to provide overnight accommodations for guests.

12-2-34 **Inn:** An establishment which is located in a building which was originally designed and used as a single family dwelling, wherein a fee is charged to provide overnight accommodations for guests.

12-2-35 **Junk Yard:** The use of more than six hundred (600) square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, and including machinery.

12-2-36 **Loft Apartment:** A multi-family dwelling located above the first floor of a commercial building in the C-2 Central Business District.

12-2-37 **Lot:** A portion of a subdivision or any parcel of land intended as a unit for transfer of ownership or for development, or both. The word "lot" includes the word "plot" or "parcel."

12-2-38 **Lot, Corner:** A lot which occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front.

12-2-39 **Lot, Depth:** The depth of a lot is the mean distance of the side lines of the lot measured from the midpoint of the front lot line to the midpoint of the rear lot line.

12-2-40 **Lot of Record:** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Probate Judge of DeKalb County, or a lot described by metes and bounds, the description of which has been so recorded.

12-2-41 **Lot Width:** The distance between side lot lines measured at the building setback line.

12-2-42 **Manufactured Home:** A structure defined by and constructed in accordance with the national *Manufactured Housing Construction and Safety Standards Act of 1974* as amended, 42 U.S.C. Section 5401, et seq. The definition at the date of adoption of this Ordinance is as follows: A structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, when connected with required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title.

12-2-43 **Mobile Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, and which does not meet the standards required of a Manufactured Home herein.

12-2-44 **Mobile Home Park:** A parcel of land under single ownership, designed, maintained, intended or used for the purpose of supplying a location or accommodations for two (2) or more mobile homes for not-transient use. This definition shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

12-2-45 **Non-Conforming Use:** A legal use of a building and/or land that antedates the adoption or future amendment of these regulations and does not conform to the regulations for the district in which it is located.

12-2-46 **Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 6-11-2.

- 12-2-47 **Open Storage:** Unroofed storage areas, whether fenced or not.
- 12-2-48 **Parking Space:** A storage space of not less nine (9) feet by eighteen (18) feet for one (1) automobile, plus the necessary access space. It shall always be located outside the street right-of-way and required side yards.
- 12-2-49 **Planned Unit Development:** (Deleted by Ordinance No. 92-1)
- 12-2-50 **Primary surface:** A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of the runway centerline. The width of the primary surface is set forth in Section 6-11-1. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface extends 200 feet beyond each side of the runway.
- 12-2-51 **Runway:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- 12-2-52 **Sign, off-premise:** A sign which directs attention to a business, commodity, service, entertainment, activity, institution or public use, which is located, conducted, sold, offered or undertaken at a location other than the premises on which the sign is located.
- 12-2-53 **Sign, on-premise:** A sign which directs attention to a business, commodity, service, entertainment, activity, institution or public use, which is located, conducted, sold, offered or undertaken on the premises where the sign is located.
- 12-2-54 **Stand:** An area within the mobile home park which has been improved for a single mobile home as provided in this Ordinance.
- 12-2-55 **Street:** A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting property.
- 12-2-56 **Street Line:** The dividing line between a right-of-way and the contiguous property.
- 12-2-57 **Structure:** An object, constructed or installed by man, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including but without limitation, buildings, towers, smokestacks, earth formation, overhead transmission lines, and signs.
- 12-2-58 **Telecommunications Facility:** A facility that transmits and/or receives electromagnetic waves. It includes antennas, microwave dishes, horns and other types of equipment for the transmission or receipt of such signals, telecommunications towers or alternative supporting structures, equipment, buildings, cabinets, parking area and all other accessory structures and uses.
- 12-2-59 **Tourist Home:** A single family, owner occupied dwelling, wherein a fee is charged to provide not more than two bedrooms as overnight accommodations for guests and where meals may be served to overnight guests but meals are not served to the non-resident general public.
- 12-2-60 **Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and similar towers.
- 12-2-61 **Transitional surfaces:** These surfaces extend outward at 90 degree angles to the runway centerline and extend at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
- 12-2-62 **Tree:** Any object of natural growth.
- 12-2-63 **Variance:** A relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.
- 12-2-64 **Yard:** An open space, on the lot with the main building, left open, unoccupied and unobstructed by buildings from the ground to the sky except as otherwise provided in this Ordinance.
- 12-2-65 **Yard, Front:** 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.
- 12-2-66 **Yard, Rear:** The yard extending across the entire width of the lot between the main building including covered porches and the rear lot line.
- 12-2-67 **Yard, Side:** 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.
- 12-2-68 **Zoning Administrator:** The individual appointed by the Mayor and City Council with the responsibility of enforcing of the zoning ordinance and working in accordance with other city officials who have duties under this ordinance.

Article XIII Legal Status Provisions

SECTION 13-1. SEVERABILITY

Should any section or provision of this Ordinance be declared invalid by any court of jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid.

SECTION 13-2. EFFECT ON EXISTING ZONING ORDINANCE

This Ordinance in part carries forward by re-enactment some of the provisions of the *Zoning Ordinance of the City of Fort Payne* adopted on December 4, 1973, as subsequently amended. All provisions of the *Zoning Ordinance of the City of Fort Payne* enacted in 1973, as amended, which are not re-enacted herein are hereby repealed.

SECTION 13-3. EFFECTIVE DATE

This Ordinance shall be in full force after its passage by the City Council of the City of Fort Payne, State of Alabama, this the 6th day of April, 1976, and as subsequently amended.

AMENDMENTS: June 14, 1988 (*Ordinance No. 88-7*), June 25, 1989 (*Ordinance No. 89-7*), January 14, 1992 (*Ordinance No. 92-1*), December 22, 1992 (*Ordinance No. 92-9*), December 13, 1994 (*Ordinance No. 94-13*), June 25, 1996 (*Ordinance No. 96-9*), May 6, 1997 (*Ordinance No. 97-18*), August 19, 1997 (*Ordinance No. 97-21*), October 21, 1997 (*Ordinance No. 97-25*), February 15, 2000 (*Ordinance No. 2000-3*), June 5, 2001 (*Ordinance No. 2001-13*), February 4, 2003 (*Ordinance No. 2003-1*), September 6, 2005 (*Ordinance No. 2005-13*), April 15, 2008 (*Ordinance No. 2008-05*), and _____, 2008 (*Ordinance No. 2008-___*)

CITY OF FORT PAYNE BY:

/s/ William H. Jordan
William H. Jordan
Mayor

[Seal]

ATTEST:

/s/ James C. McGee
James C. McGee, CMC/MMCA
City Clerk