

MOUNDVILLE ZONING ORDINANCE #2010-01

COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF MOUNDVILLE, ALABAMA

An ordinance to establish districts within the City of Moundville, Alabama; to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or lands therein; to regulate and restrict therein the height, bulk, number of stories, and size of buildings, and other structures and land for trade, industry, residence or other purposes; to provide methods of administration and penalties for violation.

Now, therefore be it ordained by the Council of the City of Moundville that for the purpose of promoting health, safety, morals, and the general welfare of the community embraced within the territorial limits of the City of Moundville, Alabama, the following articles and sections be, and the same hereby are, enacted into law:

ARTICLE I. PRELIMINARY PROVISIONS

Sec. 1-1. Authority and enactment clause.

In pursuance of the authority granted by the Code of Alabama, 1975, as amended, the City Council of the City of Moundville, Alabama, hereby ordains and enacts into law the following articles and sections.

Sec. 1-2 Titles.

This ordinance shall be titled: The Comprehensive Zoning Ordinance of the City of Moundville, Alabama. The map herein referred to, identified by the title "Zoning Map of Moundville," shall be further identified by the signature of the Mayor of Moundville, and attested by the City Clerk. The Zoning Map of Moundville and all explanatory matter thereon are hereby adopted and made a part of this ordinance. Such map shall be on file in the Moundville City Hall and shall show thereon the date of this ordinance.

Sec. 1-3. Jurisdiction.

The regulations set forth herein shall apply to all land and improvements thereon within the town limits of the City of Moundville, Alabama.

Sec. 1-4. Purpose.

The zoning regulations and districts as herein set forth are made in accordance with a comprehensive plan for the purpose of guiding development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. These regulations are designed to lessen congestion on the streets; to secure safety from fire, panic, and other dangers; to promote the public health and the general welfare; and to provide adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. These regulations are made with reasonable consideration, among other things, of the character of each area and its peculiar suitability for particular uses, and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight, and depreciation, securing economy in governmental expenditures and conserving the value of land, buildings, and structures.

Sec. 1-5. Definitions.

1-5.1 The following words used throughout this ordinance shall have meanings as shown. The word "may" shall suggest possibilities; "shall" is mandatory. The word "building" shall include the word "structure."

- (1) *Accessory building, structure, or use.* A building, structure, or use which is:
 - a. Subordinate to and serves a principal building or principal use; and
 - b. Is subordinate in extent, area, or purpose to the principal building or use served; and
 - c. Is located on the same lot as the principal building or use served.
- (2) *Alley.* A public right-of-way less than 25 feet in width.
- (3) *Automobile service station.* Any place of business having pumps and storage tanks at which fuels or oils for the use of motor vehicles are dispensed, sold, or offered for sale at retail and where minor repairs, services, and inspections may be carried on incidental to the sale of such fuels and oils. A facility for washing automobiles, the offering of vehicles for rent and similar auto-related uses may be permitted as a special exception on the same premises as a gasoline service station. Permissible uses do not include major mechanical and body work, straightening of body parts, painting, welding, storage of damaged or derelict automobiles for more than one week, or other work involving noise, glare, fumes, or smoke to an extent greater than normally found in automobile service stations. An automobile service station is not a repair garage nor a body shop.
- (4) *Bed and breakfast inns.* A house, or portion thereof, where short-term lodging rooms, with or without meals, are provided for compensation.
- (5) *Board of Adjustment.* The Zoning Board of Adjustment of the City of Moundville. See Article X (page 105).
- (6) *Building.* A roofed structure for shelter, housing, or enclosure of persons or property.
- (7) *Buildable area.* The portion of a lot remaining after required yards have been provided.
- (8) *Building line.* A line parallel to the street line at a distance there from equal to the depth of the front yard required for the district in

which the lot is located, or at a distance on a recorded plat or deed covenant, whichever is greater.

- (9) *City.* The City of Moundville, Alabama.
- (10) *City Council.* Elected city council of Moundville.
- (11) *Drive-in restaurant.* Any establishment selling meals, sandwiches or refreshments to customers who remain in their automobile or sit at a counter for consumption on the premises or for carryout.
- (12) *Drive-in theater.* A theater so arranged and conducted that the patrons may view the performance while seated in motor vehicles.
- (13) *Dwelling.* Any building which is arranged, designed, or used or intended to be used for residential occupancy by one or more families, not including motels and similar uses intended for the accommodation of transients.
Dwelling types include the following:
 - a. *Single-family.* A building designed as a residence for one family.
 - b. *Two-family.* A building designed as a residence for two families.
 - c. *Multifamily or apartment.* A building designed as a residence for three or more families, not including townhouses.
 - d. *Townhouses.* A row of three or more dwellings flush against each other at the side or attached at the sides by common walls, each unit of which is designed a residence for one family.
- (14) *Dwelling unit.* One or more rooms in a residential building which are arranged, designed, used, or intended for use as living quarters for one family, are physically separated from any other rooms or dwelling units which may be in the same structure, and contain independent cooking and sleeping facilities.
- (15) *Family.* For the purposes of this chapter, a family shall be deemed to include the following groups of persons, and no others:
 - a. Any number of persons related by blood or marriage and living and cooking together as a single housekeeping unit plus not more than two unrelated roomers, boarders, or domestic servants; or
 - b. Not more than three unrelated persons living and cooking together as a single housekeeping unit.

- (16) *Floor area ratio.* The mathematical ratio between:
- a. The sum of gross floor areas on all floors of all buildings on a lot, and
 - b. The area of the lot on which the building(s) is situated.
- (17) *Ground coverage ratio.* The percentage of lot area covered by all buildings on a lot.
- (18) *Lot.* A parcel of land occupied or intended to be occupied by one main building, accessory buildings, and uses customarily incidental to such main building, and such open spaces as are required by this ordinance.
- (19) *Lot frontage.* The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be provided as indicated in the particular zoning district.
- (20) *Major arterial.* To serve traffic through major centers of activity, the higher volume traffic corridors and longer trips. The facilities can also help define residential, commercial and industrial areas. While these streets should be designed primarily to carry traffic, they can have a secondary function of serving some of the access needs for abutting property.
- (21) *Manufactured home.* A structure, transportable in one or more sections, which in the traveling mode, is eight feet or more in width and forty feet or more in length, or erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundations, when connected to the required utilities, and included the plumbing, heating, air-conditioning, and electrical systems contained therein: except that such term shall include any structure which meets all the requirements of this paragraph except the size 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.
- (22) *Marina.* An establishment for mooring, servicing, and storing recreational boats, as well as providing supplies, provisions, and fueling facilities. A marina may include a restaurant and/or boat and motor sales store. Boat building or facilities for the dry docking or repair of watercraft exceeding two tons in weight are not included.

- (23) *Medical or dental clinic.*
- a. *Public health clinic.* A facility owned by the public or by a nonprofit organization and operated for the primary purpose of providing health services in more than one medical or dental specialty to the public, and including related facilities operated in connection with the clinic.
 - b. *Private group clinic.* An establishment consisting of two or more physicians or dentists in cooperative practice using joint or common office facilities and equipment for the outpatient medical or dental care of the sick or injured.
- (24) *Mobile homes.* A structure, transportable in one or more sections, which is the traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected on site, is 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 to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems. A vehicle intended as a temporary dwelling for travel and recreational purposes and having a body width of eight feet or less is not included.
- (25) *Mobile home park.* Any establishment or premises complying with this ordinance and all other ordinances and regulations of the town which is designed, arranged, or used for the placement of mobile homes occupied as dwellings, and providing streets, utilities, landscaping, sanitary facilities, and recreational facilities for the residences thereof. A mobile home sales establishment is not included.
- (26) *Modular panelized home.* A factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential purposes and which bears a seal of compliance with regulations of the Alabama Manufactured Housing Commission.
- (27) *Motel or hotel.* A building containing individual sleeping or living units, designed for and used by transient motorists as a temporary lodging, except that one dwelling unit for a resident manager or proprietor may be included. It may or may not include common dining and drinking facilities, meeting rooms, and recreation facilities.
- (28) *Nonconforming building or use.* (See Article IV, page 12)
- (29) *Nonconforming lot of record.* (See Article IV, page 12)
- (30) *Nursing home.* A building in which nursing care and related medical facilities are provided for individuals who because of illness, disease, injury or physical or mental infirmity need such care.

- (31) *Off-street loading berth or space.* (See Section 6-2, page 71)
- (32) *Off-street parking space.* (See Section 6-1, page 66)
- (33) *Office building.* A building whose predominant use is for offices.
- (34) *Self-service storage facility.* Any real property designed and used for the purpose of renting or leasing individual storage spaces to tenants who are to have access to such space for the purpose of storing and removing personal property.
- (35) *Shopping center or mall.* A commercial development built in accordance with a unified architectural plan on a tract of land in single ownership or control, and including at least four retail or service establishments of 30,000 square feet of rental floor area.
- (36) *Sign.* (See Article VII, page 91)
- (37) *Special exception.* A use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. The Board of Adjustment may permit such uses in a zoning district as special exceptions if specific provision for such special exception is made in this ordinance. (See Articles V, page 19; XI, page 105; IX, page 99; of this ordinance.)
- (38) *Street.* Any public or private way set aside for public travel which is 25 feet or more in width.
- (39) *Structure.* Any combination of materials, other than public utilities poles and lines, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground, including, among other things, signs and overhead wires, wire fences, retaining walls, and terraces.
- (40) *Travel trailer.* A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation use. For purposes of these regulations, the term includes pick-up campers, camping trailers, pop-up trailers, and motorized home living facilities constructed as integral parts of self-propelled vehicles.
- (41) *Variance.* A deviation or change in the specific requirements as set forth in the zoning ordinance authorized by the Board of Adjustment and only in strict accordance (Articles IX - page 99 and Articles X - page 105) of this ordinance.

ARTICLE II. ESTABLISHMENT OF DISTRICTS AND ZONING MAP

Sec 2-1. District boundaries established by zoning map.

The boundaries of the zoning districts established by Article V (page 19) of this ordinance are hereby established on a map entitled "Zoning Map of the Town of Moundville.

These zones shall be:

Single-family residential: RS-1, RS-2, RS-3 (page 19)

Multifamily residential: RG-1, RG-2 (page 23)

Commercial: C-1, C-2 (page 27 & page 31)

Industrial: M-1, M-2 (page 36)

Planned Development: PD-1 (page 41)

Institutional: I (page 64)

Rural Residential: RR (page 66)

Mobile Home Park: MHP (page 73)

Section 2-2. Maintenance of official copy of zoning map.

At least one official copy of the zoning map shall be maintained in the City Hall, upon which shall be recorded after the passage thereof, every amendment to this ordinance which effects a change in any zoning district boundary. Such official copy of the zoning map shall be attested by the City Clerk, and shall be available at all times for inspection by the general public.

Section 2-3. Zoning maps other than official copy.

The City Clerk may distribute copies of the zoning map to the general public for reference purposes. However, the official copy of the zoning map maintained in the City Hall plus official records of the City Clerk regarding actions of the city council to amend district boundaries shall constitute the only official description of the location of zoning district boundaries, and persons having recourse to this ordinance for any purpose are hereby so notified.

Section 2-4. Interpretation of district boundaries.

Where uncertainty exists as to the boundaries of the zoning district, the following general rules of interpretation shall apply. It is the duty of the Zoning Board to interpret the location of zoning district boundaries. An appeal from the interpretation or finding of the zoning board may be taken to the Zoning Board of Adjustment as specified in Sections 10-1 (page 105) and 9-2.1 (page 100)

- 2-4.1. *Where boundaries approximately follow streets, highways, or alleys.* District boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- 2-4.2. *Where boundaries approximately follow platted lot lines.* District boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 2-4.3. *Where boundaries approximately follow town limits.* District boundaries indicated as approximately following town limits shall be construed as following such town limits.
- 2-4.4. *Where boundaries follow railroad lines.* District boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- 2-4.5. *Where boundaries follow stream beds or other bodies of water.* District boundaries indicated as following centerlines of stream beds or other bodies of water shall be construed to follow such centerlines.
- 2-4.6. *Where boundaries follow section lines or fractional sections lines.* District boundaries indicated as approximately parallel to or extensions of features indicated in subsections above shall be so construed and at such distance there from as indicated on the official copy of the zoning map shall be determined by the scale of the map.

Sec. 2-5. Boundary tolerance.

Where a district boundary line divides a lot held in single and separate ownership at the effective date of this ordinance, the Board of Adjustment may permit, as a variance, 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.

ARTICLE III. APPLICATION OF REGULATIONS

Sec. 3-1. Regulations regarded as minimum.

Within each district, the regulations set forth by this ordinance shall apply uniformly to each class or kind of structure of land.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, moral or general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern. Unless deed restrictions, covenants, or other contracts directly involve the town, the town shall have no administrative responsibility for enforcing such deed restrictions or covenants.

Sec. 3-2. Zoning affects all lands, buildings and structures.

No building, structure, or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, re-constructed, moved or structurally altered unless in conformity with the regulations specified in this ordinance for the district in which it is located.

Sec. 3-3. Zoning affects height of building and/or structures, population, density, lot coverage, yards, and open spaces.

3-3.1. No building or other structure shall hereafter be erected or altered:

- (1) to exceed the height;
- (2) to accommodate or house a greater number of families,
- (3) to occupy a greater percentage of lot area; or
- (4) to leave narrower or smaller rear yards, front yards, side yards, or other spaces than herein required, or in any other manner contrary to the provisions of this ordinance.

Sec. 3-4. Yard or open space, off-street parking or loading space requirements for one building not to be included as such requirements for any other building.

No part of a yard, or other open space of 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 a part of a yard, open space, or off-street parking or loading space similarly required of any other building use.

Sec. 3-5. Reduction of lot area prohibited.

No yard or lot existing at the time of passage of these regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of these regulations shall meet at least the minimum requirements established by these regulations.

ARTICLE IV. GENERAL REGULATIONS

Sec. 4-0 Adoption of Standard Codes The following codes are hereby adopted by reference as though they were copies herein fully:

- 2003 International Residential Codes
- 2003 International Building Codes
- 2003 International Plumbing Codes
- 2002 National Electrical Codes

Sec. 4-1. Nonconformance.

4-1.1. Intent. Within the districts established by this ordinance or amendments that may later be adopted there exist: (a) lots, (b) structures, (c) uses of lands and structures, and (d) characteristics of use, which were lawful before this ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these nonconformities to continue so long as they remain otherwise lawful, subject to the following provisions:

- (1) No such conformities may be enlarged or altered in a way which increases its nonconformity, but may be altered to decrease its nonconformity.
- (2) Should such nonconformities be destroyed by any means to an extent of more than 50% of its replacement costs at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- (3) Should such nonconformities be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (4) Should such nonconformities be abandoned or discontinued for more than one calendar year, it shall thereafter conform to the regulations for the district in which it is located.
- (5) Such nonconformities shall not be changed to another nonconforming use, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

4-1.2. *Nonconforming lots of record.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations

imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for an undivided parcel for the purposes of this ordinance, no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

- 4-1.3. *Exceptions to Lots and Yards.* Where the owner of a lot of official record at the time of adoption of this ordinance does not own sufficient adjacent land to enable him to conform to the yard and other requirements of this ordinance, one building and its accessory structures may be built provided yard space and other requirements conform as closely as possible, in the opinion of the Planning Commission to the requirements of the district in which it is located; and further provided that neither side yard shall be reduced to less than three (3) feet in width.

No building need be set back more than the average of the setbacks of the existing residences within one hundred (100) feet each side thereof.

- 4-1.4. *Repairs and maintenance.* On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased.

Sec. 4-2. Annexation.

- 4-2.1 Any area annexed into the City of Moundville shall be classified as a RS-1, single family residential, district upon annexation.
- 4-2.2 All such persons, partnerships, corporations and other entities owning real property who wish pursuant to Code of Alabama 1975, 11-42-21 et seq. that the city council consider annexation of such property to the corporate

limits of the city must, prior to consideration by the city council, furnish to city the following:

- (1) A petition in such form as prescribed and furnished by the city, duly executed by all legal owners of the property sought to be annexed. Such petition shall further be acknowledged by one or more of the owners of such property before a notary public that such annexation petition contains the signatures of all owners of the property to be annexed.
- (2) The petition shall have attached thereto a general legal description of the property which may be established by attaching thereto copies of any or all of the following:
 1. the petitioner's deeds
 2. title policies
 3. tax assessment description.

The petition shall further describe any necessary roads or other property to be annexed so as to create a contiguous relationship to the existing corporate limits of the town.

- (3) A map, in form and substance satisfactory to the city engineer, illustrating the proposed property to be annexed and illustrating its contiguous relationship to existing corporate limits.
- (4) A completed questionnaire upon such forms as prescribed by the city reflecting as to such property the following information:
 - a. The total population of the area to be annexed.
 - b. The total number of all individuals 18 years of age or older residing on the area to be annexed.
 - c. The total number and complete name and age of each individual 18 years of age or older who are registered to vote in Hale County, Alabama or in Tuscaloosa County, Alabama that reside on the area to be annexed.
 - d. The number of such individuals by race.
 - e. The requested zoning classification, in the event a zoning classification other than RS-1 is requested. The petitioners shall provide the names and mailing addresses of all owners of adjoining and cornering property as shown by the most up to date property tax roles so that the city can give notice to such persons by certified mail of the date, time and place of the public hearing of the Planning and Zoning commission where such annexation request will be heard.
 - f. The current use of the area proposed for annexation.
 - g. The reasons for requesting annexation.
 - h. The voting district in which such property will be located if annexed.

- i. For residential developments planned for the area proposed for annexation:
 - 1. the type of development proposed
 - 2. the number of residences expected to be developed
 - 3. the expected price range for residences
 - 4. the expected minimum lot sizes
 - 5. the date that site work is expected to begin
 - 6. the name, address and telephone number of the person to contact for additional information.
- j. The street address for the property proposed for annexation

Sec. 4-3. Visibility at intersections.

4-3.1. *Sight clearance to be maintained.* At each corner of each street intersection a sight area shall be maintained. Within the sight area no fence, wall, sign, or other structure, no slope or embankment, no parked vehicle, or hedge, foliage or other planting, and no other object or structure shall be placed, erected or maintained which will obstruct visibility within the sight area.

4-3.2. *Dimensions of sight area.* The horizontal dimensions of sight areas are defined as triangular areas formed by the intersection right-of-way lines and a straight line joining said right-of-way lines at points which are 15 feet in distance from the point of intersection of the right-of-way lines in commercial and industrial districts and 25 feet in distance from the point of intersection of the right-of-way lines in residential districts, measured along the right-of-way lines. Such sight areas shall be established regardless of the angle of the intersection of the right-of-way lines. The vertical dimensions of sight areas are defined as that vertical space between the height of 3 1/2 feet and 15 feet in elevation above the nearest edge of street pavement of a paved street or above the nearest edge of riding surface on an unpaved street.

Sec. 4-4. Measurement of height.

For purposes of this ordinance, the height of a building shall be measured from the average finished ground elevation at the base of the structure to the highest point of the roof on the structure, provided that spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, mechanical equipment or other structures placed above the roof level and not intended for

human occupancy shall not be subject to height limitations. (See also Article VII, page 91).

Sec. 4-5 Building and lots to have access.

Every building hereafter erected or structurally altered shall be on a lot adjacent to a public street. However, no private street or driveway shall be provided to commercial or industrial districts through any residential district established by this ordinance.

Sec. 4-6. Orientation or required yards.

With regard to interpretation of requirements related to establishment of required yards, the Zoning Board shall apply the following interpretation to the orientation of such yards:

- 4-6.1. *Through lots.* In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Board may waive the requirements for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards existing on adjacent lots.
- 4-6.2. *Corner lots with two frontages.* In the case of corner lots with two frontages, a front yard of the required depth shall be provided on the frontage of the street having the higher traffic volumes. Where the traffic volumes on both streets are approximately equal, the required depth shall be provided on the street frontage having the minimum lot width. A second front yard of five feet less than the depth required generally for front yards in the district shall be provided on the other fronts.
- 4-6.3. *Appropriateness of orientation.* Notwithstanding the above, the Zoning Board may determine that the most appropriate orientation for any required yard is different from the orientation as set forth above in such instance that it appears that such different orientation will further the intent of this ordinance. When a structure is to be built which will contain more than one dwelling unit, the orientation of required yards shall be based upon both the orientation of the lot and the orientation of yards different from the orientation set forth in this section and elsewhere in this

ordinance subject only to appeal of such decision to the Board of Adjustment as an appeal from the decision of the Zoning Board.

Sec. 4-7. Erection of structures only upon lots of record.

Any new structure erected after the effective date of this ordinance shall be erected only upon a lot of record on file in the office of the Probate Judge of Hale County or Tuscaloosa County.

Sec. 4-8. Future street lines.

On any lot which may be reduced in area by the widening of public street to any future street line by the City of Moundville, by Tuscaloosa County or Hale County, or by the State of Alabama, when such future street line has been firmly established, the minimum required yards, the minimum required lot area, the minimum required lot width, and the maximum building area shall be measured by considering the future street line as the lot line of such lot.

Sec. 4-9. Vacant Buildings

It shall be the duty of the owner or person in charge or control of vacant building, house, or other structure:

- (1) to keep all openings into it securely closed in such manner as to exclude animals, fowl, and the trespass of human beings; and
- (2) to maintain it in a sanitary condition.

Sec. 4-10 Unsafe or Damaged Structures.

4-10.1 *Demolition of unsafe or damaged structures.* Whenever the appropriate municipal official, as designated by the mayor, finds that any building, structure, part of building or structure, part of wall, or foundation situated in the City of Moundville unsafe to the extent that it is a public nuisance, the official shall give the person or person, firm, association, or corporation last being assessed on the property for state taxes and all mortgages of record, by certified or registered mail to the address on file in the office of the tax assessor's office for Hale or Tuscaloosa County, notice to remedy the unsafe or dangerous condition of the building or structure, or to demolish the same, within thirty (30) days or suffer the building or structure to be demolished by the city and the cost thereof assessed against the property. The mailing of the certified or registered mail notice, properly addressed and postage prepaid shall constitute notice as required herein. Notice of the order, or a copy thereof, shall, within three days of the date of mailing, also be posted as or within three feet of an entrance to the building or structure. If there is no such entrance, the notice may be posted at any location on the building or structure.

If a building is condemned by the city, there shall be no permit fee required for the demolition.

4-10.2 *Public hearing.*

- (1) Within the time specified in the notice, but not more than thirty (30) days from the date the notice is given, any person, firm, or corporation having an interest in the building or structure may file a written request for a hearing before the City Council, together with his objections to the finding by the municipal official that the building or structure is unsafe to the extent of becoming a public nuisance. The filing of the request shall hold in dormancy any action on the finding of the municipal official until determination thereon is made by the City Council. Upon holding the hearing, the City Council shall determine whether or not the building or structure is vacant and/or unsafe to the extent that it is a public nuisance. The city council shall order the building or structure to be secured or demolished. The city may accomplish both actions by use of its own forces, or it may provide by contract for said action. The city may sell or otherwise dispose of salvaged materials resulting from said action.
- (2) Any person aggrieved by the decision of the City Council at the hearing may, within ten days, thereafter, appeal to the circuit court of Hale County upon filing with the clerk of the circuit court of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk. The city clerk shall, upon receiving notice from the circuit clerk, file with the circuit clerk a copy of the findings and determination of the City Council proceedings.

4-10.3. *Account of Cost* The City will keep an account of the cost of abating or removing the nuisance on each separate lot or parcel of land where the work is done by its employees or other authorized individuals, and shall render an itemized report in writing to the City Council showing the cost of removing the nuisance on each separate lot. The proceeds of any moneys received from the sale of salvaged materials from the building or structure shall be used or applied against the cost of securing or demolishing said building or structure. Before the report is submitted to the City Council, a copy of the report shall be posted for at least five days thereto on or near the chamber door of the Council Chambers, together with a notice of the time when the report shall be submitted to the City Council for confirmation. The city clerk shall give notice of the meeting, at which the repair cost or the amounts to be considered, by first-class mail to all entities having an interest in the property, whose address and interest is determined from the tax assessor's records on the property or

is otherwise known by the clerk. Any person, firm, or corporation having an interest in the property may be heard at the meeting as to any objection to the fixing of the costs or the amounts thereof. The fixing of the costs by the City Council shall constitute a special assessment against the lot or lots, parcel or parcels of land upon which the building or structure was located, and thus made and confirmed shall constitute a lien on the property for the amount of the assessment. A certified copy of the resolution shall also be filed in the office of the Judge of Probate of Hale or Tuscaloosa County.

4-10.4. *Payment.* Payment of the assessment shall be made in the manner and as provided for the payment of municipal improvement assessments in Section 11-48-48, Code of Alabama, as the same has heretofore or may hereafter be amended. Upon the property owner's failure to pay the assessment the officer designated by the city to collect the assessments shall proceed to collect the assessment as provided in Sections 11-48-49 to 11-48-60, Code of Alabama, inclusive. The city may, in the latter notice, elect to have the tax assessor collect the assessment by adding the assessment to the tax bill.

ARTICLE V. DISTRICT REGULATIONS

Sec. 5-1. RS-1, RS-2, RS-3, MHP single family residential, RR.

5-1.1. *Intent.* These districts are intended as single-family residential areas with low to medium population densities. Use regulations for the RS-1, RS-2, and RS-3 single-family districts are identical, but previous development patterns have established three classes of lot width and lot area, and these dimensional differences are intended to be preserved. Certain structures and uses required to serve governmental, educational, religious, noncommercial, recreational, and other needs of such areas are permitted outright within such districts or are permissible as special exceptions subject to restrictions and requirements intended to preserve and protect their single-family residential character.

5-1.2. *Permitted principal uses and structures.* The following principal uses and structures are permitted in the single-family residential districts:

- (1) Single-family detached dwellings located on individual lots.
- (2) Mobile homes in MHP zoning districts only. (See Section 6-4, page 73).

5-1.3. *Permitted accessory uses and structures.* Providing proper setback is given, the following accessory uses and structures are permitted in the single-family residential districts:

- (1) Noncommercial greenhouses and plant nurseries, private garages, garden sheds, tool houses, private swimming pools, and the like.
- (2) Other structures and uses which:
 - a. Are customary accessory and clearly incidental and subordinate to permitted principal uses and structures;
 - b. Do not involve the conduct of trade on the premises;
 - c. Are located on the same lot as the permitted principal use structure, or on a contiguous lot in the same ownership;
 - d. Are not likely to attract visitors in larger numbers than would be expected in the neighborhood; and
 - e. Do not involve operations not in keeping with the character of the area, or of a nature prohibited under Section 5-1.5 (page 21) "Prohibited uses and structures."

5-1.4. *Permitted special exceptions.* After public notice and hearing, and subject to appropriate conditions and safeguards, the Board of Adjustment may permit as special exceptions:

- (1) Parks, playgrounds, playfields;
- (2) Community service structures and uses such as community service centers, libraries, fire stations, civic, cultural, or recreational uses, provided that a specific determination is made by the board that such uses or structures are in keeping with the residential character of the district.
- (3) Churches and other places of worship, including educational buildings related thereto, provided that the Board of Adjustment shall find that the characteristics of such places of worship and related buildings and the site design thereof will be in keeping with the residential character of the district;
- (4) Elementary and high schools, provided that the board of Adjustment shall find that the characteristics of such facilities and the site design thereof will be in keeping with the residential character of the district;
- (5) Day nurseries and kindergartens, subject to the provisions of Section 6-6 (page 79).
- (6) Hospitals, sanitariums, rest homes, convalescent homes, homes for orphans, homes for the aged, foster homes, provided that no such facility shall have lot area of less than two acres, and that no building in connection with such facility shall be located closer than 25 feet to any lot line, Provided that the Board of Adjustment shall find that the characteristics of such facilities and the sight design thereof will be in keeping with the residential character of the district;
- (7) Utilities substations, provided that the Board of Adjustment shall impose appropriate conditions and safeguards regarding the

- placement or characteristics of use potentially incompatible with nearby uses;
- (8) Cemeteries;
- (9) Colleges and universities having minimum lot area of five acres, provided that the Board of Adjustment shall find that the characteristics of such institutions and the site design thereof will be in keeping with the residential character of the district;
- (10) Noncommercial structures and uses to serve governmental, educational, religious, and recreational needs, subject to conditions imposed by the Board of Adjustment intended to preserve and protect the character of the zoning district in which it is located;
- (11) Home occupations, subject to provisions of Section 6-5 (page 78).
- (12) Bed and breakfast inns subject to special requirements and restrictions listed in Section 6-14 (page 85) of this ordinance.

5-1.5. *Prohibited uses and structures.* The following uses and structures are prohibited in single-family districts:

- (1) Trade or service other than as provided under Section 5-1.2 (page 19) "Permitted principal uses and structures" or Section 5-1.3 (page 19) "Permitted accessory uses and structures" or as permitted by Section 5-1.4 (page 20) "Permitted special exceptions";
- (2) Manufacturing and industrial uses;
- (3) Storage in connection with trade, service, manufacturing or industrial activities outside the district;
- (4) Storage or long-term parking of commercial or industrial vehicles;
- (5) Storage of building materials except in connection with active construction activities on the premises;
- (6) Storage or use of mobile homes except in mobile home parks in the MHP district;
- (7) Signs, except as permitted under Article VII (page 91).

5-1.6. *Minimum lot area and width.* The following minimum lot areas and widths are required in the single-family residential districts:

(1) Single-family detached dwelling:		Lot area	Lot width
		(sq. ft)	(feet)
a.	RS-1	15,000	85
b.	RS-2	10,000	75
c.	RS-3	7,500	65
d.	MHP	4,000	50

5-1.7. *Minimum yard requirements.* The depth of front and rear yards, and the width of side yards, shall be as follows, for single-family detached

dwellings and for other permitted or permissible structures, unless otherwise specified:

(1) Front yards:

- a. RS-1: 35 feet
- b. RS-2: 30 feet
- c. RS-3: 25 feet
- d. MHP: 20 feet

(2) Side yards of interior lots and corner lots:

- a. RS-1: Combined side yards shall total 25 feet, provided, however, that no individual side yard shall be less than ten feet in width.
- b. RS-2: Combined side yards shall total 18 feet, provided, however, that no individual side yard shall be less than 9 feet in width.
- c. RS-3: Combined side yards shall total 14 feet or 20% of width of the lot (whichever is less), provided, however, that no individual side yard shall be less than five feet in width.
- d. MHP: Combined side yards shall total 25 feet with no side yard less than 10 feet.
- e. For permitted accessory structures, not less than five feet.

(3) Rear yards:

- a. RS-1: 35 feet
- b. RS-2: 35 feet
- c. RS-3: 25 feet
- d. MHP: 10 feet
- e. For permitted accessory structures: 5 feet. Provided, however, that in all lots in single-family residential districts, the minimum rear yard requirements where the rear yard will abut an arterial street, as designated by the Town Engineer, shall be 35 feet.

5-1.8. *Maximum lot coverage by all buildings.*

- (1) Residential units and their accessory buildings shall not exceed a total of 30% lot coverage.
- (2) Other permitted and permissible buildings and their accessory buildings shall not exceed a total of 25% lot coverage.

5-1.9. *Maximum height of structures.* No portion of any building shall exceed 30 feet in height. Accessory structures shall not exceed 15 feet in height.

5-1.10. *Signs.* Signs are permitted in the RS-1, RS-2, RS-3, and MHP zones only in accordance with the provisions of Article VII (page 91) "Regulation of Signs."

Sec. 5-2. RG-1 and RG-2 multifamily residential.

5-2.1. *Intent.* These districts are intended as medium and high density residential areas permitting progressively higher population densities, characterized by single-family structures and garden type apartments. Certain structures and uses required to serve governmental, educational, religious, noncommercial, recreational and other needs of such areas are permitted outright or are permissible as special exceptions subject to restrictions and requirements by the Board of Adjustment intended to preserve and protect the residential character of the district.

5-2.2. *Permitted principal uses and structures.* The following principal uses and structures are permitted in the districts indicated:

- (1) RG-1
 - a. Single-family detached dwellings;
 - b. Two-family detached dwellings;

- (2) RG-2:
 - a. Single-family detached dwellings;
 - b. Two-family detached dwellings;
 - c. Multiple-family dwelling containing not more than four dwelling units on the first floor level and not more than eight dwelling units throughout, provided that no more than one such principal building shall be located on any lot or lots in one individual name;
 - d. Multiple-family dwellings located in group housing developments subject to provisions of Section 6-3 (page 71) provided that all multiple family dwellings shall not exceed a dwelling unit density of 15 dwelling units per net side acre and conform to Section 5-2.9 (page 26).

5-2.3. *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in the multifamily residential districts:

- (1) Noncommercial greenhouses and plant nurseries, private garages, garden sheds, tool houses, private swimming pools, and the like.
- (2) Other structures and uses which:
 - a. Are customary accessory uses and clearly incidental and subordinate to permitted principal uses and structures;
 - b. Do not involve the conduct of trade on the premises;
 - c. Are located on the same lot as the permitted principal use structure, or on a contiguous lot in the same ownership;
 - d. Are not likely to attract visitors in larger numbers than would be expected in the neighborhood; and
 - e. Do not involve operations not in keeping with the character of the area, or of a nature prohibited under Section 5-2.5 (page 25) "Prohibited uses and structures.

5-2.4. *Permitted special exceptions.* After public notice and hearing and subject to appropriate conditions and safeguards, the Board of Adjustment may permit, as special exceptions:

- (1) Parks, playgrounds, playfields;
- (2) Community service structures and uses such as community service centers, libraries, fire stations, civic, cultural, or recreational uses;
- (3) Churches and other places of worship, including educational buildings related thereto, provided that the Board of Adjustment shall find that the characteristics of such place of worship and related buildings and the site design thereof will be in keeping with the residential character of the district;
- (4) Elementary and high schools, provided that the Board of Adjustment shall find that the characteristics of such facilities and the site design thereof will be in keeping with the residential character of the district;
- (5) Day nurseries and kindergartens, subject to the provisions of Section 6-6 (page 79)
- (6) Hospitals, sanitariums, rest homes, convalescent homes, homes for orphans, homes for the aged, foster homes, provided that no such facility shall have lot area of less than two acres, and that no building in connection with such facility shall be located closer than 25 feet to any lot line, provided that the Board of Adjustment shall find that the characteristics of such facilities and the site design thereof will be in keeping with the residential character of the district;
- (7) Utilities sub-stations provided that the Board of Adjustment shall impose appropriate conditions and safeguards regarding the site location and characteristics of use potentially incompatible with nearby uses;
- (8) Cemeteries;

- (9) Colleges and universities having a minimum lot area of five acres, provided that the Board of Adjustment shall find that the characteristics of such institutions and the site design thereof will be in keeping with the residential character of the district.
- (10) Mobile home parks located in RG-2 or RG-3 districts, subject to the requirements of Section 6-4 (page 73) and provided that the Board of Adjustment shall find that the characteristics of such mobile home parks, and the site design thereof, will be in keeping with the character of the district;
- (11) Rooming and boarding houses in RG-2 and RG-3 districts, provided that the Board of Adjustment shall find that the characteristics of such institutions, and site design thereof, will be in keeping with the character of the district;
- (12) Beauty and barbershops, as home occupations, subject to the provisions of Section 6-5 (page 78);
- (13) Noncommercial structures and uses to serve governmental, educational, religious and recreational needs, subject to conditions imposed by the Board of Adjustment intended to preserve and protect the character of the zoning district in which it is located;
- (14) Home occupations, subject to provisions of Section 6-5 (page 78);
- (15) Bed and breakfast inns subject to special requirements and restrictions listed in Section 6-14 (page 85) of this ordinance.

5-2.5. *Prohibited uses and structures.* The following uses and structures are prohibited in the multifamily residential districts:

- (1) Trade or service other than as provided under Section 5-2.2 (page 23) "Permitted principal uses and structures" or Section 5-2.3 (page 23) "Permitted accessory uses and structures" or as permitted by Section 5-2.4 (page 24) "Permitted special exceptions";
- (2) Manufacturing and industrial uses;
- (3) Storage in connection with trade, service, manufacturing or industrial activities outside the district;
- (4) Storage or long-term parking of commercial or industrial vehicles;
- (5) Storage of building materials except in connection with active construction activities on the premises;
- (6) Storage or use of mobile homes except in mobile home parks in the MHP district;
- (7) Signs, except as permitted under Article VII (page 91).

5-2.6. *Minimum lot area.* For each dwelling unit in the district indicated, the following minimum lot areas (in square feet) are required:

- (1) RG-1

Single-family dwelling	7,500
Two-family dwelling	3,750

(2)	RG-2		
		Single-family dwelling	7,500
		Two Family dwelling	3,750
		Per unit multifamily dwelling	2,500

5-2.7. *Minimum lot width.* For each dwelling unit in the district indicated, the following minimum lot widths (in feet) are required:

(1)	RG-1:		
		Single-family dwelling	65
		Two-family dwelling	37.5
(2)	RG-2:		
		Single-family dwelling	65
		Two-family dwelling	37.5
		Multifamily dwelling	not less than 50 ft.

5-2.8. *Minimum yard requirements.* Minimum yard requirements for all structures and uses in the multifamily residential districts shall be as follows:

(1)	RG-1		
		Front	25 feet
		Rear	30 feet
		Side	14 feet aggregate, minimum 5 feet
(2)	RG-2		
		Front	25 feet for one or two family dwelling 20 feet for multifamily
		Rear	30 feet for one or two family dwelling 20 feet for multifamily dwelling
		Side	14 feet aggregate, minimum 5 feet.

5-2.9. *Maximum lot coverage by all buildings.* All permitted and permissible buildings and their accessory building shall not exceed a total of 40% lot coverage.

5-2.10. *Maximum height of structures.* All buildings: 35 feet, provided that a building may exceed this height if there is an increase of one foot in side, front, and rear yards over the minimum side, front, and rear yard requirements for each additional two feet of height.

Provided, however, that in all lots in multifamily districts, the minimum rear yard requirements where the rear yard will abut an arterial street, as designated by the Town Engineer, shall be 35 feet.

5-2.11. *Minimum off-street parking and loading requirements.* Off-street parking and loading requirements as set forth in Article 6 (page 66) shall be met.

5-2.12. *Signs.* Signs are permitted only in accordance with the provisions of Article VII (page 91) "Regulation of Signs.

Sec. 5-3. C-1 Neighborhood Commercial District

5.3.1. *Intent.* This district is intended to accommodate commercial and service use oriented primarily to serving the needs of persons who live or work in nearby areas. Certain related structures and uses required to serve the needs of such areas are permitted outright or are permissible as special exceptions subject to restrictions and requirements by the Board of Adjustment intended to best fulfill the intent of this ordinance.

5-3.2. *Permitted principal uses and structures.* The following uses and structures are permitted in the C-1 Neighborhood Commercial District.

- (1) Adult care facility.
- (2) Appliance sales and repair (household).
- (3) Arcade.
- (4) Bait shop.
- (5) Business or vocational school, not of industrial nature.
- (6) Catering.
- (7) Church.
- (8) Coffee shop.
- (9) Community service structure.
- (10) Computer sales and service.
- (11) Courier service.
- (12) Cosmetic store.
- (13) Day care center.
- (14) Delicatessen.
- (15) Drug store
- (16) Financial and lending institution, title company, mortgage company (excluding consumer finance company, title loan company etc.).
- (17) Florist.
- (18) General retail or variety store.
- (19) Government office.
- (20) Grocery store.
- (21) Hardware store.
- (22) Health club, gym, exercise facility.

- (23) Instruction for the performing arts and disciplines.
- (24) Jewelry store.
- (25) Laundromat.
- (26) Medical, dental, and health related office, clinic, and lab.
- (27) Nursing home.
- (28) Pet grooming.
- (29) Photo studios, art studios, art galleries, art sales, interior design studios, craft studios, craft sales, antique shops, establishments for teaching of music, dancing and other performing arts.
- (30) Post office.
- (31) Professional office (lawyers, architects, engineers, real estate, insurance, accountants, etc.
- (32) Barber/Beauty shop.
- (33) Shoe repair.
- (34) Dry cleaning and laundry pick-up station.
- (35) Tailoring and dressmaking.
- (36) Restaurant, fast food without drive-in, eating and drinking establishment without drive-in.
- (37) Retail clothing store.
- (38) Sporting goods store.
- (39) Tanning salon.
- (40) Video rental/sales.
- (41) Yogurt/ice cream shop.

5-3.3 *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted in the C-I Neighborhood commercial District:

- (1) Structures and uses which:
 - a. Are customarily accessory and clearly incidental and subordinate to permitted principle uses and structures.
 - b. Are located on the same lot as the permitted principal use structure, or on a contiguous lot in the same ownership:
 - c. Do not involve operations not in keeping with the character of the area, or of a nature prohibited under section 5-3.5 (page 29) "Prohibited uses and structures".

5-3.4 *Permitted special exceptions.* After public notice and hearing and subject to appropriate conditions and safeguards, The Board of Adjustment may, in its discretion, permit as special exceptions the following:

- (1) Retail establishments not exceeding 5,000 square feet of gross floor area not permitted outright under section 5-3.2 (page 27) but excluding establishments dealing in salvaged merchandise, or establishments selling automobiles or automotive equipment and supplies.

- (2) Personal service establishments not permitted outright under section 5-3.2 (page 27).
- (3) Drive-in eating and drinking establishments, provided that it shall be determined that the characteristics of such establishments will be compatible with nearby uses and that appropriate conditions and safeguards as deemed necessary may be placed upon the characteristics of operation of such establishments.
- (4) Commercial recreational and entertainment structures and uses such as theaters and bowling alleys, provided that such uses are housed in structures and are of such a size and situation that they are not likely to be incompatible with nearby residential zoning districts and that appropriate conditions and safeguards as deemed necessary may be placed upon the characteristics of operations of such establishments.
- (6) Use or storage of mobile homes.
- (7) Manufactured home, mobile homes, modular homes, and trailers as offices.

5-3.5 Prohibited uses and structures. The following uses and structures are prohibited in the C-1 Neighborhood Commercial District:

- (1) Any use other than as provided under Section 5-3.2 (page 27) "Permitted principal uses and structures", Section 5-3.3 (page 28) "Permitted accessory uses and structures", or in as permitted by Section 5-3.4 (page 28) "Permitted special exceptions," shall be deemed a prohibited use and/or structure.
- (2) Manufacturing or industrial uses.
- (3) Automobile service stations, repair garages, automotive sales and service including sales or service of used automotive equipment, supplies or parts, service or repair of gasoline or diesel motors.
- (4) Warehousing or wholesaling of products, truck and passenger terminals.
- (5) Lumber and building supply yards; junk salvage, or scrap yards for storage of contractors' supplies or equipment except in connection with active construction projects on the premises.
- (6) Use or storage of mobile homes.
- (7) Manufactured home, mobile homes, modular homes, and trailers as offices.

5-3.6. *Minimum lot area.* All permitted and permissible uses and structures: No minimum lot area shall be required except as needed to meet requirements herein.

5-3.7. *Minimum lot width.* All permitted and permissible uses and structures: No minimum lot width shall be required except as needed to meet requirements herein.

5-3.8. *Minimum yard requirements.* Minimum yard requirements for all structures and uses in the C-1 Neighborhood Commercial District shall be as set forth below:

- (1) Front: 20 feet
- (2) Side: No side yard is required if buildings are built to side lot line, otherwise at least three feet of side yard width is required, provided, however, that where a lot zoned C-1 is contiguous to a residential zone, a side yard of not less than 15 feet shall be provided on the side contiguous to the residential zone and shall comply with the provisions of Section 6-12.2.(1), (page 83)
- (3) Rear:
 - a. Permitted and permissible principal structures: 10 feet
 - b. Permitted accessory structures: 5 feet, except where abutting residentially zoned property, in which case a minimum 15 foot rear yard will be required and the provisions of Section 6-12.2(1) (page 83) shall be complied with.

5-3.9. *Maximum lot coverage by all buildings.* Maximum lot to floor ratio shall be 80% in the C-1 Neighborhood Commercial District.

5-3.10. *Maximum height of structures.*

- (1) Buildings less than 40 feet in height are permitted outright.
- (2) Heights for buildings over 40 feet in height shall be permitted as determined by the Board of Adjustment.

5-3.11. *Minimum off-street parking and loading requirements.* Off-street parking and loading requirements as set forth in Article VI (page 66) shall be met.

5-3.12. *Signs.* Signs are permitted in the C-1 Neighborhood Commercial District only in accordance with the provisions of Article VII (page 91) Regulations of Signs.

Sec. 5-4. C-2 Highway Commercial

5-4.1. *Intent.* This district is intended to accommodate a variety of general commercial and non-residential uses characterized primarily by retail, office and service establishments and oriented primarily to more heavily traveled traffic arteries. Certain related structures and uses are permitted outright or are permissible as special exceptions subject to the restrictions and requirements intended to best fulfill the intent of this ordinance. It is not the intent of this ordinance to encourage the development fronting on major arteries, often referred to as strip commercial areas, but rather to accommodate and control highway commercial uses which are existing.

5-4.2. *Permitted principal uses and structures.* The following principal uses and structures are permitted in the C-2 highway commercial district:

- (1) Retail establishments.
- (2) Automobile service stations and service and repair establishments that meet the following:
 - a. Service areas must be indoor and contain no more than 10,000 square feet of space;
 - b. Exterior storage areas must be fenced, screened, located on the side of or in the rear of the main building and must be used only for temporary storage of items under repair.
- (3) Financial institutions, business and professional offices; secondary warehouse uses permitted only by special exception.
- (4) Eating and drinking establishments, including drive-in restaurants.
- (5) Commercial recreation and entertainment structures and uses, such as theaters, bowling alleys, miniature golf courses, night clubs, and the like.
- (6) Hotels and motels.
- (7) Commercial parking lots and parking garages.
- (8) Commercial printing and job printing establishments.
- (9) Radio stations and television stations.
- (10) Veterinary establishments and kennels provided that all animals are kept within suitably designed, soundproofed, air-conditioned buildings.

- (11) Funeral homes.
- (12) Business and vocational schools not involving operations of an industrial nature.
- (13) Medical and health related centers, clinics, laboratories, pharmacies and offices.
- (14) Community service structures and uses such as community service centers, libraries, fire stations, civic, cultural, or indoor recreational uses.
- (15) Churches and other places of worship, including educational buildings related thereto.
- (16) Clubs, lodges, social, and fraternal organizations.
- (17) Cold storage, freezer locker facilities, but no animal slaughter or food processing.
- (18) Shopping centers and malls.
- (19) Drive-in theater, provided that no portion of the premises shall be less than 500 feet from any residential district.
- (20) Marinas and related facilities, not involving outside storage.
- (21) Automobile washing facility.
- (22) Tire recapping plant, not involving outside storage.
- (23) Sale lots for mobile homes, trailers, vehicles, heavy watercraft and similar merchandise that requires outside display; all such lots shall be limited to 500 feet of highway road frontage.
- (24) Sales lots for vehicles, heavy equipment, watercraft and similar merchandise that requires outside display; all such lots shall be limited to 500 feet of highway road frontage.
- (25) Temporary fireworks stands subject to the provision of Section 6-9 (page 82).
- (26) Laundromats.
- (27) Photo studios, art studios, art galleries, art sales, interior design studios, craft studios, craft sales, antique shops, establishments for teaching of music, dancing and other performing arts.
- (28) Personal service establishments limited to the following uses:
 - a. Barber shops and beauty shops.
 - b. Shoe repair shops.
 - c. Dry cleaning and laundry pickup stations.
 - d. Tailoring and dressmaking shops.

5-4.3. *Permitted accessory uses and structures.* The following accessory uses and structures are permitted in the C-2 Highway Commercial district.

- (1) Structures and uses which:
 - a. Are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures.

- b. Are located wholly on the same lot as the permitted principal use or structure, or on a contiguous lot in the same ownership.
- c. Do not involve operations not in keeping with the character of the area, or of a nature prohibited under Section 5-4.5 (page 33) "Prohibited uses and structures" for this district.

5-4.4. *Permitted special exceptions.* After public notice and hearing, and subject to appropriate conditions and safeguards, the Board of Adjustment may permit, as special exceptions:

- (1) Drive-in eating and drinking establishments.
- (2) Hospitals, sanitariums, nursing homes, rest homes, convalescent homes, homes for orphans, homes for the aged, provided that no such facility shall have lot area of less than one acre, and that no building in connection with such facility shall be closer than 25 feet to any lot zoned residentially.
- (3) Rehabilitation centers.
- (4) Day nurseries and kindergartens subject to the provisions of Section 6-6 (page 79).
- (5) Cemeteries.
- (6) Wholesaling and distribution establishments not involving over 10,000 square feet of area for storage of wares to be wholesaled or distributed.
- (7) Passenger terminals.
- (8) Utility sub-stations, provided that the Board of Adjustment shall impose appropriate conditions and safeguards regarding the site or characteristics of uses potentially incompatible with nearby uses.
- (9) Parks, playgrounds, playfields.
- (10) Self-service storage facilities subject to the provisions of Section 6-8 (page 80).
- (11) Sales lots for mobile homes; all such lots shall be limited to 500 feet of highway road frontage.

5-4.5 *Prohibited uses and structures.* The following uses and structures are prohibited in the C-2 Highway Commercial District:

- (1) Any use other than as provided under Section 5-4.2 (page 31) "Permitted principal uses and structures" or Section 5-4.3 (page 32) "Permitted accessory uses and structures" or as permitted in connection with Section 5-4.4 (page 33) "Special exceptions".
- (2) Dwellings.
- (3) Elementary or high schools.
- (4) Any outside storage of any scrap or salvage operations, or for storage or display of any scrap, salvaged or secondhand materials.
- (5) Truck terminals; warehouses containing over 10,000 square feet of

space for storage of wares in connection with wholesale or distribution operations; storage or distribution centers for bulk petroleum products.

- (6) Outdoor displays of merchandise in any required yard.
- (7) Manufacturing, industry.
- (8) Use or storage of mobile homes except in mobile home sales agency.
- (9) Manufactured homes, mobile homes, modular homes, and trailers as offices.

5-4.6 *Minimum lot area.*

- (1) Uses and structures permissible as special exceptions as required under section 5-4.4 (page 33) "Permitted special exceptions".
- (2) All other structures and uses and uses permissible as special exceptions for which no minimum lot area is required; no minimum except to meet other requirements herein.

5-4.7 *Minimum lot width.* All permitted and permissible uses and structures: No minimum lot width required except to meet other requirements.

5-4.8 *Minimum yard requirements.* Minimum yard requirements for all structures and uses in the C-2 Highway Commercial District shall be as set forth below:

- (1) Front: 40 feet from right-of-way is required along major streets, as designated by the City Engineer, 20 feet along other streets.
- (2) Side: No yard is required is required if buildings are built to side lot line, otherwise at least three feet of side yard width is required, provided however, that where a lot zoned C-2 contiguous to a residential zone, a side yard of not less than 18 feet shall be provided on the side contiguous to the residential zone and shall meet the provisions of Section 6-12.2(1) (page 83).
- (3) Rear:
 - a. Permitted and permissible principal structures: 10 feet.
 - b. Permitted and accessory structures: 5 feet except where abutting residentially zone property, in which case a minimum 15 foot rear yard will be required and the provisions of Section 6-12.2(1) (page 83) shall be met.

5-4.9 *Maximum lot coverage by all buildings.*

- (1) All uses and structures: No limitations except as needed to meet other requirements herein.

5-4.10 *Maximum height of structures.*

- (1) Buildings up to 40 feet in height are permitted outright.
- (2) Buildings in excess of 40 feet in height are permitted, provided there is an increase of one foot in side, front and rear yards over the minimum side, front, and rear yard requirements for each additional three feet of height.
- (3) Buildings between the height of 40 and 75 feet are allowed as special exceptions if they do not meet the requirements of #2 above.

5-4.11. *Marginal access service road requirement.*

- (1) All permitted and permissible uses and structures located in the C-2 Highway Commercial District which abut a major street or highway shall provide a marginal access service road, built to the city's minimum standards, approved by the City Engineer and state highway department.
- (2) Required marginal access service roads shall be provided within the existing major street right-of-way where possible. In the event that sufficient right-of-way is not available to construct the required marginal access service road within the existing right-of-way the owner shall dedicate additional right-of-way as necessary.
- (3) Required marginal access service roads shall be 24 feet in width with curbs and shall consist of prime, slag and plant mix seal.
- (4) Required marginal access service roads shall be constructed to the property line and shall be a continuation of any existing service road.

5-4.12. *Minimum off-street parking and loading requirements.* Off-street parking and loading requirements as set forth in Article VI (page 66) shall be met.

5-4.13 Signs. Signs are permitted in the C-2 Highway Commercial District only in accordance with the provisions of Article VII (page 91), Regulation of Signs.

Sec. 5-5. M-1 and M-2 Industrial Districts.

5-5.1. *Intent.*

- (1) *M-1 light industrial.* This district is intended to accommodate wholesaling, distribution, storage, processing, light manufacturing, and similarly related business uses and structures. Other uses and structures are permitted outright or are permissible with certain conditions intended to best fulfill the intent of this ordinance
- (2) *M-2 heavy industrial.* This district is intended to accommodate wholesaling, distribution, storage, processing, light and heavy manufacturing and similar related business uses and structures. Other uses and structures required to serve the needs of such uses and structures are permitted outright or are permissible with certain conditions intended to best fulfill the intent of this ordinance.

5-5.2 *Permitted principal uses and structures, permitted accessory uses and structures, and permitted special exceptions.* The following list details uses for the two industrial zones. Permitted principal uses and structures and permitted accessory uses and structures are signified by an "X", permitted special exceptions are signified by "SE".

	<u>M-1</u>	<u>M-2</u>
(1) Wholesaling, warehousing, storage, supply and distribution	X	X
(2) Truck terminals, freight terminals, passenger terminals	X	X
(3) Docks, boat terminals, marinas	X	X
(4) Commercial and job printing establishments	X	X
(5) Laundry and dry cleaning processing plants	X	X
(6) Trade schools and technical schools engaging in activities of an industrial nature, not involving uses which would not	X	X

	otherwise be permitted in this district.		
(7)	Outdoor storage lots and yards; except automobile junkyards, scrap yards, salvage yards, or yards used in whole, or in part, for scrap or sale of junk, scrap, or salvaged materials.	X	X
(8)	Service and repair establishments including automobile service stations, recapping plants and repair garages	X	X
(9)	Radio and television stations	X	X
(10)	Cemeteries	SE	
(11)	Lumber and building supply yards, office, yards for storage of contractors' equipment and supplies, outdoor storage of materials, supplies, or equipment	X	X
(12)	Mobile homes sales lots, new farm equipment sales lots, boat sales lots, other lots for the sale of large items which cannot reasonably be stored indoors, but excluding the display and sale of scrap, salvaged or junk materials	X	X
(13)	Recreational vehicle parks	X	
(14)	Veterinarian clinics, kennels, and animal hospitals	X	
(15)	Agricultural uses such as general farming, dairy farming, pasture, grazing, outdoor plant nurseries, horticulture, forestry, crop harvesting, vineyards, orchards, and similar uses	X	X
(16)	Scientific, technical, and medical laboratories and research facilities	X	X
(17)	Churches and other places of worship	X	
(18)	Buildings and land uses by federal, state, county and municipal governments, other than uses specifically listed herein	X	X
(19)	Cold storage and freezer locker facilities	X	X
(20)	Public and private utilities, and utility substations, including all facilities, structures, or uses associated therewith	X	X
(21)	Clubs, lodges, and fraternal and social organizations	X	
(22)	Noncommercial and commercial parking lots and parking garages	X	X
(23)	Public and private schools offering general educational courses	SE	
(24)	Ice and cold storage plants; food processing other than slaughtering of animals	X	X
(25)	Light manufacturing and processing plants subject to the following limitations:	X	X
	a. The activity does not involve, as a primary use, highly flammable materials or explosives, such as refineries or ammunition plants.		
	b. The activity does not involve radioactivity, such as nuclear generators		
	c. The activity does not involve the detonation of explosives		
	d. The activity does not involve animal slaughter or storage of offal, garbage or dead animals.		
	e. The activity is not a use specifically listed as permitted only in heavy industrial (M-2) district		

f.	The activity does not involve noises, vibration, smoke, gas fumes, odors, dust, heat, glare, humidity, electromagnetic interference or other obnoxious byproducts which are detectable beyond the boundaries of the district in which the use or structure is located.		
(26)	Petroleum or other fuel processing or refining	-	X
(27)	Acid and chemical manufacture	-	X
(28)	Manufacture of cement, lime, gypsum and similar products	-	X
(29)	Explosive manufacture or storage	-	X
(30)	Mineral processing plants	-	X
(31)	Stockyards, slaughter yards or meat packing & processing plants	-	X
(32)	Quarrying, mining, extraction operations	-	X
(33)	Rock crushing	-	X
(34)	Sanitary landfill; incinerator composting facility	-	X
(35)	Steel manufacturing operations	-	X
(36)	Other lawful manufacturing plants, process plants and industrial uses which would not produce excessive noise, vibration, smoke, or particulate matter in the atmosphere, offensive odors, excessive levels of toxic or noxious matter in the atmosphere or in bodies of water, dangerous levels of radiation, hazards of fire or explosion, excessive heat, humidity, glare, or electromagnetic in such development meet the use requirements of the district in which it is located	X	X
(37)	Sheds, storage buildings, parking lots and garages and similar structures and uses in connection with any permitted principal or conditional uses	X	X
(38)	Retail or wholesale business outlets as part of a manufacturing establishment, provided that there is no open storage of junk or salvage materials of any type in conjunction with the operation, and provided that the outlet is incidental to the operation	X	X
(39)	Single-family (including mobile homes) or two-family dwellings for watchmen or caretakers, provided that such a dwelling is located on the premises of a permitted use, and provided the head of the household is employed by the industry as a watchman or caretaker	X	X
(40)	Business offices associated with, and secondary to, industrial uses within the district	X	X
(41)	Other structures and uses which:	X	X
	a. Are customarily accessory and clearly incidental and subordinate to permitted principal or conditional uses and structures		
	b. Are located on the same lot as the permitted use or structure		
	c. Do not involve operations not in keeping with the		

	character of the area or the purpose of the district		
(42)	Operations involving junk or salvage materials and subject to such restrictions and requirements imposed by the Board of Adjustment	X	X
(43)	Any permitted principal uses and structures and any permitted accessory uses and structures allowed in a C-2 Highway Commercial district may be allowed as a permitted special exception, subject to such constraints and conditions as may be imposed by the Board of Adjustment	SE	SE
(44)	Self-service storage facilities subject to the provisions of Section 6-8 (page 80)	X	X
(45)	Temporary fireworks stands subject to the provisions of Section 6-9 (page 82)	X	X
(46)	Public parks, playgrounds, playfields, and related public facilities	X	X

5-5.3 *Minimum lot area.* All permitted or permissible uses or structures. No minimum lot area required except as needed to meet other requirements herein.

5-5.4 *Minimum lot width.* All permitted and permissible structures and uses: No minimum lot width required except as needed to meet other requirements herein.

5-5.5 *Minimum yard requirements.* Minimum yard requirements for all structures and uses in the industrial districts shall be as follows:

- (1) Front:
 - a. If frontage of lot is 100 feet or more, the required front yard shall be 25 feet.
 - b. If frontage of lot is less than 100 feet, the required front yard shall be 25 feet, unless buildings on contiguous lots fronting on the same street have provided front yards of 20 feet or less, in which case the front yard may be less than 25 feet, but not less than the average front yards on contiguous lots fronting on the same street, and in no case shall such front yards be less than 15 feet in depth.
 - c. On the corner lots, the secondary front yard shall not be less than 12 ½ feet in depth; however, provisions for buildings to be erected within the required secondary front yard are the same as stated in letter b above.

5-5.6 *Maximum lot coverage by all buildings.* No limitation except as needed to meet other requirements herein.

5-5.7 *Maximum height of structures.*

- (1) Buildings up to 40 feet in height are permitted outright.

- (2) Buildings in excess of 40 feet in height are permitted, provided there is an increase of one foot in side, front, and rear yards over the minimum side, front, and rear yard requirements for each additional three feet of height.
- (3) Buildings between the height of 40 and 75 feet may be allowed as Special exceptions if they do not meet the requirements stated in item 2 above.

5-5.8 *Minimum off-street parking and loading requirements.* Off street parking and loading requirements as set forth in Article VI (page 66) shall be met.

5-5.9 *Signs.* Signs are permitted in the M-1 and M-2 districts only in accordance with provisions of Article VII (page 91) Regulation of Signs.

5-5.10 Marginal access service road requirement.

- (1) All permitted and permissible uses and structures located in M-1 and M-2 Industrial Zoning districts which abut on a major street or highway, as designated by the City Engineer, shall provide a marginal access service road, built to the standards required by the Town Engineer and by the state highway department.
- (2) Required marginal access service roads shall be provided within the existing major street right-of-way where possible. In the event that sufficient right of way is not available to construct the required marginal access service road within the existing right-of-way, the owner shall dedicate additional right-of-way as necessary.
- (3) Required marginal access service roads shall be 24 feet in width with curbs and shall consist of prime, slag, and plant mix seal.
- (4) Required marginal access service roads shall be constructed to the property line and shall be a continuation of any existing service road.

Sec. 5-6: Planned Unit Development Districts

5-6.1 Intent. The intent of the planned unit development (PUD) district regulations is to permit greater flexibility and consequently, more creative and imaginative design for the development of residential, commercial, and industrial areas than generally is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices and land uses in orderly relationship to one another, a higher level of urban amenities, and preservation of natural scenic qualities of open spaces.

5-6.2 Objectives. In pursuit of these purposes, the objectives to be met by a planned unit development are as follows:

- (1) *Land use control.* The location of all residential, commercial, industrial, and other uses, school sites, parks, playgrounds, recreation areas, and open spaces shall be controlled in such a manner to permit variety yet with an orderly relationship to one another;
- (2) *Creative design.* To encourage innovative and diversified design in architectural styles, building forms, building relationships, and total and individual site development;
- (3) *Flexibility.* To permit greater flexibility in the location and arrangement of buildings and uses than is generally possible under conventional zoning regulations;
- (4) *Efficient land use.* To encourage the most efficient and economical use of unified tracts of land, especially tracts in the inner part of the city that remain undeveloped or that are appropriate for redevelopment;

- (5) *Environmental.* To preserve and protect as urban amenities the natural features and characteristics of the land;
- (6) *Quality.* To ensure a quality of construction with other developments in the city and provide an environment of stable character compatible with surrounding areas;
- (7) *Open space/social/ recreational uses.* Through efficient design to provide for more usable, accessible and suitably located common open spaces, social and recreational facilities than would otherwise be provided under conventional land development procedures;
- (8) *Public facilities.* To assure the provisions of adequate drainage, sewerage, water, and other utilities;
- (9) *Access and traffic.* To assure the provisions of adequate streets, and of safe and convenient traffic access and circulation, both vehicular and pedestrian; and
- (10) *Dedication or reservation for public use.* To assure the provision of adequate public building sites through the dedication or reservation of land for recreation, educational and other public purposes.

5-6.3 Definitions and terms used in this section.

- (1) *Open spaces:* The parcel or area of land or water essentially unimproved, and reserved for the perpetual public or private use and enjoyment or for the perpetual use and enjoyment of owners and occupants of land adjoining or neighboring with open space. "Open space" includes:
 - a. Land area of the site not covered by buildings, parking structures, and building lots, or accessory structures.
 - b. Land which is usable, accessible and available to the occupants of dwelling units for whose use the space is intended.
 - c. Roof areas developed for social/recreational use.

"Open space" does not include:

 - a. Proposed street rights-of-way.
 - b. Open parking areas and driveways for dwellings or other structures.
 - c. Social/community buildings and parking and driveways related thereto.
 - 1. School sites.
 - 2. Commercial/industrial areas and the buildings, accessory buildings, parking and loading facilities for these commercial areas.

3. Any part of the development designated as a yard or a building lot of a subdivision plat and intended for the private and exclusive use and enjoyment of individual owners.
- (2) *Land Owner.* The legal or beneficial owner or owners of all the land in question. The holder of an option or contract to purchase a tract of land, or a tenant under a lease to a tract having a remaining term of at least 50 years shall be deemed to be the legal beneficial owner of the tract involved provided the legal owner or owners consent in writing to the rezoning of such tract as part of a Planned Development district. The holder of an option or contract to purchase a tract of land shall show evidence of full ownership interest in all of the land in question before approval of the preliminary site plan.
 - (3) *Planned development districts, PUD districts, or the districts.* The land zoned for the development of a planned unit development under the provisions of this section.
 - (4) *Planned unit development is:*
 - a. A process, not a product, designed to provide a variety of alternatives for better development;
 - b. An area with a specified minimum contiguous acreage to be developed as a whole according to an approved plan, containing one or more residential clusters or planned unit residential, commercial, or industrial areas in such range or ratios of nonresidential uses as shall be specified in this section;
 - c. Perfected according to approved plans that include not only sewers, drainage, streets, utilities (telephone, water, cable, etc.) lots and/or building sides, street lighting, but also typical floor plans and elevations for all buildings as intended to be located constructed, used and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings;
 - d. Established with a program for provision, operation, and maintenance of such areas, improvements, facilities, and services as will be for common use by some or all of the occupants of, or visitors to the district, but will not be provided, operated, or maintained at general public expense;
 - e. For purposes of this section all of the following; condominiums; condominium conversions, cluster subdivisions, townhouse developments not in compliance with traditional zoning regulations; and all other such developments not in compliance with traditional zoning regulations.
 - (5) *Social/recreational uses.* Areas either open or enclosed and perpetually reserved for the use and enjoyment of all the owners and occupants of

the planned unit development. Social-recreational uses include, but are not limited to:

- a. Common recreation and social areas and structures such as athletic fields, game rooms, theaters, swimming pools, meeting rooms, tennis courts, and marinas.
 - b. Common utility use areas and structures such as car wash areas, laundry units and storage facilities.
- (6) *Private use area:* Areas either open or enclosed associated with a private unit for dwelling, commercial-industrial structure or use where the said area is limited to the occupants or owners of the unit or building.

5-6.4 Application of planned unit development section. The provisions of this section shall apply only to a tract to be developed consisting of specified contiguous acres within designated zone, which track is under single ownership, and for which an application for a planned unit development is made as hereinafter provided. Public roads, rights-of-way and easements shall not be deemed to divide acreage for this purpose.

5-6.5 Types of planned unit development districts.

- (1) One planned unit development district is designated: PUD-1 Is intended to accommodate primarily residential uses with neighborhood commercial uses integrated into the design of the district as secondary uses.
- (2) Intent: The types of nonresidential uses allowed in PUD-1 zone is based on the premise that increased site size will allow proper design including functional inter-relationships, buffer treatments separating uses with potentially incompatible characteristics of such planned unit developments with uses in adjacent districts. It is the intent of this section that such design and planning features be incorporated properly into the planned unit development districts hereinafter created and that the planning and zoning commission shall consider the existence and appropriateness of such features before any amendment to the zoning map is adopted by city council to create such district.

5-6.6 Sizes of Planned unit development districts.

- (1) PUD-1 The minimum tract size for a planned unit development one (PUD-1) is two (2) acres. No maximum is specified.

5-6.7 Permitted uses and structures in planned unit development districts.

- (1) PUD-1. In PUD-1 districts any permitted principal use, accessory use, or permitted special exception specified in the following districts are permissible:
 - a. RS-1, RS-2, RS-3
 - b. RG-1, RG-2
 - c. C-1, C-2

5-6.8 Location of uses. No use shall be permitted at any time after final approval except at the specific location shown on the final site plan. No building or other structure shall be erected except at the specified location shown for such structure on a final site plan or used for any purpose other than the specified use designated for such structure on an approved final site plan.

5-6.9 Ratio of uses in the PUD-1 district.

- (1) At least 40 percent of the total gross acreage shall be devoted to residential uses.
- (2) Not more than ten percent of the total gross acreage shall be devoted to commercial uses.
- (3) At least 15 percent of the total gross acreage shall be devoted to open space uses.
- (4) At least 0.03 acre per residential dwelling unit up to 15 percent of the total gross residential acreage shall be devoted to social and/or recreational uses.
- (5) Acreage sufficient to adequately serve the planned unit development shall be devoted to streets, roads, utilities, and drainage.

5-6.10 Density permitted. The proposed type of residential use or uses to be contained in the planned unit development thereof shall determine the residential density or densities most appropriate to any overall development or any delimited portion. No planned unit developments shall contain higher densities per type of residential use than the following:

PUD-1 Single-family detached.....5 units per acre
 Attached and multi-family....12.0 units per acre

To be classified as attached or multi family, dwelling units must be physically connected by a common roof, foundation and wall, not by walkways, breezeways, roof overhangs and the like. Attached units must be constructed with firewalls separating each unit.

The total gross acreage used in computing overall or specific area maximum residential densities shall be exclusive of land which is devoted to other uses, as specified in sections 5-6.6, 5-6.7 and 5-6.8, (page 44). In planned developments where the residential uses of the land (single-family detached, attached or multi-family) cannot be readily segregated for the purposes of calculating density, computation shall be based upon the ratio of the number of units in each category to the overall land available for density calculations.

5-6.11 *Exemptions from specific regulations.*

Because planned developments must receive specific design approval from the planning and zoning commission, and to allow for more innovative approaches to the development of the area, planned unit developments are exempt from specific regulations as follows:

- (1) Except as expressly provided in this section, there shall be in the planned unit development districts no minimum lot width; no maximum percentage of lot covered by buildings; no minimum yard setbacks; and no maximum height requirements; except as may be required by the planning and zoning commission.
- (2). Required public street frontage, as set forth in subdivision regulations, shall not apply in the planned unit development districts where the method of tenure is rental or lease. However, access shall be provided from the site of every use to a public street or to a system of private streets and ways connecting with the public street system. For planned unit developments where lands, structures, portions of structures or land and structures in combination are to be sold, subdivision regulations shall remain in effect and all principal structures shall abut on a public street.
- (3) Except as provided in this section, all other regulations contained in the zoning ordinance shall apply in planned unit development districts including the off-street parking requirements specified for type of use.

5.6-12 *Locational and design standards.*

- (1) *Location standards.* A planned unit development shall meet the following location standards:
 - a. *General compatibility.* The tract of land to be occupied by the planned unit development shall be so located that the proposed uses and the site development of the planned unit development will be generally compatible with the uses and development of adjacent and neighboring tracts in the area.
 - b. *Transportation facilities.* The tract shall be so located with respect to major streets and collector streets as to have access to them without generating excessive traffic along minor streets outside the

planned unit development. No planned unit development shall be located on a local or minor street as classified by the major street plan unless, in the opinion of the planning and zoning commission, the density of the proposed planned unit development would not have an adverse impact upon traffic on such streets.

- c. *Environment.* The tract shall be suitable for development of the proposed uses and buildings with respect to the nature of the soils and topography. Existing natural and manmade features of the site, such as trees, groundcover, waterways, scenic, archaeological, historical sites and the like, shall be preserved and protected to the greatest extent possible.
1. The location of larger trees must be considered when planning the open space, location of buildings, underground services, walks, paved area, playgrounds, parking areas, and finished grade levels.
 2. The planning and zoning commission shall inquire into the means whereby trees and other features will be protected during construction. Excessive site clearing of topsoil, trees, and natural features before commencement of building operations will be discouraged by the commission.
 3. Floodway areas as delineated on the zoning maps of the city shall be preserved as permanent open space in accordance with all provisions of this ordinance, and shall be in addition to all other open space requirements of this section.
 4. A grading plan shall be required by the planning and zoning commission, which will confine excavation, earthmoving procedures, and other changes to the landscape in order to ensure preservation and prevent despoliation of the character of the area to be retained as open space.
 5. The planning and zoning commission shall require the landowner to prepare and submit for its review an environmental impact statement when known natural, historic, or archaeological sites and other unique site characteristics are threatened by the proposed planned unit development.

5-6.13 Design standards. A planned unit development shall meet the following design standards:

- (1) Generally, all planned unit developments shall be constructed in accordance with the minimum design standards of the city engineer

and shall be approved by him prior to actual construction of any improvements in the planned unit development. Minimum design standards of the city engineer, for the purposes of this section, shall be in the same design standards as found in the Moundville subdivision regulations as the same may be amended and to the extent that they are applicable. These minimum design standards shall include, but may not be limited to, the following; general requirements for streets, rights-of-way and easements; minimum design requirements for streets; design requirements for drainage and storm sewers; design requirements for sanitary sewers; water facility requirements, and erosion control measures.

- (2) *Circulation.* The internal traffic circulation shall be so designed as to discourage through traffic on minor streets both within and outside the site. Vehicular access points shall be designed to permit smooth traffic flow with controlled turning movements and minimum hazard to vehicular and pedestrian traffic. The pedestrian circulation system shall be designed to separate as completely as possible pedestrian and vehicular movements, especially in respect to the safety of pedestrian movement between dwelling units and open space, social, or recreation areas. Street crossings shall be held to a minimum. Internal traffic systems should be innovative, functional and unify the various elements by tying them together through a well-integrated network of streets and pedestrian ways. The Planning and Zoning Commission shall consider adjacent street systems and intersections and be careful to avoid overloading existing facilities beyond their designed capacity by permitting too high densities in a planned unit development. Permitted densities allowed by Section 5-6-10 (p.45) may be reduced by the Planning and Zoning Commission if evidence indicates a probable overloading of existing or proposed streets, utilities, public schools or other public or semipublic facilities.
- (3) *Building spacing and access.* Space between buildings shall be adequate so as not to create a health and safety hazard, collect trash, allow for routine maintenance between buildings, and provide access for emergency vehicles. If structures are not built to the side lot line or attached, a minimum of five feet shall be required between all structures.
- (4) *Parking areas.* All parking areas excluding those for one and two family residential structures shall be:
 - a. Arranged so as to prevent through traffic to other parking areas.

- b. Screened from adjacent structures, roads, and traffic arteries with hedges, dense planting, earth berms, changes in grades; and
 - c. Adequately lighted: all such lighting shall be so arranged as to direct light away from adjoining residences.
- (5) *Public facilities and utilities.*
- a. Landowners desiring to establish a planned unit development under the provisions of this section shall provide satisfactory evidence of the availability of sanitary sewerage and water at the time of application for a zoning amendment for the planned unit development district.
 - b. There shall be provided in each area of the planned unit development district facilities for storm drainage that shall conform to all applicable laws and regulations of the city and state.
 - c. Electrical and telephone wires shall be underground.
- (6). *Open space/social/recreational facilities.*
- a. All social, recreational and community use areas shall consist of land accessible and usable for its intended uses. At least one-half of the social-recreational area at a location must be approved by the planning and zoning commission on the preliminary site plan.
 - b. Open space and social/recreational and community uses shall have not less than 20 feet of frontage on a public street. Satisfactory access to fire equipment and open space maintenance equipment shall be provided.
 - c. All open space uses shall consist of usable land, at least one-half of which shall have a slope less than 15 percent. No more than 22 percent of all open space shall be devoted to lakes, ponds, and similar water uses.
 - d. Usable open spaces shall be distributed more or less equitably throughout the planned unit development in relation to the dwelling units of the people they are intended to serve. Open space may be enhanced by walkway systems or greenways linking them to one another.
 - e. When, in the opinion of the Planning and Zoning Commission, significant natural amenities exist on the site, the commission shall have the authority to enforce their preservation by designation as open space.
 - f. Areas designated for open space uses and social/recreational and community uses shall be reserved and properly

maintained for such uses by adequate covenants running with the land deeds of dedication.

- g. The covenants and articles of incorporation of the corporation established to own and maintain such open space and social and recreational and community uses shall be submitted for approval with the application for preliminary site plan approval and shall include, as a minimum the following:
1. Membership shall be mandatory for each buyer and any successive buyer;
 2. The open space restrictions must be permanent and perpetual;
 3. The corporation must be responsible for liability insurance, local taxes, and the maintenance of recreation and other facilities.
 4. Owners must pay their prorated share of the cost; the assessment levied by the corporation shall become a lien on the property if unpaid.
 5. The corporation must be able to adjust the assessment to meet changed needs.
 6. The corporation shall not be dissolved nor shall it dispose of the open space and social and recreational and community uses, by sale or otherwise, without first offering to dedicate the same to the public.
 7. Detailed plans for the developed social/recreational facilities shall be submitted to and approved by the planning and zoning commission prior to and included with the submission of the general development plan, including detailed descriptive statement, and prior to and included in the phased preliminary site plans and preliminary plan.
 8. A proper proportion of the total developed social/recreational area will be included with each phase of the development according to the general development plan and will not be deferred to a later phase.

(7) *Developed recreation area.*

- a. requirements for developed recreation areas may vary with the needs of the anticipated residents, the distance from other recreational facilities, the density and size of the development, the topography, soil conditions, existing natural environment, and other factors.

- b. In some cases the area and facilities may be divided in more than one location or facilities grouped on one location
- c. Recreational area and facilities may be located in terrain unsuitable for residential development but access thereto, year-round suitability and unsuitability must be answered.
- d. The type and number facilities may vary depending on age groups, numbers of residents, densities and other factors.
- e. Normally, areas and facilities will be located to preclude adverse impact on the primary nearby residences and with due regard for safety, convenience, and hazards.
- f. As a normal minimum, such areas should include passive and active facilities including but not limited to picnic areas, trails, benches, gazebos, barbecue grills, tennis/volleyball courts, child and kiddies' play areas with equipment, portable water fountains, swimming and wading pools, fishing ponds, saunas and specified exercise rooms (indoor), indoor recreation rooms, community social halls and other facilities to fill recognizable needs of the neighborhood.

(8) *Planned development perimeters.*

- a. The design of the planned development shall consider and provide protection from adverse effects of adjacent land uses as well as protection of adjacent land uses from adverse effects of the planned development.
- b. When a planned development adjoins an existing developed residential district, the adjoining perimeters of the proposed planned unit development shall be planned and developed in accordance with all requirements of the existing residential district.
- c. No structure shall be erected within 20 feet of any external lot line of any planned unit development district where the adjoining property is zoned commercial or industrial. Where adjoining property is zoned residential, the setback shall be 35 feet.
- d. Buffers or screens and planting easements, which bar access between land uses, deemed to be incompatible shall be required.
- e. The Planning and Zoning Commission shall prohibit intensive recreational or commercial use near the boundary of any adjacent low-density residential zoning district.

(9) *Nonresidential development*

- a. Any nonresidential development in a PUD-1 zone shall be planned as an integral part of the planned unit development and shall be for the expressed service and convenience of the residents of the planned unit development. The Planning and Zoning Commission shall require the landowner to prepare and submit for review a market study when it is doubtful that the existing and proposed development can support the proposed nonresidential use.
- b. Nonresidential development, whether located well within the planned unit development or at the edges of the planned unit development, should compliment surrounding residential development and blend into the total scheme, avoiding a harsh contrast to its surroundings, either in design or in its activity effects.
- c. Loading, outdoor storage, and refuse collection areas shall be screened, fenced, or otherwise shielded from adjacent development as required by the planning and zoning commission.

(10). *Landscaping.* Professional landscaping, with trees and foundation plantings, shall be provided on individual lots and building sites.

(11) *Phasing and sequence development.* Planned unit development districts may be developed in approved phases, provided each phase of development can stand on its own as a complete unit, meeting the requirements of the applicable planned unit development district for density, open space, social/recreational facilities, and nonresidential facilities, and provided the following standards are:

- a. Open space and social and recreational facilities shall be developed in proportion to the number of dwelling units intended to be developed during any given phase of construction as approved by the planning and zoning commission.
- b. At no time during the construction of the planned unit development shall the number of constructed dwelling units per acre of developed shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the planned development district.

- c. No building permit for any retail business or industrial operation shall be issued nor shall any building be used for retailing or industrial purposes prior to the construction of at least 25 percent of all proposed residential dwelling units in the planned unit development.
- d. The building inspector shall review, at least once every six months, all building permits issued and compare them to the approved overall development phasing program. If the building inspector determines that the rate of construction of residential units or nonresidential units or nonresidential structures substantially differs from the approved phasing program, he shall notify the landowner/developer in writing. Therefore, upon continued apparent violation of this subsection, the matter shall be referred to the Planning and Zoning Commission for review and action. The Planning and Zoning Commission shall have the authority to suspend the landowner/developer from further construction of dwelling units or nonresidential structures until compliance is achieved.

5-6.13 Procedures for the establishment and development of a planned unit development.

- (1). *Pre-application conference.* Prior to the filing of an application for a zoning amendment, a pre-application conference shall be held. The purpose of the conference is to consider informally the concept of the proposed planned unit development, its relation to the district in which the site is located, and the way in which it will meet the objectives of this section.

The chairman of the Planning and Zoning Commission shall be responsible for arranging the pre-application conference, which shall be attended by the landowner-developer or his representative, and at least one member of the Planning and Zoning Commission, designated by the said commission. The chairman may invite the attendance of department or agency heads or administrative officials having an interest in the different aspects of the planned unit development (city engineer, public works director, building inspector, fire chief, police chief, park and recreation board chairman, school board, etc.).

No specific documents are required for the pre-application conference but the landowner shall be responsible for providing sufficient information on which to base tentative conclusions as to the appropriateness and feasibility of the proposed planned unit

development under the provisions of this section. No statement made or information given during such pre-application conference shall be binding on the city or the landowner, but a record shall be kept of recommendations made and a copy of such record shall be provided to the landowner, others in attendance, the city council and the planning and zoning commission.

- (2) *Application for zoning amendment.* No land shall be zoned or rezoned as a planned unit development district except by the application of the landowner. The procedures described in Article XI (page 107) of the zoning ordinance shall be followed for a zoning amendment.

The following factors shall be taken into account in the consideration for the application for zoning amendment by the planning and zoning commission:

- a. The appropriateness of the location of the proposed planned unit development.
- b. The effect of the proposed planned unit development district on the city and on property adjacent to the proposed planned unit development district.
- c. The total acreage of the proposed planned unit development district.
- d. The major planning and development assumptions for the proposed planned unit development district.
- e. Such other factors as the Planning and Zoning Commission and the city council deem relevant.

- (3) *Effect of planned unit development district zoning.* Adoption of an ordinance by the city council amending the official zoning map to provide for a planned development district is authorization for the landowner to proceed with the preparation of a general development plan for the property to be reviewed and approved by the planning and zoning commission and city council.

- (4) *General development plan.* The landowner shall submit for approval by the Planning and Zoning Commission and subsequently, the City Council, a general development plan within six months after approval of the rezoning for planned unit development. A planned unit development may be constructed in phases, but the general development plan shall include the entire tract of land zoned planned unit development district. Failure to submit the general development plan in the time period specified shall result in an automatic revocation of rezoning.

The general development plan shall consist of two parts: a generalized scaled drawing(s) and a descriptive statement.

Generalized scaled drawing:

1. The generalized drawing or drawings shall cover the entire planned unit development district and shall as a minimum, include the following information:
2. Show the general pattern for development, including the relationship proposed between the various permitted uses within the planned unit development and areas surrounding the planned unit development area;
3. Show the location of various uses in generalized fashion as illustrative of the planning scheme to be followed (see section 5-6.13 (page 53), location and design standards); and
4. If the planned unit development is to be developed in phases, illustrate the geographical area for each proposed phase and number each phase in proposed sequence of development. The gross acreage within each phase shall be shown.

Descriptive statement shall include:

1. The landowner's name, address, and the name, address and the interest of every person represented by the landowner in the application; the name and address of the owner or owners of all land and buildings; and sufficient evidence to establish that the landowner and those he represents own the land area and buildings.
2. A statement of the major planning assumptions and objectives of the proposed development.
3. A statement of the range of percentages of the total land area intended to be devoted to residential uses, commercial uses, industrial uses, open space uses, social and recreational and community uses, and street drainage, utilities and roads.
4. A statement of the intended overall maximum density of population of the development expressed in terms of the average number of dwelling units per gross acre within specific areas of the planned unit development district, giving special consideration to compatibility with contiguous residential and other zoning districts, whether developed or undeveloped.
5. A legal description of the proposed development boundaries.
6. Total number of acres in the development.
7. Description of open space, social and recreational and community facilities and adequacy thereof to serve anticipated demand.

8. A statement as to whether the entire planned unit development, or any portion thereof, will be held in one ownership (individual, partnership, corporation, or other) or subdivided and sold in individual parcels of land with dwelling unit(s) or other building(s).
 9. Approximate number of structures or units of various types.
 10. A description of the proposed procedures of the corporation, association or other group maintenance or group ownership features which may be included (see section 5-6.13, page 53, for requirements of these corporations).
 11. A statement of the economic feasibility or a market analysis, as appropriate to the size and nature of the planned unit development.
 12. A statement of the way in which the proposed planned unit development will achieve the objectives set forth herein for planned development districts including a description of its character, its design standards, its relation to surrounding areas, its administrative procedures, and other such information or descriptions as may be deemed reasonable appropriate for Planning and Zoning Commission review.
 13. Comprehensive phasing plan. If a planned unit development district is proposed to be developed in phases, a detailed written comprehensive plan for the phasing of the entire development shall be submitted to the Planning and Zoning Commission for review and approval. The comprehensive phasing plan shall include, as a minimum, the following detailed information:
 - a. Description of uses within each phase along with calculations illustrating the required ratio of uses for the particular geographical area.
 - b. Total gross acreage within each phase.
 - c. Detailed time schedule indicating approximate dates when construction of public improvements and structures within each phase can be expected to be begun and completed, including social-recreational, community and/or open space structures and uses. The time limits established for submission of a preliminary site plan and beginning construction of public improvements shall be considered when preparing this time schedule
- a. *Approval of the general development plan for all planned unit development districts.* The Planning and Zoning Commission shall act on the general development plan and approve, approve with modifications, or disapprove the plan. Final approval of the general development plan must be by the Planning and Zoning commission.

- b. *Effect of general development plan approval.* Receipt of written approval of the general development plan from the Planning and Zoning Commission and the City Council authorized the landowner to proceed with preparation of a preliminary site plan for the entire planned development or for the first phase thereof. Failure to submit the preliminary site plan within one year after approval of the general development plan will result in automatic revocation of the rezoning. If the planned unit development includes the subdivision of land, a preliminary subdivision plat shall also be submitted in accordance with the provisions of the Moundville subdivision regulations.
- c. *Preliminary site plan for all planned unit development districts.* No permit shall be issued for work on any improvement in the entire planned unit development or in any phase or area of a planned unit development district until a preliminary site plan has been approved by the Planning and Zoning Commission for the entire planned unit development or a particular approved phase. If a planned unit development is to be developed in phases, a preliminary site plan shall be submitted for each phase in accordance with the previously approved general development plan's comprehensive phasing plan.

If the planned development involves the subdivision of land (if lots or other parcels are to be sold or otherwise divided for the purpose of building development), application for approval of a preliminary plat of the subdivision shall be made, in accordance with the Moundville subdivision regulations, at the same time and on the same drawing as the preliminary site plan required by the (this) section; or the preliminary site plan and the preliminary plat may be submitted separately.

The preliminary site plan shall be drawn as a scale of at least 100 feet to one inch and shall include a graphic scale, north point, and date. The preliminary site plan shall set forth:

1. The relationship of the particular geographical area or phase to the general development plan (if applicable).
2. The specific location of all uses and the shape, dimension and location of all buildings and structures (including models) and property lines, existing and proposed.
3. The location and size in acres or square feet of all public schools, parks, playgrounds, recreational facilities or other public or social community or recreational uses.
4. The location and size in acres or square feet of all areas designated for open space uses.
5. The topography by contours at vertical intervals of at least five feet and extending at least 100 feet outside the tract. The city

engineer shall have the authority to require vertical intervals up to two feet, if deemed necessary.

6. The proposed major contour changes in areas, which are to be substantially cut and/or filled.
7. The location of all public or private streets and roads, pedestrian circulation system, off-street parking areas, service areas, loading areas and major points of access to public rights-of-way, existing and proposed.
8. The profile of proposed streets showing natural and finished grade.
9. The size and location of existing sewers, water mains, drains, culverts, or other underground facilities within or adjoining the tract.
10. The acreage of each drainage area affecting the proposed development.
11. The preliminary plan of sanitary sewer system with pipe size, grade and invert elevations, location of manholes, and points of discharge.
12. The preliminary plan of storm sewer system with pipe sizes, grade and invert elevations, location of manholes and outlets. Storm sewers shall be sized to accommodate runoff from a 100-year frequency flood.
13. The location and size of existing and proposed easements.
14. The preliminary plan of water supply system with pipe sizes and location of hydrants and valves.
15. Location of electric, gas, cable and telephone lines.
16. Location of any watercourses, floodplain areas, unique natural or manmade features, and forest cover.
17. Preliminary building elevations, sections and floor plans and site sections to sufficiently relay the basic architectural intent and character of the subject.
18. A general landscape plan indicating the treatment of materials to be used for individual private sites, common open spaces, social and recreational and community areas, and non-residential areas.
19. The proposed treatment of the perimeter of the planned unit development, including materials and techniques such as screens, plantings, fences, earth berms, and walls.
20. The location of city limit lines, if applicable.
21. In addition, there shall be furnished a computation of acreage to be devoted to each use intended in the planned unit development or phase together with a computation to the total acreage for such uses shown in any previous preliminary plans. If the accumulated percentage for any permitted use exceeds that allowed in the general development plan, construction for

such use shall not proceed until and unless an amended general development plan shall be approved by the Planning and Zoning commission and City Council.

- d. *Standards for sub-phase development.*
 1. Development within a particular phase of a planned unit development shall progress in an orderly sequence so as to preserve the concept of a planned unit development and facilitate continuity within the particular sub-phase.
 2. A logical, orderly sequence of construction of units shall be illustrated on the preliminary site plan by designating the direction and sequence in which the construction of units will proceed and shall be approved by the planning and zoning commission as part of the preliminary process.
 3. A written detailed time schedule indicating approximate dates when construction of units within each sub-phase can be expected to be begun and completed, including social/recreational and/or open space uses and structures, shall be submitted for review and approval by the Planning and Zoning Commission.

- e. *Approval of the preliminary site plan for all planned unit development districts.*
 1. The landowner shall submit at least **four copies** of the preliminary site plan along with the necessary supporting data to the Planning and Zoning Commission for approval. The landowner may be required to submit additional copies of the preliminary site plan on request from the planning and zoning commission.
 2. The Planning and Zoning Commission shall take action to approve, disapprove or approve with modifications the plan at any regular or special meeting, but final action of the commission shall come no later than 60 days after submittal to the Planning and Zoning commission at a scheduled meeting.
 3. The Planning and Zoning Commission shall not act to override the requirements of other agencies. The commission may seek to bring agreement in cases of conflict between the various reviewing agencies and the landowner.

- f. *Effect of preliminary site plan approval.*
 1. Receipt of written approval of the preliminary site plan from the Planning and Zoning Commission (and preliminary plat of a subdivision, if the land is to be subdivided) authorizes the land-owner to seek a permit from the city engineer for

construction of any public improvements upon satisfactory data submitted showing compliance with the minimum design standards. Construction shall be under the direction and supervision of the city engineer. Building permits from approved models may be issued at this time.

2. If construction on required public improvements is not initiated in earnest within one year of preliminary site plan approval, the planned unit development district zone will automatically revert to its former zoning classification.

g. *Final site plat for all planned unit development districts.*

No building permit, other than approved model units, shall be issued and no parcels of land, structures, portions of structures or land, structures, portions of structures of land and structures in combination shall be conveyed until the landowner has received approval of a final site plan (and final plat of the subdivision, if the land is to be subdivided) by the Planning and Zoning Commission

If the planned development involves the subdivision of land (if lots or other parcels are to be sold or otherwise divided for the purpose of building development), application for approval of a final plat of the subdivision may be made in accordance with the Moundville subdivision regulations at the same time and on the same plat or the final site plan and the final subdivision plat may be submitted separately.

The final site plan shall conform substantially to the approved preliminary site plan and may be submitted to the Planning and Zoning Commission chairman at any time after the completion of roads, sewers, storm drainage facilities and other required improvements.

If the preliminary site plan was divided into phases, a final site plan for each phase shall be submitted to the zoning board at any time after the completion of roads, sewers, and storm drainage facilities.

The final site plan shall be drawn at a scale of at least 100 feet to one inch and shall include a graphic scale, north point, and date. As a minimum, the final site plan shall show the following:

1. The relationship of the planned unit development or any phase to the general development plan and preliminary site plan.

2. The specific location of all uses and the shape, dimensions, and location of all buildings and property lines, existing and proposed.
3. The location and size in acres or square feet of all public schools, parks, playgrounds, recreational facilities and other public or social uses.
4. The location and size in acres or square feet of all areas designated for open space and social/recreational uses.
5. Approved names of streets and lot and block number if applicable.
6. Sufficient data to determine readily on the ground the location, bearing and length of every road centerline or parcel boundary line whether curved or straight. This shall include the radius, central angle, and tangent distance for the centerlines of curved streets. Curved property lines shall show arc or chord distance and radii.
7. All dimensions to the nearest one-tenth of a foot and angles to the nearest minute.
8. Final plans for sewer system, storm sewer system, water system, electrical, gas, and telephone lines.
9. The location and dimension of any easements.
10. The minimum setback lines.
11. The location of monuments.
12. References to recorded subdivision plats on adjoining platted land.
13. The location of city limit lines, if applicable.
14. Location of any watercourses and floodplain areas.
15. Building elevations, sections and floor plan and site sections in final form.
16. Landscape plan and perimeter treatment in final form.
17. An executed copy of the covenants or other legal instruments setting forth the plan or manner of permanent care and maintenance of common open space, recreation areas and other common facilities.

h. *Approval of the final site plan.*

1. The landowner shall submit four copies of the final site plan, along with necessary supporting data for approval. The landowner may be required to submit additional copies of the final site plan on the request from the Planning and Zoning Commission, the City Council or their agents acting on their behalf.
2. The Planning and Zoning Commission shall take action to approve, disapprove, or approve with modifications, the plan

at any regular or special meeting, but final action of the commission shall come no later than 60 days after submittal to the commission at a scheduled meeting.

3. In approving a final site plan, the Planning and Zoning Commission shall specify the dates by which construction of all approved structures in the planned unit development shall be begun and completed. If structures are to be constructed in phases, the dates for beginning and completing each phase shall be specified. If the landowner does not begin and complete the construction of structures by the dates specified, the Planning and Zoning Commission shall review the case and shall upon showing of good cause by landowner,
 - (1) extend time limits;
 - (2) revoke the approval; or
 - (3) amend the planned unit developed.
4. Upon the approval of a final site plan by the Planning and Zoning Commission, the plan shall be signed by the chairman of the Planning and Zoning Commission and the city engineer and returned to the landowner. The secretary of the planning and zoning commission shall keep at least one print as a permanent record.

The final site plan, with attendant documentation, shall thereafter be binding upon the landowner, his heirs, successors and assigns, shall limit and control the issuance and validity of permits and certificates and shall restrict and limit the use and operation of all land and structures within the planned unit development to all conditions and limitations specified in such plan and the approval thereof.

- I. Effect of a final site plan approval.* Receipt of written approval of the final site plan, along with a copy of the plan signed by the chairman of the Planning and Zoning Commission and the city engineer, from the Planning and Zoning Commission (and final plat of a subdivision, if the land is to be subdivided) authorizes the landowner to record the plat in the office of the probate judge of the appropriate county, to transfer lots in the subdivision, to seek building permits for structures to be erected on any lot and to transfer buildings or portions of buildings.
- j. Surety in lieu of completion of improvements.* In lieu of the completion of the site improvements (i.e., water and sewer systems, public roads and storm drainage structures) the landowner shall submit surety in an amount equal to 1 ½ times the estimated cost of all such improvements as follows:

The term "surety" as used in this section shall be deemed to include the deposit of cash with the city administrator in the appropriate amount required under this section; the delivery of a standby letter of credit issued by a financial institution licensed to do business in the State of Alabama, the form and substance of which is acceptable to the city clerk and city attorney and the Planning and Zoning Commission; or the delivery of a surety bond in favor of the city approved by the city clerk, city attorney and the Planning and Zoning Commission and issued by a company authorized to issue surety bonds in the State of Alabama. Said bond shall also include such other forms of cash collateral or obligations as to form and substance approved by the city clerk, the city attorney, and by the Planning and Zoning Commission from time to time.

K. Changes in the final site plan.

Minor changes in the location and siting of buildings and improvements may be authorized by the Planning and Zoning Commission if required by engineering or other circumstances not foreseen at the time the final site plan was approved; provided, however, that no change shall be authorized which may substantially alter the use and character of the development, increase the overall coverage of land by the building, reduce the amount of open space, or (in a residential planned development) reduce the building site area per dwelling unit (increase the density). Where minor changes involve changes in an approved subdivision plat, the form and content of such changes shall meet the requirements of the subdivision regulations.

All changes other than minor changes in the final site plan shall be considered to be amendments to the plan and shall be subject to the same procedures specified for approval of a preliminary site plan and a final site plan. If, for reasons beyond the control of the landowner, the approved final site plan cannot be implemented within the approved time schedule, the Planning and Zoning Commission shall, upon recommendation of the building inspector, consider revoking the planned unit development district zoning classification for the balance of the property which remains undeveloped and recommend its original zoning classification be reestablished.

I. Inclusion of additional land to planned unit development district.

At any time after the approval of a planned unit development district, the landowner of an existing planned unit development district may file an application to add land adjacent to the existing district. Such new petition shall be subject to all of the provisions of this section, except that the minimum area requirements under sections 5-6.9 (p.45),5-

6.10 (p.45), 5-6.11 (p.46), and 5-6.12 (p.46) shall apply to the entire planned unit development district and not just the addition.

m. Variances from and interpretations of this section.

The building inspector shall administer and enforce the planned unit development district regulations. It is the intent that all questions of administration and enforcement shall first be presented to the building inspector and that such questions shall be presented to the Board of Adjustment only upon reference by, or appeal from, the building inspector. The Board of Adjustment has exclusive authority to grant variances from the terms of this section upon demonstration by the petitioner of an unnecessary hardship and to make interpretations of this section.

5-6.14 Subdivision regulations to remain in effect.

The provisions of the (this) section shall not constitute in and of themselves approval of a land subdivision plat as required by the subdivision regulations of Moundville, Alabama. However, application and approval of the preliminary plat and the final plat, as required by the subdivision regulations, may occur concurrently with application and approval of the preliminary site plan and final site plan required by this section provided all information and procedures required by both are met.

Sec. 5-7 Institutional Districts

5-7.1 *Intent.* This district is intended to provide for the development and use of governmental, public, semipublic and institutional uses and structures. Certain other accessory uses and structures are permitted outright or are permissible with certain conditions intended to best fulfill the intent of this section which is to ensure and preserve the quality of governmental, public, semipublic and institutional uses and structures which are of great value to the general public.

5-7.2 *Permitted principal uses and structures.* The following principal uses and structures are permitted in the institutional district:

- (1) Parks, playgrounds, playfields;
- (2) Governmental offices;
- (3) Community service structures and uses such as community service centers, libraries, fire stations, civic, cultural, or recreational uses;
- (4) Cemeteries;
- (5) Colleges and universities having minimum lot area of five acres.

(6) Elementary, middle, junior high and high schools.

5-7.3 *Permitted accessory uses and structures.* The following accessory uses and structures are permitted in the institutional districts:

- (1) Other structures and uses which:
 - a. Are customary accessory and clearly incidental and subordinate to permitted principal uses and structures;
 - b. Do not involve the conduct of trade on the premises;
 - c. Are located on the same lot as the permitted principal use structure, or on a contiguous lot in the same ownership;
 - d. Are not likely to attract visitors in larger numbers than would be expected in the district; and
 - e. Do not involve operations not in keeping with the character of the area, or of a nature prohibited under Section 5-7.4 (page 65) "Prohibited uses and structures".

5-7.4 *Prohibited uses and structures.* The following uses and structures are prohibited in the institutional district.

- (1) Trade or service uses;
- (2) Manufacturing and industrial uses;
- (3) Residential uses;
- (4) Storage or use of mobile homes;
- (5) Signs, except as permitted under Article VII (page 91)
- (6) Any other use not permitted under 5-7.2 (page 64) "Permitted principal uses and structures; 5-7.3 (page 65) "Permitted accessory uses and structures" and uses and structures as permitted by 5-7.4 (page 65) "Permitted special exceptions."

5-7.5 *Minimum lot area.*

- (1) Uses and structures permissible as special exceptions, as required by the Board of Adjustment.
- (2) All permitted uses and structures, no minimum except to meet other requirements herein.

5-7.6 *Minimum lot width.* All permitted and permissible uses and structures: No minimum lot width required except to meet other requirements.

5-7.7 *Minimum yard requirements.* Minimum yard requirements for all structures and uses in the Institutional district shall be as set forth below:

- (1) Front: 40 feet required along major streets, 20 feet along other streets.
- (2) Side: No side yard is required if buildings are built to side lot line, otherwise at least three feet of side yard width is required, provided however, that where a lot zoned I is contiguous to a

residential zone, a side yard of not less than 15 feet shall be provided on the side contiguous to the residential zone and shall meet the provisions of Section 6-12.2(1) (page 83).

5-7.8 *Maximum lot coverage by all buildings.* All uses and structures: No limitations except as to meet the other requirements herein.

5-7.9 *Maximum height of structures.*

- (1) Buildings up to 40 feet in height are permitted outright.
- (2) Buildings in excess of 40 feet in height are permitted, provided there is an increase of one foot in side, front, and rear yards over the minimum side, front, and rear yard requirements for each additional three feet of height.
- (3) Buildings between the height of 40 and 75 feet are allowed as special exceptions if they do not meet the requirements of item 2 above.

5-7.10 *Minimum off-street parking and loading requirements.* Off street parking and loading requirements as set forth in Article VI (page 66) shall be met.

5-7.11 *Signs.* Signs are permitted in the Institutional District only in accordance with the provisions of Article VII (page 91) Regulation of Signs.

Sec 5-8 Rural Residential

5-8.1 This district is to provide minimum standards for the development of areas that are not serviced by public water and sewer systems and are by nature more rural than urban.

5-8.2 *Uses permitted:* Mobile homes and any use permitted in an RS-1 Residential District provided that the County Health Officer must approve the site for a septic tank system before the building inspector may issue a building permit.

Truck gardening, orchards, nurseries, commercial forests, greenhouses, and general farming providing that no structure, pen, corral, or feed lot for the keeping of livestock or poultry is maintained within 500 feet of any structure intended for the use or habitation of humans.

5-8.3 Uses permitted by special permit. Any use permitted by special permit in RS-1 Residential district.

ARTICLE VI. SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 6-1. Off-street parking requirements.

Permanent off-street parking is required in all districts. Such parking shall be provided in the amount required by this section at the time of erection, alteration, enlargement, establishment or change in use of any building or use.

Parking requirements. Off-street parking shall be required as to type of use in the amount shown below, except that certain reductions may be permitted by the Board of Adjustment as provided in Section 10-1.1 (page 105).

Type of Use	Required off-street Parking
(1) Any residential use of not more than two dwelling units (including mobile homes)	Two parking spaces for each dwelling
(2) Multifamily structures of more than two unit's	1.1 parking spaces per bedroom
(3) Rooming or boarding houses and bed and breakfast inns	One space for each guestroom to be rented plus one space per manager and employee
(4) Hotels and motels, without restaurant, bar or meeting room	Two spaces for every room to be rented
(5) Home occupations	Two spaces in addition to residence requirements

Public and semipublic uses:

(6) Churches	One space for every four sanctuary seats
(7) Hospitals	Two spaces for each bed up to 100 beds; one space per each bed over 100
(8) Libraries	One space for each two adult seats
(9) Auditoriums, stadiums, gymnasiums, theaters, other places of public assembly	One space for each four seats except that when the facility is part of a school or shopping center, the parking space requirements for that facility shall be included when calculating total parking spaces
(10) Elementary and junior high schools	Ten spaces plus one for each classroom
(11) Senior high schools	Twenty spaces plus five spaces

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|------|--|---|
| (12) | Public buildings and private clubs and lodges | for each classroom
One space for each 150 square feet of gross floor space |
| (13) | Sanitariums, rest and convalescent homes, homes for the aged, and similar institutions | Six-tenths of one space per bed, plus one space per employee on the largest shift. |
| (14) | Banks | One parking space for each 200 square feet of gross floor space plus four stacking spaces for each drive-in window |
| (15) | Other professional and business offices | One space per office plus one parking space for each 500 square feet of gross space, otherwise, not less than five parking spaces |

Retail and other commercial uses:

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|------|---|---|
| (16) | Funeral homes | One space for each five chapel seats of each five parlor seats, whichever is greater |
| (17) | Auction houses | One space for every four patron seats |
| (18) | Eating and drinking establishment's | One space for each employee on the largest shift, plus one space for every three seats, plus five stacking spaces for each drive through window |
| (19) | Motel with restaurant, bar or meeting room | Same as requirements for motels with the inclusion of the requirements for eating and drinking establishments |
| (20) | Service stations and garages | Four spaces for each repair bay of service station |
| (21) | New and Used car sales, boat sales, mobile homes and camper sales, farm implements and outdoor equipment and modeling sales | One space for each 600 square feet of enclosed floor space, plus one space for each 2,000 square feet of display area. |

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|------|--|--|
| (22) | Outdoor recreational facilities | Five spaces plus one space for every three facility uses at maximum utilization |
| (23) | Shopping centers | 4.5 off-street parking spaces for every 1,000 square feet of gross leasable area not devoted to department or grocery stores; Five off-street parking spaces for every 1000 square feet of gross leasable area devoted to department stores or grocery stores. Additional parking spaces as required herein for banks, theaters, and eating and drinking establishments shall be included. |
| (24) | All other retail and service establishment's | One space for every 200 square feet of gross leasable floor space, otherwise not less than five off-street parking spaces |
| (25) | Personal service establishment's | One parking space for each employee plus 1 ½ parking spaces for each service chair |

Warehousing and industrial uses:

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|------|--|--|
| (26) | All wholesaling, warehousing and distribution facilities | One parking space for every 600 square feet of gross floor space |
| (27) | All industrial, manufacturing, and processing facilities | One parking space for every 600 square feet of gross floor space, or one space for each employee on the largest shift. |
| (28) | Self-service storage facilities | One parking space for every 100 individual storage spaces. Two parking spaces for management and one parking space for each additional employee shall also be provided. A minimum of three parking spaces shall be provided. |

6-1.1 *Special exception to required parking requirements.*

- (1) *Reduction of required parking for residential facilities intended for occupancy by the elderly.* The Board of Adjustment may, as a special exception, after notice and hearing, and subject to appropriate safeguards and conditions, grant a reduction in off-

street parking requirements of not more than 50% of that generally required for such facilities, provided that adequate land is available for future expansion to accommodate the generally required amount of parking and that the side design of such reduced parking area will facilitate future expansion if such is required.

- (2) *Reduction of required off-street parking for industrial, processing, storage, warehousing, distribution, or wholesaling uses.* The Board of Adjustment may, as a special exception, after notice and hearing, and subject to appropriate safeguards and conditions, grant a reduction of not more than 50% in the amount of parking required for industrial, processing, storage, warehousing, distribution, or wholesaling uses if such action appears to be reasonably justified as based upon employment levels and characteristics of operation of such uses and provided that adequate land is available for future expansion to accommodate the generally required amount of parking space if future expansion is required.

6-1.2 *Other regulations relating to off-street parking.*

- (1) All improvements for off-street parking, including those in excess of the requirements of this ordinance, but excluding those for one and two family residential structures, shall be properly graded, marked and paved parking lots or within parking structures.
- (2) Design of parking area: All off-street parking shall have access to a public street or alley. All parking areas will be designed so that vehicles will not be required to back onto a public street or alley classified as a collector or major street as defined by the Town Engineer. Backing onto minor streets or alleys will be allowed.

Bay parking for multiple parking facilities shall be permitted provided no more than six parking spaces shall be provided in any one parking bay. Each bay shall be separated by a three-foot dividing strip.

- (3) Size of required parking spaces: for purposes of this ordinance the minimum size of one parking space shall be 9 feet in width and 20 feet in depth plus sufficient areas for ingress and egress.
- (4) Remote parking space: If the off-street parking space required by this ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the principal use; provided that the owner or authorized agent for the land upon which such remote parking is located shall restrict the use for such parking areas for parking only in connection with the use or structure for which such remote parking is provided.

- (5) Travel or camping vehicles: Not more than one travel or camping vehicle per family living on the premises shall be permitted to be parked on a lot in any residential zone; and the vehicle shall not be occupied temporarily or permanently while it is parked or stored, except in an authorized mobile home park.

Sec. 6-2. Off-street loading requirements.

Every building or structure hereafter erected and used for business, trade, or industry shall provide space as indicated herein for the loading and unloading of vehicles, with access to a public street or alley. Such space shall be so arranged that vehicles shall maneuver for loading and unloading within the property lines of the premises. Off-street loading spaces shall meet the following requirements of size and number.

6-2.1 *Retail and service businesses:* One space, 10 by 25 feet, with overhead clearance of 14 feet, for each 20,000 square feet of gross floor area or fraction thereof.

6-2.2 *Wholesale and industrial uses:* One space, 10 feet by 50 feet, with 14 feet overhead clearance, as follows:

<i>Square feet of gross floor area in structure</i>	<i>Number of berths</i>
<i>0-25,000</i>	<i>1</i>
<i>25,000-40,000</i>	<i>2</i>
<i>40,000-100,000</i>	<i>3</i>
<i>100,000-160,000</i>	<i>4</i>
<i>160,000-240,000</i>	<i>5</i>
<i>240,000-320,000</i>	<i>6</i>
<i>320,000-400,000</i>	<i>7</i>
<i>Each 90,000 above 400,000</i>	<i>1</i>

6-2.3 *Bus and truck terminal:* Sufficient spaces to accommodate the maximum number of buses or trucks to be loading, unloading or stored at a terminal at any one time.

Sec. 6-3. Group developments.

6-3.1 *Types of group developments*

- (1) Group commercial or industrial developments consist of more than one commercial or industrial structure erected on a single lot.
- (2) Group housing developments consist of:
 - a. Any structure containing more than four dwelling units on the first floor level thereof or containing more than eight dwelling units throughout.
 - b. More than one structure containing dwelling units erected on a single lot.

6-3.2 *Regulation of group commercial or industrial developments.* Group commercial or industrial developments may be established in any district provided that:

- (1) They house only permitted or permissible uses for the district in which they are located;
- (2) They meet all lot, yard, and other requirements of this ordinance.

6-3.3 *Regulation of group housing developments.*

- (1) *Establishment.* Group housing developments may be established as follows:

Containing single-family detached, two-family detached, or multiple-family dwellings, permitted outright in RG-1 and RG-2 districts.
- (2) *Lot area per dwelling unit.* A group housing development shall conform to the minimum lot area per dwelling unit for the district in which it is located, provided however, that any group housing development containing more than one structure shall have a lot area of at least 20,000 square feet.
- (3) *Street access.* Any building established in connection with such group housing development which does not face directly on a public street shall be provided with access to a public street by a paved driveway having a pavement width of not less than 20 feet, exclusive of parking spaces.
- (4) *Setback requirements.* All buildings and structures established in connection with such group housing developments shall comply with all front, side, and rear yard setback requirements for the district in which they are located.
- (5) *Orientation of yards.* The orientation of yards for structures within group housing developments shall be based upon the orientation of the lot and upon the orientation of the individual structures, as further set forth in section 4-6.3 "Appropriateness of Orientation" (page 16)
- (6) *Position of dwelling structures.* No dwelling structure established in connection with a group housing development shall be situated on

- a lot as to face the rear of another building or structure within the development within a distance of 100 feet.
- (7) *Uses prohibited.* In no case shall a use be permitted in connection with a group housing development that is prohibited by this ordinance in the district in which such group housing development is to be located.
 - (8) *Off-street parking facilities.* Off-street parking facilities established in connection with such developments shall be of such design, location and arrangement that will not interfere with the access of emergency or service vehicles and as will comply with the provision of Section 6.1 (page 66)
 - (9) *Elevators or escalators.* Any residential structures within a group housing development, or defined as being a group housing development, containing more than two stories above or below level of the principal entrance shall contain elevators or escalators.
 - (10) *Limitation on length of residential buildings.* In group housing developments, no single row of dwelling units which are physically attached shall be greater than 200 feet in length.

6-4 Mobile Home Parks

Mobile homes are permitted only in MHP (Mobile Home Park) zoning districts and other areas as specifically stated in this ordinance.

6-4.1 *Permissible use of mobile homes.* Mobile homes shall be permissible only in the following location and circumstances:

- (1) In an approved mobile home park district.
- (2) As a temporary office or shelter at a legitimate construction site in any district.
- (3) At a business or industry involved in the sale or manufacture of mobile homes.
- (4) Dwellings for watchmen or caretakers in a M-1 or M-2 district in accordance with section 5-5.2(39) (page 38)
- (5) In any zoning district as permitted by the Board of Adjustment by variance; provided; however, that no such variance shall be granted for more than one year. Such variances may be renewed for additional one-year periods at the discretion of the Moundville Zoning Board of Adjustment.

6-4.2 *Site standards and regulations for mobile home parks.*

- (1) A mobile home park shall meet the following site standards and regulations:
 - a. The minimum area for any mobile home park shall be four acres.

- b. The maximum density if ten mobile home sites per acre.
- c. Minimum front, side and rear yard setbacks for all sides of mobile home park shall be 50 feet.
- d. All minimum interior side yard and rear yard setbacks shall include a minimum of a 15 foot wide planting area of trees and shrubs to act as a screen between the mobile home park and abutting property.
- e. Access points shall be located on public streets providing safe and convenient access, provided however, that individual mobile homes shall not have direct access from public streets from a public street. Means of ingress and egress into the mobile home park shall not be used for access to individual mobile homes.
- f. No sign or other form of advertising shall be permitted other than necessary to identify the mobile home park and shall be in compliance with the requirements of Article VII (page 92)
- g. All mobile home sites shall abut upon a driveway of not less than 26 feet in width. All driveways shall be hard surfaced, well-marked and lighted by the mobile home park owner.
- h. The entire area shall be adequately serviced by water and sewer and all mobile homes remaining for a period exceeding 30 days must meet the requirements of the Moundville Building Code and the Hale or Tuscaloosa County Health Department Regulations pertaining to mobile homes.
- i. No accessory building or structure shall be erected or maintained in any required minimum setback area for the mobile home park or any individual mobile home space, nor shall an accessory building or structure be located more than 100 feet from the mobile home it is to serve.

(2) The following site standards shall apply to individual mobile home spaces within each mobile home park:

- a. *Size.* No mobile home space shall be less than 4,000 square feet.
- b. *Setbacks.* Minimum front, side and rear setbacks shall be as follows.
 1. Front yard shall be 20 feet
 2. Side yards shall be a total of 25 feet with one yard of not less than 10 feet.
 3. Rear yard shall be 10 feet.
- c. *Landscaping.* All minimum setback areas shall be permanently landscaped and maintained with ground cover,

trees, and shrubs.

6-4.3 *Site plan application required.* A site plan application shall be submitted and approved by the town engineer, building inspector, and the Planning and Zoning Commission prior to the issuance of any grading permit or building permits. The plan shall contain the following information:

- (1) The scale of the map shall not be less than one inch to 50 feet with contours at 5 foot vertical intervals showing pertinent topographical features.
- (2) The location, use, plan, and dimension of each building or structure to be constructed and the location of each mobile home to be parked.
- (3) 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.
- (4) Location, dimensions, and arrangement of all areas devoted to planting, lawns, trees or similar purposes, with a description including the height and density of all trees or planting to be used for screening.
- (5) Location and description of all facilities to be used for sewage disposal, water supply, and storm drainage.

6-4.4 *Special requirements for mobile homes.* Each mobile home hereinafter located on a lot or space within the corporate limits of the Town of Moundville for any purpose, including but not limited to, residential, commercial, construction site, or industrial caretaker shall meet the following requirements specified on building permits and enforced by permit and inspection thereof:

- (1) *Mobile home anchorage.* A mobile home pad shall be installed to provide adequate support for the placement and tie-down of each mobile home. The pad shall not heave, shift or settle unevenly under weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. Anchors or tie-downs such as cast-in-place concrete dead-men, eyelets imbedded in concrete screw augers, or arrowhead anchors shall be placed at each corner of the mobile home pad and at intervals of at least 20 feet. Each device shall be able to sustain a minimum load of 4,800 pounds.
- (2) *Mobile home skirting.* Skirting shall be provided around the entire mobile home from the bottom of the mobile home to the mobile home pad. The materials used shall be aluminum or other durable siding material. Adequate landscaping around skirting is encouraged.

- (3) *Existing mobile homes on lots or spaces.* The number of mobile homes in an existing mobile home park shall not be increased prior to the mobile home park being brought into compliance with Section 6-4 (page 73)

6-4.5 *Streets*

- (1) *General.* All mobile home parks shall be provided with a safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be by provided streets, driveways or other means. Provided, however, that individual mobile homes shall not have direct access from public streets. Means of ingress and egress into the mobile home park shall be used for access to individual mobile homes.
- (2) *Private streets.* Streets in a mobile home park shall be private, provided that where an adjoining tract of land would have access to public streets only through the mobile home park, at least one street meeting all standards prescribed in the subdivision regulations shall be dedicated to the public for the purpose of providing such access.
- (3) *Entrance streets.* Entrances to mobile home parks shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of 100 feet from its point of beginning.
- (4) *Circulation.* The street system shall provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be limited in length to 600 feet and their closed end shall be provided with an adequate turn around (60 foot diameter cul-de-sac). Streets of less than two lanes will not be permitted.
- (5) *Pavement widths.* Pavements shall be of adequate width to accommodate the contemplated parking and traffic load in accordance with the type of street with ten feet minimum moving lanes for collector streets, nine feet minimum moving lanes for minor streets, seven feet minimum lanes for parallel parking and in all cases shall meet the following requirements:
 - a. Collector streets with guest parking allowance, 34 feet.
 - b. Collector streets and all other streets except minor streets without parking allowances, 24 feet.
 - c. Minor streets serving less than 40 lots (no parking), 18 feet.

- d. Parking width of interior streets shall be 20 feet minimum width.
- (6) *Street grades.* Grades of all streets shall be sufficient to insure adequate surface drainage, but shall not be more than 8%. Short runs with a maximum grade of 12% may be permitted, provided traffic safety is assured.
- (7) *Intersections.* Street intersections shall generally be at right angles and shall meet the requirements of Section 4.3 (page 15) and shall be subject to approval by the City Engineer for sight distance. Offsets at intersections and an intersection of more than two streets at one point shall be avoided.
- (8) *Extent of improvements.* All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. The surface shall be maintained free of cracks and holes and its edges shall be protected by suitable means to prevent beveling and shifting of the base.
- (9) *Street lights.* Lighting shall be designed to produce a minimum of one-tenth foot candle throughout the street system. Potentially hazardous locations, such as major street intersections, shall be individually illuminated with a minimum of three-tenths foot-candle.

6-4.6 Walks

- (1) *General requirements.* All mobile home developments shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain.
- (2) *Common walk system.* A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of 3 ½ feet.
- (3) *Individual walks.* All mobile home pads shall be connected to common walks, or to streets, or to driveways, or to parking spaces. Such individual walks shall have a minimum width of two feet.

6-4.7 Driveways and parking spaces.

- (1) *Driveways.* Improved driveways shall be provided on lots where necessary for convenient access to mobile homes. The minimum width shall be ten feet.

- (2) *Parking spaces.* The design criteria for automobile parking shall be based upon two parking spaces for each mobile home lot. Parking may be in tandem.

Sec. 6-5 Home Occupations

Occupations, professions, or trades customarily carried on by occupants of dwelling units as secondary uses which are clearly incidental to use of dwelling units for residential purposes are allowed as accessory uses in district where dwelling units are permitted or permissible, subject to the following provisions:

- 6-5.1 No person other than members of the family residing on the premises shall be engaged in such occupation.
- 6-5.2 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 2.5 % of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- 6-5.3 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 sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- 6-5.4 The home occupation shall be conducted only within the principal structure.
- 6-5.5 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, in accordance with section 6-1 (page 66).
- 6-5.6 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 sense off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. 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 causes fluctuation in line voltage off the premises.
- 6-5.7 No outdoor storage shall be allowed in connection with any home occupation.
- 6-5.8 Operation of home occupations is limited to the hours between 8 a.m. and 8 p.m.

Sec. 6-6 Day care centers and kindergartens.

Day nurseries and kindergartens are permitted as special exceptions subject to the following provisions:

- 6-6.1 *General requirements.* Before granting a special exception for establishment of a day care center or kindergarten, the Board of Adjustment shall determine that such facility will be eligible for a license from the State of Alabama Department of Pensions and Security.
- 6-6.2 *Fencing.* A fenced play area of not less than 3,000 square feet shall be provided. Also, the number of children in the fenced play area at any time shall not exceed the ratio of one child for every 150 square feet of fenced-in play area. No fence shall be less than five feet in height or greater than seven feet in height.
- 6-6.3 *Loading and unloading.* An area adequate for loading and unloading of children to be accommodated shall be provided and such area shall not be located within any public right-of-way.
- 6-6.4 *Signs.* Notwithstanding provision of Article VII (page 91) of the zoning ordinance, signs in connection with any day nursery or kindergarten located in any residential district shall be limited to one sign for each facility, not to exceed two square feet of display area, and not illuminated.
- 6-6.5 *Play equipment.* No play equipment shall be closer than 20 feet to any residential lot line.
- 6-6.6 *Additional conditions.* The Board of Adjustment shall determine if additional safeguards and conditions are appropriate in order to protect children accommodated from detrimental characteristics of use of adjacent areas, or to protect adjacent uses from potentially incompatible characteristics arising from such day nurseries and kindergartens.

Sec. 6-7 Special requirements for special exceptions.

Where and when certain uses and structures are permitted as special exceptions, before granting such special exceptions the Zoning Board of Adjustment shall consider:

- (1) Existing characteristics of development in adjacent area.
- (2) Potential effect of such traffic flow characteristics of adjacent streets.
- (3) Ingress, egress, parking, circulations, and site design of the

- proposed use or structure;
- (4) Potentially adverse characteristics of operation and use.

Sec. 6-8 Self-service storage facilities.

Self-service storage facilities are permitted as special exceptions subject to the following provisions:

- 6-8.1 *Maximum lot area.* The maximum lot area for a self-service storage facility shall be three acres.
- 6-8.2 *Storage unit size.* No individual storage unit shall exceed 600 square feet. A single tenant shall not be allowed to rent more than 4,000 square feet at a single permitted location.
- 6-8.3 *Interior parking lanes.* Interior drives shall not be less than 20 feet in width if access is available from more than one direction. Otherwise, said interior drives shall not be less than 27 feet in width. Drives must be properly paved and marked according to the standards of the City Engineer.
- 6-8.4 *Fencing.* Where practical, the walls of buildings shall not be used as a part of security fencing. Fencing shall be required and shall be a minimum of six feet in height and shall be constructed of permanent materials that will prevent the passage of debris. Where adjoining property is zoned residential, said fence shall be constructed of opaque materials such as masonry bricks, wood or other similar materials and shall be erected inside the common property line to buffer the self-service storage facility from the residentially zoned area.
- 6-8.5 *Landscaping.* Upon approval of this special exception in a neighborhood or highway commercial (C-1, C-2) zone, the applicant shall provide a professional landscaping plan detailing trees and foundation plantings and their placement in the front setback. The Board of Adjustment shall have the authority to require specific landscaping material treatment, as deemed necessary to enhance the proposed development's compatibility with surrounding uses. Professional landscaping of the front setback shall not be required in light and heavy (M-1, M-2) industrial zoning districts.
- 6-8.6 *Outdoor lighting.* All outdoor lights shall be shielded to direct light and glare only onto the storage premises and shall be only of sufficient intensity to discourage vandalism and theft.
- 6-8.7 *Enclosed storage.* All storage shall be within enclosed buildings, except as provided in section 6-8.8 below.

6-8.8 *Outdoor vehicle storage.* Required parking spaces (section 6-1.1, page 69) shall not be rented as, or used for, vehicular storage except that additional parking area may be provided for recreational vehicle storage and other vehicles provided that the area is adequately screened from the view of adjoining residentially zoned properties.

6-8.9 *Residential manager.* Where necessary, a permanent residential apartment, not to exceed 1,200 square feet, may be provided adjacent to the office of the facility for the exclusive use of the resident manager.

6-8.10 *Use restrictions.*

- (1) Self-service storage facilities shall be limited to inanimate storage only.
- (2) No activities other than rental of storage units and pickup and deposit of inanimate storage shall be allowed on the premises.
- (3) Activities prohibited on the premises include, but may not be limited to, the following:
 - a. Auctions, commercial, wholesale or retail sales, or garage sales except the sale or other disposition of abandoned personal property by the owner of the self-service storage facility in accordance with applicable state law;
 - b. The servicing, repair, or fabrication of motor vehicles, boats, trailers, lawnmowers, appliances, or other similar equipment.;
 - c. The operation of power tools, spray painting equipment, table saw, lathes, compressors, welding equipment, kilns, or other similar equipment;
 - d. The establishment of a transfer and storage business;
 - e. Any use that is noxious or offensive because of odors, dust, noise, fumes, or vibrations;
 - f. The storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals.
 - g. The storage of waste materials, including but not limited to hazardous, toxic wastes;
 - h. The occupancy of a self-service storage unit for residential purposes;
 - i. The conduct of illegal activities and/or the storage of illegal material, merchandise, substances, and the like; and

- j. All self-service storage facility rental or lease contracts shall include clauses prohibiting all animate storage and uses described above in section 6-8.10, a. through j.

Sec. 6-9 Temporary fireworks stands.

Temporary fireworks stands are permitted by right in C-2, M-1 and M-2 zoning districts, subject to the following provisions.

- (1) Front setback requirements shall be waived.
- (2) Side and rear yard setbacks shall conform to the minimum required for the particular zoning district.
- (3) A minimum of five off-street parking spaces shall be required per fireworks stand. Improved parking area shall not be required.
- (4) Advertising signs on the site shall conform to the zoning requirements for the particular zoning district.

Sec. 6-10 Fences and walls.

In business and industrial districts, no wall or fence shall exceed a height of ten feet, and in residential districts, no wall or fence shall exceed a height of eight feet, provided that the Board of Adjustment, as a special exception, may permit walls and fences of greater height when there exists a reasonable need. No fence or wall in any district shall project into the unobstructed space required at an intersection, Section 4-3 (page 15) In a front yard, walls and fences shall be architecturally compatible with the style, materials, and colors of the principal building on the same lot. Stone walls or brick walls with a stone or cast stone cap are encouraged. Wood fences, decorative metal, or cast iron fences, masonry or stucco walls, and stone piers shall be encouraged. Solid wooden fences are permitted in rear and side yards only. In residential zones, highway style guard rail, stockade, or contemporary security fencing such as barbed or razor wire are prohibited. No part of a fence in a required front yard shall be within ten feet of the curb-line, nor shall it be on the public right-of-way. In a residential district, no fence in a required front yard shall exceed four feet in height.

Sec. 6-11 Swimming Pool.

6-11.1 A swimming pool on private property in a residential district shall be for the noncommercial use of the owner, his family and guests only. A swimming pool, including pumps and filters, accessory to a single-family or two-family dwelling may be located within a required rear yard, but shall not extend closer than five feet from the rear lot line, nor closer to the side lot line than the required side yard depth of five feet. A

swimming pool accessory to a multifamily dwelling or commercial structure shall be located within the buildable area of the lot or parcel.

6-11.2 Any permanently constructed swimming pool, or any temporary or inflatable pool which can be filled to a depth in excess of 18 inches, shall be enclosed by a fence or wall meeting the following standards:

- (1) The barrier shall extend from the surface to a height of at least six feet. The bottom of the fence shall be sufficiently anchored to the surface so that it cannot be pulled out for children to enter beneath it.
- (2) Basket weave, split rail, and other decorative fences which can be easily scaled by a child are not permitted. Any branches or frames which could afford a child footholds or handholds will be on the pool side.
- (3) A self-closing and self-latching gate or door, with the mechanism on the inside of the gate or door, out of reach of children, will be required.
- (4) No part of the wall of a multifamily residence which includes a window or a door shall be incorporated into the required pool enclosure.

Sec. 6-12 Landscaping requirement.

6-12.1 *Definitions:* for the purposes of this section, the terms listed below are defined as indicated:

- (1) *Screening:* A barrier of natural and/or manmade nature that presents a visual obstacle to the eye. Screens may consist of, but are not limited to, any combination of the following: walls, fences, bushes, trees, hedges, shrubs, and earthen berms.
- (2) *Buildable area:* That part of the building lot not occupied by improvements (covered by buildings, driveways, walks, swimming pools, patios, etc. or containing overhead or underground obstacles such as power service lines or septic field lines, or projected improvements to the property; easements for access, storm sewers, drainage facilities, or utilities; and located behind the minimum building line and inside the rear and side setback lines.
- (3) *Owner:* Any person or business, including the developer, who has legal title to a lot and who builds or causes to have built a structure on the property.

6-12.2 The following landscaping provisions shall apply to all developments in

the City of Moundville.

- (1) Continuous/unbroken screening shall be required for all new developments where existing dissimilar land uses abut the proposed new development. For the purpose of this section, institutional, single-family residential, multi-family residential, mobile home parks, commercial, and industrial uses are deemed to be dissimilar land uses abutting the proposed new development. For the purposes of this section, institutional, single-family residential, multi-family residential, commercial and industrial uses are deemed to be dissimilar to each other regardless of whether or not such uses are in as PD or other classification or whether or not such use is permitted by variance or special exception. In the event that a new development is proposed adjacent to a dissimilar use, the developer shall install screens and/or buffers as described herein. Screens and/or buffers of man-made materials shall be at least 8 feet high and made of materials that are in character with the existing and proposed development in the zoning board's discretion. Screens of living materials shall initially be at least 5 feet high and provide a year round visual barrier such as evergreens, red tops, and other plant varieties that provide a year round visual barrier. Screens and/or buffers of living materials shall be of a variety that would normally be expected to grow to a height of 8 feet within 5 years after planting. The party responsible for installing such screens and/or buffers (or such party's grantees) shall be responsible for maintaining them at all times that such dissimilar uses abut each other. All such screening and buffers shall be placed outside or behind the utility and street right-of-way boundary in order to prevent the possible need for their removal at a later date.
- (2) Developers shall attempt to preserve outside the buildable area of each lot at least one sound and healthy hardwood tree four or more inches in diameter (measured at a point three feet above the natural ground) per 3,000 square feet of developed land outside the buildable area. Whenever this guideline cannot be followed or where no such trees exist, trees or shrubs shall be planted outside the buildable area of each lot at the rate of at least one tree (at least 5 feet high or three years old) or shrub per 3,000 feet of land unless the owner as defined in this section expresses by written statement to the zoning board that he/she does not want any or only part of the required trees or shrubs planted. If trees or shrubs are to be planted, the owner or builder may elect to wait until the dormant season for the vegetation to be planted in order to improve the livability of the vegetation.

- (3) Landscaping plans will be provided along with site plans for the review and approval of the Planning and Zoning Board. In cases where owners of the development will develop and build all of the structures within the development, the landscaping plan will identify location of trees or shrubs to be planted.
- (4) Final site plans shall have indicated thereon all building setback lines (front, sides, and rear). Also, the recorded plat will contain a statement similar to the following: "Each lot shall meet the landscaping requirements of section 6-12 (page 83) of the zoning ordinance of the City of Moundville.

Sec 6-13 Required maintenance standards.

6-13.1 Commercial, multifamily residential, mobile home parks, and industrial district parking lots and striped spaces, fences, landscaping, signs, and streets and driveways shall be property maintained and repaired as per standards set forth in this ordinance.

6-13.2 Minimum standards for construction of all parking lots, interior streets and driveways are as follows: Parking lots shall have a minimum eight inches of compacted clay-gravel base. The surface treatment shall be a minimum two inches (200 lbs./s.y) of bituminous concrete wearing surface. Where subsurface conditions are poor, or truck traffic is permissible, the quantities shall be increased accordingly per approval by the City Engineer.

Sec 6-14 Bed and breakfast inn requirements and restrictions.

6-14.1 Bed and breakfast inns may be permitted by the Board of Adjustment as a special exception in the RS-1 and RS-2 zones, subject to the following requirements and restrictions:

- (1) No more than three rooms may be used for this purpose
- (2) One off-street parking space, in addition to two spaces normally required, must be provided for each guestroom.
- (3) One bathroom must be provided for each guestroom.
- (4) Health department approval of kitchen and dining room facilities must be obtained annually.
- (5) No more than 50% of the residential floor space may be devoted to such use.
- (6) A minimum of 20,000 square feet of land and a minimum of 2,000 square feet of structural space shall be required.

- (7) A business license and a certificate of occupancy must be obtained annually.

Section 6-15 Telecommunications towers and antennae.

Sec. 6-15.1 Intent. The intent of these regulations is to accommodate the siting of telecommunications towers and antennae while protecting the general health, safety, and welfare of the public, protecting property against blight and depreciation, promoting desirable living conditions and the sustained stability of neighborhoods, and maintaining the economically necessary appeal to the City as an attractive and desirable rural community.

Specifically, the purposes of this Article are:

1. To accommodate the adequate siting of telecommunications towers and antennae within the municipality while regulating both their number and location.
2. To ensure that telecommunications towers and antennae have minimal adverse visual effect and are in harmony with the rural character of the community by utilizing creative and careful design, siting, landscaping and camouflaging techniques.
3. To afford protection to residential areas and uses from the possible negative impacts of telecommunications towers and antennae.
4. To encourage the use of existing structures for the placement of antennae and other telecommunications support apparatus in order to avoid the unnecessary siting of new telecommunications towers within the community.
5. To ensure the primary option for the siting of telecommunications towers and antennae is co-location with other such facilities rather than the construction or siting of additional structures or facilities, thereby reducing the number of such structures needed for future use.
6. To ensure that telecommunications towers, antennae, and all telecommunication support apparatus and facilities are compatible with surrounding uses.
7. To minimize the potential for damage to life or property caused by the failure of telecommunications towers, antennae, or other telecommunications support apparatus or facilities by ensuring that all such structures are designed, constructed and sited properly and

by ensuring that all such structures are properly maintained and removed at property owner's expense when no longer necessary or determined to be structurally unsound.

Sec 6-15.2 Definitions. For the purposes of this section, the following definitions shall apply:

1. *Antenna.* Any device used to radiate or receive radio waves, electromagnetic radiation, microwaves, or any other energy source present within the electromagnetic spectrum.
2. *Antenna Support Structure.* Any structure, other than telecommunications towers, including without limitation, existing buildings and water towers used to support antennae.
3. *Camouflage.* Any method of design and construction which serves to disguise, hide, or conceal a telecommunications tower, antennae, or any other related structures so as to minimize the adverse visual impact of such structures upon the surrounding environment, whether it be constructed improvements on improved property or unimproved property in its natural state.
4. *Co-location.* The shared use of telecommunications towers and/or antenna support structures by two or more providers of telecommunications services.
5. *Telecommunications.* Any communication that occurs as the result of the transmission or reception of any electromagnetic radiation, including but not limited to radio, television, cellular telephones, paging, personal communications service (PSC), satellite, and public safety.
6. *Telecommunications Support Apparatus.* Any accessory equipment or material designed and used specifically for the operation, security or structural support of telecommunications towers, antennae or their associated facilities, including but not limited to any cables, guy wires, anchors, lines, fences, unmanned equipment cabinets and equipment rooms.
7. *Telecommunications Tower.* Any free standing or self supporting structure, constructed from grade, which is used primarily to support one or more antenna(e).

Sec 6-15.3 Use Regulations.

1. Telecommunications antennae and antennae support structures shall be allowed by right within all zoning districts only when such antennae and antennae support structures are attached to an existing building, telecommunications tower, water tower, flag pole, utility pole, or any other such structure and only which such antennae or antennae support structures are adequately camouflaged as required by Section 6-15.2 (3) (page 87). In no

case, however, shall the height of such antennae or antennae support structure extend more than ten(10) feet above the average height of any existing structure to which it is attached or exceed the maximum height limitations as set forth elsewhere in these regulations. Site plan approval shall not be required for such installations.

2. Use permitted by special permit shall be required in order to locate and construct any telecommunications tower or telecommunications support apparatus within the C-2, M-1, M-2, & RR districts.
3. Telecommunications towers and telecommunications support apparatus shall not be allowed within the RS-1, RS-2, RS-3, RG-1, RG-2, PD, C-1, MHR, or I districts, with the exception of telecommunications support apparatus which is located wholly within an existing principal building to which approved telecommunications antennae or antennae support structures are attached.

Sec. 6-15.4 Design Standards. The following design standards shall apply to construction of any telecommunications tower, telecommunications support apparatus, telecommunications antennae, or antennae support structures:

1. *Co-location.* Unless it is satisfactorily demonstrated by the applicant through the use of technological evidence that no alternative to the construction of a new tower or antennae support structure exists, all towers, antennae, supporting structures and apparatus shall be co-located with existing facilities. In the event that there are no alternatives to the construction of a new telecommunications towers, then such towers shall be constructed in a manner which will readily accommodate at least two (2) additional service providers.
2. *Camouflage.* In order to minimize the visual impacts of telecommunications towers, antennae and antennae support structures, all such installations shall incorporate design elements which have the effect of camouflaging such installations to the extent that they are not readily visible or easily distinguishable from the surrounding environment, whether natural or manmade. Exceptions to this requirement may be granted only where such requirements prove to be impractical.
3. *Setbacks.* Telecommunications towers shall maintain a minimum setback from each affected property line a distance equal to the highest point of the tower as measured from the average existing grade. In no case, however, shall a tower be located nearer than two hundred feet to any residential district boundary or any

residential structure. Setbacks shall be measured from the perimeter of the tower base. Telecommunications support apparatus located upon the same lot shall maintain a minimum setback equal to that applicable to the principal structures within the zoning district in which it is located. Setbacks for such apparatus shall be measured from the nearest point at which such apparatus intersects or contacts the ground to the property line.

4. *Landscaping.* Adequate landscaping shall be provided in order to screen any telecommunications support apparatus from view. To this end, adequate landscaping shall include, at a minimum, the planting of evergreen vegetation with an initial minimum height of six feet around the entire perimeter of any such apparatus in a manner that creates a solid hedge. In addition, existing natural vegetation and trees shall be preserved to the maximum extent practical.
5. *Telecommunications Tower Height and Siting.* The maximum height of a tower shall not be greater than that which is required for the proper operation of the principal use and that of at least two additional co-located users and in no case shall tower height exceed two hundred feet. Height shall be measured from the average existing grade of the site. In addition, tower height and siting shall conform to FAA Regulation, Part 77 "Objects Affecting Navigable Airspace".
6. *Lighting.* Lighting of towers shall be prohibited unless specifically required by either the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC) and then only the minimum necessary to comply with such requirements. Lighting of non-tower elements of telecommunication facilities must be contained within a fenced area and shall not be allowed to illuminate beyond the height of the tower.
7. *Structural Design.* All telecommunications towers shall be of monopole design unless it can be proven that due to specific conditions another design is required. Maximum tower diameter shall not be greater than that which is required for the height of the tower.
8. *Telecommunications Tower Color.* Unless otherwise camouflaged to comply with the requirements of these regulations, all towers shall have a galvanized finish or be painted a silver, pale blue or grey color unless otherwise governed by either the FAA or FCC.

Section 6-15.5 Maintenance. Telecommunications towers, telecommunications support apparatus, antennae, and antennae support structure shall be maintained in a safe, structurally sound and proper working condition in compliance with all local, state and federal laws and regulations. Any such structure which has been determined to be structurally unsound or in need of repair shall be immediately repaired or removed. In addition, all other elements or an approved site, including but not limited to landscaping, shall be properly maintained.

Section 6-15.6 Abandonment. Telecommunications towers, telecommunications support apparatus, antennae, and antennae support structures which have not been in use for a continuous period of one hundred eighty (180) days shall be deemed to have been abandoned and shall be removed within ninety (90) days thereafter unless within that time period the tower is reactivated either by the initial owner/operator or by another owner/operator. All costs associated with the removal of such structures shall be the responsibility of the property owner and/or operator.

Section 6-15.7 General Requirements and Procedures for Approval.

- (1) *Permits.* A building permit shall be required for the construction and/or modification of any telecommunications tower, antenna, antenna support structure or any other associated structures or equipment. Prior to the issuance of such building permit, the applicant shall furnish to the municipal building inspector certification that the structure meets or exceeds the structural requirements as set out in EIA/TIA-222-E "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures", as amended, published by the Electronic Industries Associated. Such certification shall be made by a registered professional engineer who is licensed to practice in the State of Alabama. In addition to the building code requirements of the Town of Moundville, any applicable approvals shall be obtained from the FAA and FCC for the construction of any telecommunications tower.
- (2) Prior to applying for a Permit or Use Permitted by Special Permit to construct a telecommunications tower, the applicant must send a certified letter to all other tower owner/operators within the corporate limits and police jurisdiction stating their siting needs and requesting co-location. All applications for a Permit or Use Permitted by Special Permit shall be accompanied by the appropriate letter(s) of approval from the FAA or FCC.
- (3) In order to qualify for the Use Permitted by Special Permit to construct a Telecommunications tower, the applicant must

document that one or more of the following conditions exist which eliminates co-location as a feasible alternative:

- a. There are no suitable towers which meet the engineering requirements of the applicant and there are no suitable owners either under construction, approved for construction, or under review for building permit within the area.
 - b. Existing towers within the area lack sufficient height and/or strength and cannot be reasonably altered to accommodate the proposed antenna and related equipment.
 - c. Electromagnetic interference caused by either the proposed antenna(s) or existing antenna(s) on the tower would prevent the proper operation of either and cannot be corrected at a reasonable cost.
 - d. The applicant demonstrates that there are other limiting factors that render existing towers unsuitable.
 - e. Co-location would have a more negative impact upon surrounding properties either from an aesthetic or environmental standpoint than would the construction of a new tower.
- (4) Upon approval of a Permit or Use Permitted by Special Exception for the construction of a new telecommunications tower where co-location is required as a condition of approval, the applicant shall provide to the City of Moundville an affidavit stating that the space on the approved tower will be made available to future users without undue delay if such request for co-location use are reasonable and technically compatible with the existing facility. In addition, the applicant shall send an announcement by certified mail to all telecommunications service providers within the corporate limits and police jurisdiction stating the specifics of its intention to construct a telecommunications tower with co-location capabilities.

ARTICLE VII. REGULATION OF SIGNS.

In addition to the definitions set forth in Article I of this ordinance, the following definitions relate to signs:

7-1 Definitions

1. *Display surface area.* That area of sign including the entire area within a regular geometric shape or combination of regular geometric shapes

- enclosing all of the elements of informational or representational matter displayed, including blank masking of any surface shape intended to convey ideas, information, or meaning. Frames or structural members not bearing informational or representational matters shall not be included in computation of display surface area. Only one side of a double-faced sign shall be included in calculating the display surface area.
2. *Marquee.* A permanent roofed structure attached to and supported by a building.
 3. *Sign.* Any device designed to inform or attract the attention of persons not on the premises on which the device is located, including within limitation, signs, canopies, awnings, marquees, and similar structures; provided, however, that the following shall not be included in the application of the regulations herein.
 - (1) Signs not exceeding one square foot in area in bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
 - (2) Flags and insignia of any government except when displayed in connection with commercial promotion.
 - (3) Legal notices, identification, informational, or directional signs erected or required by governmental bodies; historical markers.
 - (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving lights.
 - (5) Signs directing and guiding traffic on private property, but bearing no advertising matter.
 4. *Signs, advertising.* Any sign which is related in its subject matter to products, accommodations, services, or activities sold or offered elsewhere than upon the premises on which sign is located. Advertising signs include, but are not limited to those signs commonly referred to as outdoor advertising signs, billboards, or poster boards.
 5. *Sign, business.* Any sign which related in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities offered, sold or engaged on the premises.
 6. *Sign copy.* All words, letters, numbers, figures, characters, artworks, symbols, or insignia that are used on a display surface area.
 7. *Sign, freestanding.* A sign which is permanently affixed to the ground and which is not a part of a building or other structure.

8. *Sign, mobile.* A sign which may be moved from one location to another, is not permanently affixed to the ground and is differentiated from a portable sign in that it may be equipped for transporting by motor vehicle or other mechanical means and including signs referred to as trailer signs.
9. *Sign, portable.* A sign which is movable by a person without aid of a motor vehicle or other mechanical equipment.
10. *Sign, projecting.* Any sign, other than a wall sign, which projects from and is supported by a building.
11. *Sign, wall.* Any sign attached flat and parallel to exterior wall or surface of a building or other structure and which projects not more than 18 inches from that wall or surface.

Sec. 7-2. General provisions.

- 7-2.1 *Signs in required front yard setbacks.* Signs may be located within required front yard setbacks, provided that such signs do not obstruct vision within the required front yard setback between the height of 2 ½ feet and a height of 10 feet measured vertically from the finished ground level at the location of the sign's supporting structure, and further provided that signs erected in required front yard setbacks shall not be erected in a manner which materially impedes visibility of moving automobiles or visibility from moving automobiles in or off the premises or visibility of pedestrians on or off the premises.
- 7-2.2 *Conditions of signs.* All signs shall be maintained in sound structural and aesthetic condition. The general area of the vicinity of any sign shall be kept free and clear of any unnecessary or discarded materials. No sign shall be allowed to deteriorate to a condition in which it is unsightly in appearance or to a condition in which it requires repairs or renovations in an amount which exceeds 50 percent of its current replacement costs. Signs which deteriorate to such a condition are deemed to be in violation of this ordinance, and as such must either be removed or improved (if permitted) by the person responsible for maintaining the sign.
- 7-2.3 *Electric or illuminated signs.* Electric or illuminated signs shall be installed in strict conformity with the Building code of the City of Moundville. No electric wire or cable serving such sign shall be laid on the surface of the ground.
- 7-2.4 *Location of signs and other structures in public areas.* No sign, canopy, awning, marquee or like structure shall be erected in or project into, or over, any public right-of-way, street, highway, sidewalk, park, or other public property; provided, however, that the following may be permitted by special exception:

- (1) In Neighborhood Commercial District only, a permanent canopy or marquee may be installed over a public sidewalk provided the owner erects and maintains it in a safe condition. On structures constructed with no front yard in a Neighborhood Commercial District, a sign mounted flush on the face of such structure may project not more than 18 inches over the sidewalk or into the public right-of-way.
- (2) In the RS-1, RS-2, MHP, and PUD districts, residential development identification signs subject to the following minimum conditions and safeguards.
 - a. The sign must be placed in a designated curbed median away from the street corner. Street corners are reserved for street and traffic control signs.
 - b. The sign must be constructed of a durable material such as brick.
 - c. The developer must indicate the location of sign on a site plan and provide construction details for review and approval with the Board of Adjustment.
 - d. No utilities shall be involved with the sign, except upon approval of the Board of Adjustment.
 - e. If the sign is ever damaged by natural or human causes the sign will not be repaired or replaced at the expense of the Town, nor shall it be allowed to remain in a damaged condition.
 - f. The developer's engineer must certify that site distance around the sign meets the minimum requirements established by the city engineer.

Sec. 7-3 Prohibited signs.

- 7-3.1 Signs imitating traffic or emergency signals. No sign shall be permitted which imitates an official traffic sign or signal, or contains words or symbols displayed in a manner which might mislead or confuse drivers of shape or order of lights customarily used in traffic signals or on emergency vehicles or on law enforcement vehicles, except as a part of a permitted private or public traffic control signal.
- 7-3.2 Signs upon natural features. Signs shall not be erected or maintained upon trees, or painted or erected upon rocks or other natural features.

7-3.3 Portable and mobile signs. All portable and mobile signs are prohibited regardless of whether such signs are permanently attached to the ground or a structure.

7-3.4 Signs employing confusing, distracting, or intense illumination. No sign shall be permitted which utilizes flashing (strobe type) lights, flashing or blinking lights, any type of pulsating or moving light which may impair the vision, or confuse, distract, or unduly divert the attention of drivers of vehicles. The use of chaser light utilizing individual light bulbs rated at 15 watts or less, or the use of neon tubing having pulsating or flashing characteristics is permitted, provided that such lighted portion of the sign is not less than ten feet above the finished ground level and not less than 25 feet from any property line, measured at ground level nearest such lighted incandescent bulb with wattage exceeding 20 watts, except as a shielded, indirect light source.

Sec. 7-4 Temporary signs permitted in any district.

Non-illuminated temporary signs may be erected in any district in addition to signs permitted otherwise, subject to the following provisions:

7-4.1 *Temporary subdivision signs.* Temporary signs announcing a land subdivision development may be erected on the premises provided that such signs do not exceed 50 square feet in area, are spaced at least 300 feet apart, and are removed not more than 30 days from such time as 75 percent of the lots are conveyed.

7-4.2 *Craftsmen's signs.* Signs of craftsmen, artisans, house painters, contractors, or subcontractors may be erected and maintained during the period that such persons are performing repair, remodeling, repainting, or improvement work on the premises on which such signs are erected, provided that the size of such signs is not in excess of 12 square feet and that such signs are removed immediately upon completion of the work.

7-4.3 *Contractors' signs on buildings under construction.* One sign displaying the names of the building, contractors, architects, engineers, and similar information is permitted upon the premises of any work of major repair or improvement, provided that the sign does not exceed 60 square feet in area and the sign is removed within seven days after completion of the work.

7-4.4 *Real estate signs.* Signs offering real estate for sale, rent, or lease are permitted provided that combined display surface area of all such signs does not exceed four square feet for every 100 feet of street frontage and that total display surface area shall not be required to be less than four square feet on any individual lot. Signs may be placed only on land

owned by the seller. Open house signs shall be placed two days prior and removed day after open house.

7-4.5 *Political campaign signs.* Signs announcing candidates seeking public office or in relation to any election or public referendum shall be permitted in all districts, subject to the following provisions:

- (1) Such signs are confined wholly to placement on private property.
- (2) Such signs are removed within seven days after the election or referendum for which they were prepared has been decided.
- (3) The regulations of this section do not prohibit the purchase of advertising space on permitted advertising signs in addition to the signs permitted by this section.

Sec 7-5 Signs permitted in residential districts.

Signs are permitted in the RS-1, RS-2, RS-3, RG-1, RG-2 and PUD districts, subject to the following regulations:

7-5.1 *Signs excluded from regulation by definition.* Those signs excluded from regulations by section 7-1.3 (page 91) are permitted.

7-5.2 *Temporary signs.* Temporary signs permitted in all districts as provided in Section 7-4 (page 95) shall be permitted.

7-5.3 *Home occupation signs.* One non-illuminated sign shall be permitted for each approved home occupation provided that the display surface area of such sign does not exceed two square feet in area and that such sign is mounted flat against the wall of the building in which such home occupation is conducted or flat against the wall of the principal structure.

7-5.4 *Permanent subdivision signs.* Permanent signs displaying no information other than the name of the residential land subdivision in which they are located shall be permitted provided that such signs do not exceed 20 square feet in area, do not encroach upon vision clearance established in this code and are maintained in a safe and sound structural and aesthetic condition.

ARTICLE VIII. FLOOD PLAIN REGULATIONS

Sec. 8-1 Intent.

This district is created in order to provide appropriate land use regulations for areas which have a one percent (1%) probability for flooding in any year, the one hundred year flood plain. It is intended to permit only those uses and structures in such areas which will not adversely affect the hydraulic characteristics of the floodway and will not result in loss of life or

heavy property damage at a time of high water. Unlike other zoning districts created by this ordinance, a Flood Plain District may overlap the boundaries of a different district, providing a set of additional restrictions in the overlapping area.

In considering any petition to the Planning Commission for Uses Permitted by Special Permit, the burden of proof shall be on the petitioner to show, by competent engineering data prepared by a registered engineer, that the danger from flood water has been eliminated for the proposed use. The regulations for this district are based on Section 1910.3 of Rules and Regulations published in Federal Register of September 10, 1971.

Sec. 8-2 Floodway (FW) District Use Regulations. A Floodway District as shown on the Flood Insurance Rate Map is established to meet the needs of the flood-prone area of Moundville to carry abnormal flows of water in time of flood, to prevent encroachments into the district which will unduly increase flood heights and damage, and to prevent the loss of life and excessive damage to property in the area of greatest flood hazard. Within the Floodway District, the following provisions shall apply:

Uses Permitted in FW: The following uses are permitted subject to approval of the Planning and Zoning Commission and to such conditions as the Planning and Zoning Commission may specify to protect the public interest, and which do not conflict with uses permitted in the overlapped districts, if any.

- a. Open-type uses, such as loading and unloading areas, parking lots, used car lots, billboards, and gardens auxiliary to uses permitted in any adjoining district.
- b. Storage yards for equipment and material not subject to major damage by floods, and which would not float away, provided such use is auxiliary to uses permitted in adjoining district and materials do not include inflammables such a gasoline.
- c. Open-type public and private recreation facilities such as public parks, golf courses and driving ranges, drive-in theaters, fishing lakes, and boat docks.
- d. Circus, carnival, and similar transient amusement enterprises.
- e. Agricultural uses, including farming, grazing and livestock raising.
- f. Utilities, road and railroad bridges, electric and other transmission lines, but not transformer stations.
- g. Any other uses customarily accessory or incidental to the above uses.

Uses prohibited in FW

- a. Structures designed for or utilized for human habitation.
- b. Structures which could be floated away and thus further restrict bridge openings and other restricted sections of the stream.

- c. Filling of land or dumping of debris.
- d. Storage of materials, such as logs, lumber, tanks, etc. which could be floated away and restrict bridge openings.
- e. Storage of toxic chemicals or inflammables such as gasoline.

Special provisions. No permit shall be issued for the construction of any building or any use within the Floodway District until the plans for such construction or use have been submitted to the Planning and Zoning Commission and approval is given in writing for such construction or use. The Planning and Zoning Commission may make its approval subject to such conditions necessary to carry out the purpose of this district. In its review of plans submitted, the Planning and Zoning Commission shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood heights, and endanger life and property. Any uses permitted shall be a type not appreciably damaged by flood waters. Any structures permitted shall be designed, constructed, and placed so as to offer the minimum obstruction to the flow of water. Where, in the opinion of the Planning and Zoning Commission, there is need for topographical data, engineering studies or other information to determine the effects of flooding on a proposed structure or the effect of the structure on the flow of water, the Planning and Zoning Commission may require the applicant to submit such information. The granting of approval of any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the Town of Moundville or the Town Planning and Zoning Commission, or by any officer or employee of either thereof, of the practicality of safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer, or employee for any damage that may result pursuant thereto.

Sec. 8-3. Floodway Fringe District Regulations.

Uses permitted: The following uses shall be permitted within the Floodway Fringe District to the extent that they are not prohibited by any other ordinance and are otherwise allowed by this ordinance in the overlapped District, if any.

1. Any open use permitted in Section 8-2 Floodway District (p.97).
2. Any other non-structural use provided it is elevated above the regulatory flood protection elevation and a determination is made by the city engineer or other designated city employee that the use will not unduly restrict the capacity of the channels or floodway or tributaries to the main street, drainage ditches, or any other drainage facilities or streams.
3. Structures constructed on fill provided the first floor or basement floor is above the regulatory flood protection elevation. The fill shall be at a point no lower than one (a) foot below the regulatory

flood protection elevation for the particular area and shall extend at such elevation at fifteen (15) feet beyond the limits of any structure or building erected thereon.

Special Provisions. The following uses and structures are permitted only upon approval of the Planning and Zoning Commission and subject to the following provisions:

Structures, if adequately flood proofed or otherwise protected to a point above the regulatory flood protection elevation.

Sec. 8-4 Structural and Use Regulations

- (1) In both FW and FF districts, new construction, substantial improvement or major repairs in flood hazard area must be anchored to prevent movement or collapse, use flood resistant materials and equipment, and use construction methods to minimize flood damage.
- (2) In both FW and FF districts, subdivisions and new development must be designed to minimize flood damage, locate and construct new utilities to minimize or eliminate flood damage, provide adequate drainage, eliminate or minimize infiltration in new water and sewer systems, and on-site waste disposal system designed to avoid impairment by flood waters.
- (3) In FW, lowest floor of new construction or substantial improvement located will be at 100 year flood level for residences. Non-residential construction will be at or above the 100 year flood level or flood proofed.
- (4) In FW, in river areas, no use will raise 100 year flood level more than 1 foot, designated floodway must pass 100 year flood flow, new or modified uses in FW will not raise level of 100 year flood, and encroachments in FW must be offset by channel improvements.

ARTICLE IX. ADMINISTRATION, ENFORCEMENT, AND PENALTIES.

Sec 9-1 Responsibility for administration.

A zoning administrator, appointed by the City Council, shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the City Council may determine and designate. It is the intent of this ordinance that all questions of administration and enforcement shall first be presented to the zoning administrator and that such questions shall be presented to the Board of Adjustment only upon reference by, or appeal from, the zoning

administrator, and that recourse from the decisions of the Board of Adjustment shall be the courts as provided by law.

It is further the intent of this ordinance that the function of the City Council under this ordinance shall not include hearing and deciding questions of interpretation and enforcement which may arise, but that the City Council shall have only the responsibility for acting on proposals for amendment or repeal of this ordinance, and for establishing a schedule of fees and charges as herein provided.

Sec 9-2 Duties of the zoning administrator.

The duties of the zoning administrator shall include:

- (1) Interpretation of the terms and provisions of this ordinance;
- (2) Administration of the provisions of this ordinance relating to building permits and certificates of occupancy;
- (3) Administration of the provisions of this ordinance relating to applications for special exceptions, variances, appeals from an administrative decision and other actions before the board of adjustment;
- (4) Administration of the provisions of this ordinance relating to applications for zoning amendments, the presentation of same to the Planning and Zoning Commission and City Council, and giving notice of hearings on such amendment requests as specified herein;
- (5) The receipt of complaints from persons who allege that violations of this ordinance have occurred, to properly investigate or cause to be investigated such complaints, and to initiate or cause to be initiated action to prevent, enjoin, or remove such violations;
- (6) The maintenance of the official copy of the zoning map and other such records and official materials as may be related to adoption, amendment, enforcement or administration of this ordinance;
- (7) Other such duties as may be properly related to the accomplishment of the spirit and intent of this ordinance.

Sec 9-3. Building permits.

9-3.1 *Building permits required.* No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the Town of Moundville. A building permit shall not be issued by the Town of Moundville except in conformity with the provisions of this

ordinance, unless it receives a written order from the Board of Adjustment in the form of an interpretation involving error or a special exception or variance as provided in Article X (105). If the permit is denied, reasons shall be stated for the denial.

9-3.2 *Applications for building permits.* All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be build upon; the exact size and locations on the lot of all buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application or plans shall include such other information as lawfully may be required by the city building inspector, zoning administrator, or city engineer, including existing proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot and on nearby lots; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance. One copy of the plans shall be returned to the applicant by the administrative official, after marking such copy as approved or disapproved and attested to same by his/her signature on such copy.

9-3.3 *Building permits to be posted.* The building permit shall be posted in a conspicuous place upon the premises to which the permit applies within five days of the date of issuance of the permit, and shall remain posted until completion of the action for which the permit was issued.

9-3.4 *Expiration of building permit.* If the work described in any building permit has not begun within six months from the date of issuance thereof, or in the case of a special exception within the time limit established therefore, the permit shall expire and be cancelled by the town building inspector. Written notice thereof shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled by the City of Moundville, except as follows:

- (1) In the case of a special exception, work shall be substantially completed within the time limit established therefore by the Board of Adjustment; or
- (2) In the case of work which may reasonably be expected to require more than one year for completion, the building inspector may specify a time limit in excess on one year at the time of original issuance of the zoning permit.

Written notice of the expiration of any building permit shall be given to the persons affected, including notice that further work as

described in the cancelled permit shall not proceed unless and until a special building permit has been obtained.

Sec 9-4 Certificate of Occupancy

9-4.1 *Certificate of Occupancy to be issued.* It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted, or wholly or partially altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefore by the City of Moundville, stating that the building or proposed use of the building or land conforms to the requirements of this ordinance.

Within three days after the owner or his agent has notified the City of Moundville that a building or premises or part thereof is substantially ready for occupancy or use, it shall be the duty of the City of Moundville to provide certification that said building or premises or part thereof has been constructed to conform with the provisions of this ordinance and with the provisions of any building code of the City of Moundville, or if such certificate is refused, to state the reason for such refusal in writing. No certificate of occupancy for a multi-family resident of place of business shall be issued until required off-street parking spaces have been properly paved and spaces marked.

No business license shall be initially issued until a certificate of occupancy has been approved and issued to the applicant.

9-4.2 *Certificates may be issued for nonconforming uses.* Upon enactment or amendment of this ordinance, owners or occupants of uses made nonconforming shall apply for certificates of occupancy for the purpose of establishment of vested interest in such nonconforming uses, and the City of Moundville may issue such certificates upon acceptance of reasonable proof that the nonconformity was in existence at the time of such enactment or amendment, and certificates of occupancy issues upon such applications shall state specifically wherein the nonconforming use differs from the requirements of this ordinance.

9-4.3 *Temporary certificates of occupancy.* A temporary certificate of occupancy may be issued by the City of Moundville for a period not exceeding six months during alterations or partial occupancy of a building pending completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of occupants and the public.

Sec 9-5 Construction and use to be as approved.

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the building inspector and other officials or agencies where additional approval is required to authorize only the use, arrangement, location set forth in such approved plans and applications, and no other use, arrangement, location, or construction. Any use, arrangement, location or construction at variance with that authorized shall be deemed violations of this ordinance, punishable as provided herein.

Sec 9-6 Schedule of fees and charges.

The City Council shall establish a schedule of fees and charges, and a collection procedure, for building permits, certificates of occupancy, appeals, amendments, and other matters pertaining to these regulations. This schedule of fees and charges, when established, shall be posted in the office of the zoning administrator, and may be altered or amended only by the City Council, the Planning and Zoning Commission, the zoning administrator, city engineer, city attorney or any department or agency of the city making application in their official capacity. No permit, certificate, special exception, or variance shall be issued or granted unless and until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proposed amendments or on proceedings before the Board of Adjustment unless and until applicable charges and fees have been paid in full.

Sec 9-7 Violation.

If the zoning administrator shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the owner or tenant of the property, 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, structures, or additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with, or to prevent violation of its provisions.

Sec 9-8 Complaints regarding violations.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint, such complaint, stating fully the causes and basis thereof, shall be filed with the zoning administrator. He shall record the complaint properly, investigate promptly, and take action thereon as provided by this ordinance.

Sec 9-9 Remedies.

In case any building or structure is erected, constructed, reconstructed, altered, maintained or used in violation of this ordinance or regulations in furtherance

hereof, the City Council, city attorney, zoning administrator, or any person aggrieved may, in addition to other remedies provided by law, institute injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

Sec 9-10 Penalties.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land is used in violation of this ordinance, or there is violation of any condition or requirement in connection with special exceptions, variances, or reasoning under the terms of this ordinance, such violation shall constitute a misdemeanor. Violation of this ordinance or failure to comply with any of the requirements hereof shall be a misdemeanor. Each day such violation continues after due notice to discontinue such violation shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof and any architect, surveyor, builder, engineer, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec 9-11 Procedures.

9-11.1 *Application for special exception.* An applicant for a building permit or certificate of occupancy for a structure or use which may be permitted in the district concerned as a special exception shall be informed by the zoning administrator of the provisions of this ordinance to such structures and uses. Such applicant may apply to the Board of Adjustment for a special exception on such forms as the city may furnish. Such applicant shall include a proper legal description of the lot or tract of land and shall be accompanied by a plan or plat drawn to scale and including the same information as required for such a plan or plat in 9-3.2 (p.101) plus such additional information as may be necessary to enable the Board of Adjustment to determine whether the proposed structure or use complies with criteria. A fee shall accompany any such application in accordance with the schedule of fees cited in Permit Fees document issued by Zoning Administrator.

9-11.2 *Application for a variance.* Application for a variance from the terms of this ordinance shall be submitted to the zoning administrator on such forms as the city may furnish. Such application shall include a proper legal description of the lot or tract of land concerned, and shall be accompanied by such drawings, plans, photographs, and other exhibits as may be needed to enable the Board of Adjustment to determine whether a variance is justified. A fee shall accompany

any such application in accordance with the schedule of fees cited in Permit Fees document issued by Zoning Administrator.

9-11.3 *Application for rezoning.* Application for an amendment to the zoning map of Moundville shall be made to the zoning administrator on such forms as the town may furnish, and shall include a proper legal description of the lot or tract of land concerned. A fee shall accompany any such application in accordance with the schedule of fees cited in Permit Fees issued by Zoning Administrator.

ARTICLE X: BOARD OF ADJUSTMENT, APPOINTMENT, DUTIES, AND RESPONSIBILITIES.

Sec 10-1 Duties of the Board of Adjustment

10-1 The Board of Adjustment shall have the following powers and duties:

- (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.
- (2) **Special Exception:** To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance as "Permitted Special Exceptions", and to grant such special exceptions with such conditions as safeguards as are appropriate under this ordinance, or to deny such special exceptions when not in harmony with the purposes and intent of this ordinance.

A special exception shall not be granted unless and until:

- a. a written application for a special exception on the basis of "Permitted Special Exceptions" is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested.
 - b. notice shall be given at least 15 days prior to the public hearing by posting of petition for special exception in four public places.
 - c. a public hearing shall be held.
- (3) **Variances:** To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary and unreasonable hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - a. A written application for a variance is submitted demonstrating:

1. That special conditions and circumstances exist which are peculiar to the land structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 3. That the special conditions and circumstances do not result from actions of the applicant, and
 4. That granting the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- b. Notice shall be given at least 15 days in advance of public hearing by posting for two weeks in advance of said public hearing in four public places.
 - c. A public hearing shall be held.
 - d. The board of Adjustment shall make a finding that the requirements for granting a variance have been met by the applicant for the variance.
 - e. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
 - f. The Board of Adjustment shall make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 9-8 (p.104), 9-9 (p. 104) and 9-10 (p.104) of this ordinance.

ARTICLE XI. AMENDMENTS

Sec. 11-1 Initiation of proposals for zoning amendments.

An amendment to this ordinance may be proposed by the City Council, the Planning and Zoning Commission, the city engineer, the city attorney, any department, board or agency in city, or any other individual, corporation or agency; provided that an individual, corporation or agency proposing an amendment to the zoning map who is not the legal owner(s) of the property proposed for amendment shall submit with the application for amendment a signed statement from the owner(s) consenting in every respect to the proposed amendment. Requests for amendments shall be submitted in writing to the zoning board on forms provided, according to their procedures for review and recommendation whose duty shall be to present such amendments to the City Council if the Board's decision is affirmative. Negative amendments may be submitted to the City Council by the Zoning Board Chairman only upon written request for appeal by the petitioner or by call from the City Council. For the purposes of this provision, any vote by the Planning and Zoning Commission that does not result in an affirmative bill shall be treated as a negative bill.

Sec. 11-2. Amendment procedures.

This ordinance and the zoning map of Moundville may be amended, supplanted, changed, modified, or repealed by the City Council, but no proposed amendment shall be adopted unless such proposed amendment is first submitted to the Planning and Zoning Commission for its recommendation. The Planning and Zoning commission, on its own motion, will hold public hearings, public notice of which shall be given, for the consideration of any proposed recommendation to the City Council of Moundville. The provisions of Code of Alabama (1975) Title 11, Chapter 52, and Article 4 shall apply to all changes and amendments.

Sec. 11-3. Minimum area for new district.

No request from any individual, corporation, or agency other than the City Council, the Planning and Zoning commission, the city engineer, the city attorney, or any department or agency of the city for a change in the zoning classification or creation of a separate district shall be considered which involves an area of less than two acres, except that the following changes may be made to apply to an area of less than two acres:

- (1) The extension of existing district boundaries.
- (2) The addition of C-1 zoning contiguous to existing commercial or industrial zones.

ARTICLE XII. LEGAL STATUS

Sec 12-1 Interpretation and validity.

Should any section or provision of this ordinance or application of a provision under this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof, other than the part of the ordinance so declared to be unconstitutional invalid.

Sec 12-2 Effective date.

This Ordinance 2010-01 shall be in full force and effect from and after the date of adoption and publication.

Adopted this 22nd day of April, 2010.

Effective after publication in the Moundville Times April 28, 2010.

ATTEST:

Carol Townsend
Moundville City Clerk

TABLE 1: AREA AND DIMENSION

Zone District	Maximum Bldg. Height (Ft.)	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width (at bldg line)	Minimum Yard Requirements			Min. Side
				Front	Rear	Total Side	
Single Family Residential							
RS -1	35	15,000	85	35	35	35	10
RS -2	35	10,000	75	30	35	18	9
RS -3	25	7,500	65	25	25	14	5
MHP	20	4,000	50	20	10	25	10
Single & Multi-family Residential							
RG-1							
1 family	35	7,500	65	25	30	14	5
2 family (each)	35	3,750	37.5	20	30	14	5
RG-2							
1 family	see pg 26	7,500	65	25	30	14	5
2 family		3,750	37.5	25	30	14	5
Per unit Multi Fam.		2,500	50+ ft.	20	20	14	5
Neighborhood Commercial							
C -1	40' or less	None, see page 29	None, page 29	20	10		
Highway Commercial							
C -2	see page 35	None, see page 34	None, page 34	40' from ROW on major streets 20' from ROW on other streets			
Manufacturing							
M -1	see page 36						
M -2	see page 36						
Institutional							
I	see page 64						
Rural Residential							
RR	see page 66						

MOUNDVILLE ZONING ORDINANCE

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