

CITY OF ARAB  
ZONING ORDINANCE



*Adopted: April 4, 2016*

*Arab, Alabama*

# ARAB ZONING ORDINANCE

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**ORDINANCE NO. 2016-3**  
**Adopted: April 4, 2016**

**AN ORDINANCE** in pursuance of the authority granted by Title 11, Chapter 52, Articles 1 through 4 inclusive, of the Code of Alabama 1975, as Amended, to provide the establishment of districts within the corporate limits of the City of Arab, Alabama; to regulate within such districts the height, bulk, number of stories and size of buildings and other structures, the percentage of lot that may be developed, the size of yards and other open spaces, the density and distribution of population and the use of buildings, and structures. Further regulated is the use of land for trade, industry, residence, recreation, agriculture, forestry, conservation, airports, water supply, sanitation, protection against floods, public activities, and other purposes, creating districts for said purposes and establishing the boundaries thereof. Provisions are further provided for changes in these regulations, restrictions and boundaries for above mentioned districts.

Said Ordinance shall repeal all existing Zoning Ordinances and provide methods for administration of this Ordinance and penalties for the violation thereof.

**WHEREAS**, the public welfare requiring it, the City Council deems it necessary for the purpose of promoting the health, safety, morals, and general welfare to enact such an ordinance and,

**WHEREAS**, all requirements of the laws of the State of Alabama with the preparation of the ordinance by the Planning Commission and the subsequent action of the City Council has been made:

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARAB, ALABAMA**, does hereby ordain and enact into law the following articles and sections:

**ARTICLE I**  
**TITLE, JURISDICTION AND PURPOSES**

**Section 100. Title.**

This ordinance and all subsequent amendments, attachments and supplements thereto shall be known and may be cited as the "Zoning Ordinance of the City of Arab, Alabama" and the map herein referred to, identified by the title "Zoning Map of Arab, Alabama".

**Section 101. Jurisdiction.**

This Zoning Ordinance and the Zoning Map shall govern and regulate all land within the corporate limits of the City of Arab, Alabama.

**Section 102. Purpose.**

The purpose of the zoning regulations and districts as set forth in this Ordinance is to protect, promote and improve the public health, safety, convenience, order, prosperity, and general welfare; to provide for the orderly development and growth of the City Arab; to avoid congestion on the public roads and streets; to conserve life, property and natural resources and the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties, for the general good and benefit to the people of Arab.

**Section 103. Methodology.**

For the purposes hereinbefore stated, the City of Arab is divided into districts of such number, shape and area, and of such common unity of purpose, adaptability or use, which are deemed most suitable to provide for the best, general civic use, protect the common rights and interest within each district, preserve the general rights, and interests of all; and by further regulations to limit the location, uses and occupancy of buildings, structures and land to be used for trade, industry, residence or other structures, including the ratio of lots occupancy and coverage, street setback lines, sizes of yards, and other open spaces.

## **ARTICLE II. DEFINITIONS**

**Section 200. Purpose.** It is the purpose of this Article to define words, terms, and phrases contained within this Ordinance.

### **Section 201. Word Usage.**

In the interpretation of this Ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

- A. Words used or defined in one tense or form shall include other tenses and derivative forms.
- B. Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- D. The word “shall” is mandatory.
- E. The word “may” is permissive.
- F. The word “person” includes individuals, firms, corporations, associations, trusts, and any other similar entities.
- G. The word “Arab” means The City of Arab, Alabama.
- H. The words “governing body” refer to the City Council of Arab.
- I. The words “Planning Commission or their designee” shall refer to the Arab Planning Commission and/or the Arab Administrative Officer or other designated official.
- J. The words “Planning Commission” shall mean the Arab Planning Commission.
- K. The word “Board” refers to the Zoning Board of Adjustment of the City of Arab.
- L. In the case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration, or table, the text shall control.
- M. The word “permitted” refers to uses with the designation “P” as shown in Table 4-1.
- N. The word “conditional” refers to uses with the designation “C” as shown in Table 4-1.

**Section 202. Abbreviation.**

The following abbreviations are used in this Ordinance and are intended to have the following meanings:

<b>FAR:</b>	Floor Area Ratio
<b>ISR:</b>	Impervious Surface Ratio
<b>OSR:</b>	Open Space Ratio
<b>ADT:</b>	Average Daily Traffic
<b>AC:</b>	Acre
<b>LUI:</b>	Land Use Intensity

**Section 203. Definitions.**

When used in this Ordinance, the following terms shall have the meanings herein ascribed to them:

**Abutting:** Having a common border with, or being separated from such common border by an alley or easement.

**Access:** Any means of ingress/egress to a parcel of property for pedestrians and/or vehicles.

**Access, Legal:** The form of access which qualifies a development site for a building permit or certificate of occupancy, attesting that such property is legally accessible from a public street by means of direct road frontage, or a recorded easement across one (1) or more intervening properties. (See Section 906).

**Accessory structure:** A detached subordinate structure or building, located on the same lot as the principal structure, the use of which is clearly incidental to that of the principal structure. *(See Figure 1)*

**Accessory use:** A use that is incidental and subordinate to that of the main building or use of land and that is located on the same lot, in the same zoning district and under the same ownership in all respects.

**Administrative Officer.** The person appointed by the City Council of the City of Arab and authorized to administer and enforce all provisions of the Zoning Ordinance.

**Alcoholic Beverages:** Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquors, a part of which is spirituous, vinous, fermented, or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes which contain one-half of one percent of alcohol by volume and shall include liquor, beer, and wine, both fortified and table wine.

**Alley.** A thoroughfare either used or shown on any recorded description of the subject parcel(s) which is at a minimum not more than 20 feet wide and which affords only a secondary means of access to abutting property.

**Alteration/Altered:** Any addition to the height, width, or depth of a building or structure; or any change in the location of any of the exterior walls. A building or structure shall be classified as altered when it is repaired, renovated, remodeled or rebuilt at a cost in excess of 50 percent of its fair market value prior to the commencement of such repairs, renovation, remodeling, or rebuilding.

**Antenna:** Electronic devices, whose purpose is to receive or transmit signals directly from ground-based sources, which are freestanding or mounted on a structure.

**Apartment:** A building designed for occupancy by three (3) or more families living independently of one another.

**Appeal:** A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Ordinance as expressly authorized by the provisions of Section 1008.

**Applicant:** One (1) individual who is duly authorized to submit development plans for review, request variances or changes in zoning classification, and apply for any form of development approval with respect to a development site. An applicant may be the property owner(s), or any person having written authority from the property owner(s). This written authority shall be provided in any form that the Planning Commission or their designee determines to be appropriate.

**Arterial Roadway:** A roadway which typically has a relatively high traffic volume with traffic signals at major intersections. The primary function of arterials is rapidly moving traffic.

**Assisted Living Facility:** A special combination of housing, support services, and personalized health care, which is appropriately licensed by the State and City, designed to assist individuals needing help with daily living activities.

**Attic:** The non-habitable part of a building immediately below, and wholly or partly within, the roof framing.

**Balcony:** An uncovered, horizontal platform which is suspended or cantilevered from, or supported solely by, the principal structure, is enclosed by a parapet or railing, and is entirely supported by the building. (*See Also Gallery*)

**Basement:** The lowest habitable story of a building usually below, or partially below, ground level.

**Bed and Breakfast Inn:** A private, owner-occupied business with 4 to 20 guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the bed and breakfast inn is operated primarily as a business.

**Bedroom:** A room, *which meets building code requirements*, marketed, designed, or otherwise likely to function primarily for sleeping.

**Brew Pub:** Any premise upon which beer, malt or brewed beverage, is actively and continuously manufactured or brewed for consumption on the premise where manufactured, or for sale to any designated wholesaler licensee for resale to retail licensees. The brewpub must contain and operate a restaurant or otherwise provide food for consumption on the premises.

**Bufferyard:** A unit of land, together with a specified type and amount of planting thereon, and any fence, wall, or berm which may be required between land uses to eliminate or minimize conflicts between them.

**Buildable Area.** The portion of a lot remaining after required yards have been provided.

**Building:** Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals or chattel.

**Building, Accessory:** See Structure, Accessory.

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

**Building Envelope:** Designated area within a lot, as shown on a subdivision plat for zero lot line, single family attached, and twin house development, wherein all principal and accessory structures (including swimming pools) will be built, except fences and/or walls enclosing yards or patio areas.

**Building Frontage:** The exterior wall of a building that faces a front lot line of the lot.

**Building Height:** See Height of Structure.

**Building Line:** A line shown on a plat indicating the minimum allowable distance between any structure and a lot line, as established by requirements of the developer and/or this Ordinance.

**Building Line, Front:** A line, generally parallel to the front lot line, which passes through the most forward point of the principal structure.

**Building, Principal:** The principal building on a lot, including an attached garage, carport or porch, in which is conducted the main or principal use of the lot on which said building is situated.

**Canopy:** A roof-like cover extending over a pedestrian way or right-of-way as a shelter or shield. This definition shall include the term “awning” and shall apply regardless of the materials used in its construction.

**Carport:** An unenclosed and covered space for the private use of the owner or the occupant of a principal building and situated on the same lot as the principal building, intended for the storage of motor vehicles, with no facilities for mechanical service or repair of a commercial or public nature.

**Carrier/Provider:** See Wireless Communication Service Provider.

**Cellar:** An uninhabited room used for storage, usually beneath the ground or under a building.

**Certified Survey:** Scaled drawing of a parcel or lot, showing property lines, dimensions, building locations, and other features of the property, which has been signed and sealed by a professional surveyor licensed in the State of Alabama.

**Church:** See Place of Worship.

**City:** The City of Arab, Alabama.

**City Council:** As used in this Ordinance City Council shall mean the governing body of the City of Arab and any future governing body regardless of its official name.

**Clinic:** An establishment, public or private, where there are no overnight facilities and where people are given examination, diagnosis and treatment as out-patients by physicians, dentists, optometrists or other members of the medical profession.

**Collector Road:** A road which serves as feeders between arterials as well as provides access to the local streets. These are typically lower volume roadways that accommodate short distance trips.

**Conditional Use:** A use that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review by the Commission and granting of conditional use approval imposing such conditions as necessary to make the use compatible with other uses permitted in the same zone or vicinity.

**Condominium:** Property ownership arrangement in which a buyer receives a percentage interest in a development on an undivided parcel of land, resulting in the right to exclusive use of a specific dwelling unit or portion of the undivided parcel, such as a mobile home or recreational vehicle site. Common areas of the site which are not assigned to a specific owner, such as pools, clubhouses, parking areas and other amenities, are the collective responsibility of all owners or members of the condominium development.

**Corner Lot:** See Lot, Corner.

**Curb Cut:** Vehicular access to a public right-of-way.

**Day Care Center:** Any child care facility, licensed by the State of Alabama, receiving more than four (4) children for care during all or part of the day. The term does not include: programs

operated as part of public or private schools; program operated on governmental premises; and special activities programs such as athletics, crafts and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations.

**Dedication:** The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee interest, including an easement.

**Density, Gross:** The quotient of the total number of dwelling units divided by the gross site area of the site, expressed as dwelling units per acre.

**Developer:** The legal or beneficial owner(s) of a lot or parcel or any land proposed for inclusion in a development, including the holder of an option, contract to purchase, or a lease.

**Development:** The division of a parcel of land into two (2) or more parcels (See Subdivision); the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, or other movement of land, for which an approved development plan is required pursuant to this Ordinance or other regulations, codes and ordinances of the City. (See Also: Article V “Landscape & Bufferyard Requirements” Section 504 Definitions)

**Development Site:** One (1) or more parcels of land included in a single development plan, and preferably under common ownership, which constitute the entire area of development shown on a site plan or subdivision plat. The development site must include all land needed for required open space, bufferyards, landscaping, parking (except as provided for in Section 614), internal access roads or driveways, and other physical design features needed to serve the proposed development.

**Drainage:** The removal of surface water or ground water from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water-supply preservation or prevention or alleviation of flooding.

**Drainageway:** Minor watercourses, natural or man-made, that are defined either by soil type or the presence of intermittent or perennial streams.

**Drive-In Restaurant:** See Restaurant, Fast Food.

**Duplex:** Residential structure, divided horizontally or vertically, and designed for or occupied by two (2) dwelling units, contained entirely under one (1) roof on one (1) lot.

**Dwelling:** Any building or portion thereof which is designated or used for residential purposes.

**Dwelling, Multi-Family.** A dwelling unit within a building containing three (3) or more dwelling units so arranged that their occupants live independently of each other. (See Apartment)

**Dwelling, Single-Family Attached.** A dwelling unit, which is built on-site and designed for occupancy by one (1) family which is joined to another dwelling unit at one or more sides by a party wall or abutting separate wall and such dwelling unit is erected on its own individual lot of record.

**Dwelling, Single-Family Detached:** See Single Family Detached Dwelling Unit.

**Dwelling Unit:** A room or group of rooms, providing or intended to provide living quarters for not more than one (1) family except as otherwise provided by this Ordinance. All rooms within the dwelling unit shall have internal access, and the unit shall have no more than one kitchen and one electrical meter.

**Easement:** Authorization by a property owner of the use by another and for a specified purpose of any designated part of his property. No easement shall be recognized under this Ordinance which has not been created through a valid legal instrument and recorded in the Office of the Judge of Probate of Marshall County and those established by the City through continuous historic use.

**Eave Height:** The distance as measured from grade level to the top of the fascia.

**Erosion:** The wearing away of the ground surface as a result of the movement of wind, water, and/or ice.

**Exterior Storage:** Outdoor storage of fuel, raw materials, vehicles, products and equipment. In the case of lumberyards, exterior storage includes any impervious materials stored outdoors. In the case of truck terminals, exterior storage includes all trucks, truck beds, and truck trailers stored outdoors.

**Family:** One (1) or more persons related by blood, marriage, adoption or guardianship plus one (1) unrelated person occupying a dwelling unit and living as a single housekeeping unit; or not more than four (4) persons occupying a dwelling unit and living as a single housekeeping unit in zoning districts where residential uses are permitted

**Family Child Care Home:** A child care facility which is a family home, and which receives not more than six (6) children for care. Such facility shall be licensed by the State of Alabama. Said child care facility may be administratively approved by the Administrative Officer, subject to meeting all requirements of Section 612.

**Filling:** The depositing of sand, gravel, earth, or other materials to alter the elevation of a given site.

**Floodplain:** For the purposes of this Ordinance, "Floodplain" shall mean areas adjacent to a river, stream, or other drainageway which lie within the 100-year flood elevation contour, as established by Flood Insurance Rate Maps or by certified survey. (*See Figure 2*)

**Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. *(See Figure 2)*

**Floor Area:** The sum of the gross floor area for each story of a building measured from the exterior limits of the faces of the structure. The floor area of a building includes basement floor area and includes attic floor area only if the attic area meets the current building code standards of the City of Arab for habitable floor area. It does not include cellars and unenclosed porches or any floor space in an accessory building or in the principal building, which is designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance.

**Floor Area Ratio (FAR):** An intensity measure expressed as a ratio derived by dividing the total floor area of a building by the base site area. Where the lot is part of a larger development and has no buffer, that lot area may be used instead of the base site area. *(See Figure 3)*

**Forestry:** A premises, or portion of a premises, occupied by an establishment primarily engaged in the commercial operation of timber tracts, forest nurseries and related activities such as reforestation services and the gathering of gums, barks, balsam needles, maple sap and other forest products.

**Gallery:** A, covered or uncovered, balcony or platform running the length of a wall elevated and supported by arches or columns along the outside of a building. *(See Also Balcony)*

**Garden Center:** A place of business where garden-related products and produce are sold to the retail consumer. These centers, which may include a nursery and/or greenhouses, bring in most items offered for sale from other locations. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm tools and utensils.

**Garage:** A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.

**Gasoline Service Station:** Buildings and premises where gasoline, oils, greases, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where minor services are rendered.

**Grade or Grade Level:** A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

**Gross Density:** See Density, Gross.

**Group Home:** Any home in which four (4) or fewer disabled persons, including their caretaker, reside who may or may not be related to one another. *(See Section 409.E)*

**Group Child Care Home:** A child care facility which is a family home and which receives at least seven (7), but no more than 12, non-resident children for care where there are at least two

(2) adults present and supervising the activities. Such facility shall be licensed by the State of Alabama.

**Hazardous Substances:** Any substance or material which, by reason of its toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or using or otherwise coming into contact with such material or substance.

**Hazardous Uses.:** All uses which involve the storage, sale, manufacture, processing or handling of materials which are easily ignited and likely to burn with moderate rapidity or cause smoke, including materials which are highly flammable, explosive, noxious, toxic, or inherently dangerous to humans, animals, land, crops or property.

**Height of Structure:** For the 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 eave height. Spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing, mechanical equipment or other such structures, unless otherwise specified by this ordinance, placed above the roof levels and not intended for human occupancy shall not be subject to the height limitations.

**Home Occupation:** A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building. (See Section 612)

**Hotel:** A building, or portion of a building, containing sleeping units, which are occupied on a daily or short-term basis. A hotel may include a restaurant and banquet or ballrooms, and one (1) self-contained dwelling unit for the use of a resident manager.

**Hospital:** The use of a building or premises, operating under license by the Alabama State Health Department, for the provision of diagnostic health services and medical or surgical care to human inpatients and outpatients and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

**Impervious Surface:** A surface that does not absorb water. Buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt are impervious surfaces. For the purpose of this Ordinance, impervious surface measurements shall exclude the water surface area of swimming pools.

**Impervious surface ratio (ISR):** A measure of the intensity of land use which is determined by dividing the total area of all impervious surfaces on a development site by the site area. (See *Figure 4*)

**Internal Access:** Physical design of a dwelling unit in which the kitchen, bathrooms, and all other rooms intended for human habitation, are connected internally.

**Junk or Salvage Yard:** A place, structure or lot used for the collection, storage and/or sale of junk, waste, discarded, salvaged or similar materials such as metal, paper, rags, wood, glass, cloth or other

materials or for the collection, dismantling, storage and salvaging of machinery or vehicles and/or for the sale of parts therefrom.

**Kennel:** Any place in or at which any number of dogs, cats or other domestic animals are kept for the purpose of sale or in connection with boarding, care or breeding, for which any fee is charged.

**Kindergarten (private):** See Day Care Center.

**Lakes and Ponds:** Natural or artificial bodies of water which retain water year round. A lake is a body of water of two (2) or more acres. A pond is a body of water of less than two (2) acres. Artificial ponds may be created by dams or may result from excavation. The shoreline of such bodies of water shall be measured from the maximum condition rather than from the permanent pool in the event of any difference.

**Liquor:** Any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented, or otherwise alcoholic, and all drinks or drinkable liquids, preparations, or mixtures intended for beverage purposes, which contain one-half (½) of one percent (1%) or more of alcohol by volume, except beer and table wine as defined herein.

**Livestock:** Equine or equidae of any type, cows, calves, yearlings, bulls, or any bovine, oxen, sheep, goats, lambs, kids or other ovine but specifically excluding hogs, shoats and pigs.

**Local Street:** A street the sole function of which is to provide access to the land uses that are immediately adjacent to the roadways.

**Lot:** Refers to a single undivided portion of land that is either legally recorded in the office of the Marshall County Probate Judge, or is being proposed in good faith by well-prepared plan drawings for the purpose of being legally recorded. It is the responsibility of the property owner (or his/her agent) to insure that the property is legally recorded with the office of the Marshall County Probate Judge.

**Lot Area:** The area contained within the boundary lines of a lot.

**Lot, Corner:** A lot abutting two (2) or more streets at their intersection. If the two (2) streets form an angle of more than 135 degrees, as measured at the point of intersection of their center lines, the lot shall not be considered a corner lot. (*See Figure 5*)

**Lot Depth:** The distance between the midpoints of the front and rear lot lines.

**Lot, Double Frontage:** A lot, other than a corner lot, which has frontage on more than one street. (*See Figure 5*)

**Lot Frontage:** Lot width measured at the street lot line.

**Lot Line:** A line bounding a lot which divides one lot from another or forms a street right-of-way or any other public or private space.

**Lot Line, Front:** In cases where the lot fronts on only one street right-of-way, the lot line adjacent to the street; for corner lots, the side meeting minimum width requirements. (*See Figure 6*)

**Lot Line, Rear:** That lot line which is opposite to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front line shall be considered to be the rear lot line. (*See Figure 6*)

**Lot Line, Side:** Any lot line other than a front or rear lot line. (*See Figure 6*)

**Lot Line, Street:** In the case of a lot abutting only one street, the right-of-way line separating such lot from such street; in the case of a double frontage lot, each right-of-way line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of the two opposing yards shall be a rear yard. (*See Figures 5 & 6*)

**Lot of Record:** A lot which is part of a recorded plat or plot which has been recorded in the Office of the Probate Judge of Marshall County, or a lot described by metes and bounds, the map or description of which has been recorded according to Alabama Law.

**Lot Width:** The horizontal distance between side lot lines measured at the required front setback.

**Lounge:** Any premise, meeting the definition of lounge in the Arab Alcoholic Beverage Ordinance, upon which beer, wine and liquor is served. May permit dancing or provide other lawful entertainment on the licensed premises. No person under 19 years of age shall be admitted on the premises of any lounge liquor licensee as a patron or employee, and it shall be unlawful for any such licensee to admit any minor to the premises as a patron or employee.

**Malt or Brewed Beverages:** Any beer, lager beer, ale, porter, or similar fermented malt liquor containing one-half of one percent (.5) or more of alcohol by volume and not in excess of five (5) percent alcohol by weight and six (6) percent by volume, by whatever name the same may be called.

**Manufactured Home:** A dwelling, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 square feet or more, 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 contained therein. Except that such term shall include any dwelling 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 (HUD). For mobile homes built prior to June 15, 1976, a label certifying compliance to NFPA 501, in effect at the time of manufacture is

required. For the purpose of these provisions, a mobile home shall be considered a manufactured home.

**Manufactured Home Park:** A parcel of land under single management which has been planned and improved for the provisions of services for manufactured homes for transient and/or non-transient use. A manufactured home park may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities and amenities, including roads, clubhouse or recreation facilities, and bufferyards, are privately owned or owned in common by residents of the park.

**Marina:** An establishment for mooring, servicing, and storing recreation boats, as well as for 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.

**Master Development Plan:** A conceptual plan, meeting the requirements of Section 605 and depicting a mixture of land uses, showing an entire development site and all component stages or phases which express the overall development concept for the site at build-out.

**Minimum Floor Elevation:** The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

**Mini-Warehouse:** A building, or group of buildings, in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized stalls or lockers for the “dead” storage of a customer’s goods or wares. (See Section 409.J)

**Mixed-Use Development:** The development of a tract of land and/or structure with two (2) or more uses of different land use categories. Such developments include, but are not limited to, combinations of residential, office, retail, public entertainment, and/or manufacturing uses in a compact urban form such as an office or research park.

**Mobile Home:** A dwelling unit manufactured prior to June 15, 1976, whether on wheels or a foundation, which is designed for a long term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

**Modular Building:** (Also known as a "manufactured building.") 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 other than residential purposes, including without limitation commercial and industrial purposes, and which bears a seal of compliance with the regulations of the Alabama Manufacturing Housing Commission. Modular buildings must be constructed to meet the requirements of the city's building code and construction regulations as well as any other design standards the city may adopt which apply to conventional construction.

**Modular 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 the regulations of the Alabama Manufacturing Housing Commission. Modular panelized homes must be constructed to meet the requirements of the city's building code and construction regulations as well as any other design standards the city may adopt which apply to conventional construction.

**Motel:** See Hotel.

**Nonconforming/Nonconformity:** See Article VIII.

**Nursery for Children:** See Day Care Center.

**Nursery:** An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas or electric lawnmowers and farm implements) directly related to their care and maintenance. The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes and shovels.

**Nursing Home:** A licensed facility providing care for compensation to convalescents, the aged or infirm who are unable to care for themselves and require continuous, skilled care.

**Office-Warehouse:** A facility combining office and warehouse functions in a single structure, for the primary purpose of wholesale trade, display, and distribution of products. Said facility is characterized by occasional truck deliveries and does not create nuisances such as dust, noise, or odors. Any warehouse activity with heavy trucking activities or nuisances shall be considered under the term "warehousing or wholesaling" (See Section 409.J)

**On-Site:** Located within the boundaries of the development site.

**Open Space:** Any parcel or area of land or water, either publicly or privately owned, set aside, dedicated, designated, or reserved for the private use or enjoyment of owners or occupants of land adjoining such open space, or for the public at large.

**Open Space Ratio:** The proportion of a site consisting of open space as defined by Section 422.

**Open or Outdoor Storage:** The keeping within an unroofed area, whether fenced or not, any goods, material, merchandise or vehicles.

**Owner:** The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

**Package Store:** Those liquor retail licensees who declare to the ABC Board that their primary business shall be the sale of alcoholic beverages for off-premises consumption.

**Parcel:** See Lot, Development Site.

**Parking Lot or Garage:** An open area or a structure used exclusively for the temporary off-street storage of motor vehicles. Such area or structure may be an independent business or may be used in conjunction with any other business or commercial use. A fee may be charged.

**Perennial stream or Perennial River:** is a stream or river (channel) that has continuous flow in parts of its bed all year round during years of normal rainfall.

**Plat:** Shall mean a map, plan or layout of a City, parcel of land, or subdivision indicating the location and boundaries of individual properties.

**Place of Worship:** A building used for regular religious worship, by the congregation or parts thereof, of an organized religion.

**Poultry:** Shall mean any chickens, turkeys, ducks, geese, or other fowl.

**Pond:** See Lakes and Ponds.

**Premises:** A lot or plot, together with all buildings and structures existing thereon.

**Principal Building:** See Structure, Principal.

**Principal Use:** See Use, Principal.

**Private Club:** A corporation or an association organized or formed in accordance with the Code of Alabama.

**Provider/Carrier:** See Wireless Communication Service Provider.

**Public Improvement:** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs as: vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

**Public Utility:** Any person, firm, corporation, governmental department or board, duly authorized by the Alabama Public Services Commission, to provide electricity, gas, steam, telephone, telegraph, transportation, water or sewer service to the general public.

**Rain Garden:** See Article V “Landscape and Bufferyard Requirements”

**Recreational Vehicle:** A vehicle or a unit that is mounted on or drawn by another vehicle primarily designed for temporary living. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes. (See Section 409.L)

**Recreational Vehicle Park:** A lot on which campsites are established for occupancy by recreational vehicles of the general public as temporary living quarters for purposes of recreation or vacation. No recreational vehicle park shall be platted or otherwise divided by fee simple ownership; however, the sale of memberships and assignment of campsites on a condominium basis is permitted. All facilities and amenities, including roads, clubhouse or recreation facilities, and bufferyards are privately owned or owned in common by members of a condominium association.

**Restrictive, More (Less):** A regulation imposed by this Ordinance is more (less) restrictive than another if it prohibits or limits development to a greater (lesser) extent or by means of more (less) detailed specifications. For example, regulations governing single-family uses would be more restrictive than the regulations governing business uses.

**Restaurant, Fast Food:** An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state: (1) for consumption within the restaurant building, or within a motor vehicle parked on the premises or off the premises as a carry-out order; or (2) to be served through a drive-up window, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.

**Restaurant, Standard:** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics: (1) customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; (2) a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

**Re-subdivision:** See Subdivision.

**Right-of-way:** An area dedicated to public use for pedestrian and vehicular movement, which may also accommodate public utilities.

**Setback:** The required minimum distance between a structure and the front, side, or rear lot line.

**Shopping Center:** A group of commercial-retail establishments planned, developed, and managed as a unit, under single ownership or control, and built in accordance with a unified architectural plan and with off-street parking provided on the property.

**Shopping Center, Neighborhood:** A mixture of uses or structures on the same lot designed and built to contain commercial uses compatible with residential neighborhoods, including but not necessarily limited to variety stores, hardware stores, grocery stores, etc.

**Shopping Center, Regional:** A shopping center having in excess of 500,000 square feet of gross floor area.

**Shrub:** For the purpose of meeting landscape-planting requirements under this Ordinance, any species listed in Table 5-1 as either a deciduous or evergreen shrub.

**Sign:** See *Arab Sign Ordinance (Article VII)*

**Single-Family Detached Dwelling Unit:** Freestanding structure, completely separate from all other structures, designed to house one (1) family as a single housekeeping unit. Single-family detached units may be constructed in subdivisions pursuant to Section 603.

**Site Plan:** A plan, drawn to scale by a licensed engineer or other qualified professional, showing uses, structures, and all other physical features proposed for the development site, including but not limited to, bufferyards, parking, landscaping, drainage facilities and utilities, in accordance with the requirements of Section 902. Site plans shall include, in written form, all information necessary to determine whether the proposed development meets the requirements of this Ordinance, such as proposed use(s) of the site, impervious surface and floor area, number of employees, hours of operation, and calculations of parking requirements.

**Steep Slopes:** Land area where the inclination of the land's surface from the horizontal is 30 percent or greater. Slope is determined from on-site topographic surveys prepared with a two-foot contour interval.

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

**Story, half:** A half story is a story situated within a sloping roof, the floor area of which, at a height of five (5) feet above the floor, does not exceed two-thirds (2/3) of the floor area in the story directly below it.

**Stream, Perennial:** A natural watercourse which contains flowing water, year around.

**Street:** Any public or private way dedicated or set aside for public travel.

**Street Centerline:** That line surveyed and designated by the City as the centerline of a street.

**Structure:** Any combination of materials, 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, overhead wires, dish antennas, fences, retaining walls, decks, storage buildings, but excluding sidewalks and paving on streets, driveways, parking areas and patios.

**Structure, Accessory:** A subordinate structure, detached from but on the same development site as the principal structure, the use of which is incidental and secondary to that of the principal structure. (See Section 608).

**Structural Alteration:** Any change in the supporting members of a building, such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls. Also, see Alteration/Altered.

**Structure, Principal:** A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located. There shall be internal access to all interior portions of a single family detached dwelling unit. An outlying structure shall be considered an accessory building unless connected to the principal building by fully enclosed living space. (*See Figure 1*)

**Subdivision:** Any division or re-division of a tract, parcel, or lot of land into two (2) or more parts by means of platting of boundaries in accordance with the City of Arab Subdivision Regulations.

**Telecommunications Facilities, Wireless:** Any and all buildings, structures, fixtures or other accessories (such as electrical boxes, equipment sheds, guy wires, etc.) Installed, used or intended for use in conjunction with any of the following:

- A. Cellular Communications facilities – low power transmitters used to transmit signals in a cell or cellular radio-telephone services (cellular phones), personal communications services (PCS), enhanced specialized mobile radios (ESMR), trunk mobile cellular radios, paging services and similar cellular-based communications to the general public.
- B. Commercial Satellite facilities – satellite earth stations which are greater than two (2) meters in diameter, and are used to send and/or receive satellite signals and similar communications.
- C. Microwave Relay facilities (Repeater) – used to transmit radio signals between two or more fixed points by microwave antennas and similar transmission services.

**Telecommunications Tower:** Any ground-mounted structure that is designed and constructed primarily for the purpose of supporting one or more Communications Antennas. Communications Towers shall include:

- A. Monopole Towers – cylindrical self-supporting towers constructed as a single spire.
- B. Self-Supporting or Lattice Towers – self-supporting towers with multiple sides of open-frame supports.
- C. Guyed Towers – towers anchored with guy wires.
- D. Camouflaged Towers – self-supporting towers concealed such that they blend with their surroundings. Such towers may be constructed to resemble objects, such as a tree or a street light, or may be concealed within another structure, such as a clock tower, church steeple or lamp post.

**Temporary Use:** See Use, Temporary.

**Town House:** A single residential unit sharing a common wall with at least one other unit in a structure consisting of not less than three (3) or more than six (6) dwelling units and having no other dwelling unit directly above or below. See Section 603.02.

**Twin House:** Residential dwelling units sharing a common side wall with one (1) other unit, having individual entrances (not used by other units) in the front and rear, placed on their own lots and located in a structure containing no more than two (2) units. (*See Figure 15*)

**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. *See Also Recreational Vehicle*

**Understory Tree:** For the purpose of meeting landscape planting requirements under this Ordinance, any species listed in Table 5-1 as either a deciduous or evergreen understory tree.

**Use:** The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**Use, Accessory:** An accessory use is one which: (1) is subordinate to and serves a principal structure or a principal use, (2) is subordinate in area, extent, and purpose to the principal structure or use served, (3) is located on the same development site as the principal structure or use served, and (4) is customarily incidental to the principal structure or use. See Section 608.

**Use, Principal:** The specific primary purpose for which land is used.

**Use, Temporary:** A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

**Variance:** Permission to depart from the literal requirements of this Ordinance granted pursuant to Section 1007.

**Warehouse:** A building intended for the storage, wholesale, and distribution of manufactured products supplies, and equipment.

**Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. (Wetlands generally include swamps, marshes, bogs, and similar areas).

**Wine:** All beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and produced in accordance with the laws and regulations of the United States containing not more than 24 percent alcohol by volume, and shall include all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors and like products. Fortified Wine – Any wine containing more than 14.9 percent alcohol by volume, but not more than 24 percent. Table Wine – Any wine containing not more than 14.9 percent alcohol by volume.

**Wireless Communications Service Provider:** Any private company, corporation or similar such entity providing two-way interactive communications services to the general public by way of Cellular Communications facilities.

**Woodland:** An area of natural vegetation or planted material, at least 50 feet in depth, covering one (1) acre or more and consisting substantially of canopy trees.

**Yard:** The open space between a lot line and building line.

**Yard, Front:** A yard extending the full width of the front of a lot between the front (street) right-of-way line and the front building line. (*See Figure 6*)

**Yard, Rear:** A yard extending the full width of the lot in the area between the rear lot line and the rear building line. (*See Figure 6*)

**Yard, Side:** The yard extending along a side lot line, from the front yard to the rear yard, between the side building line and a side lot line. In the case of corner lots, the yard along all established or future street lines shall be termed a front yard and shall meet requirements herein for such. (*See Figure 6*)

**ARTICLE III  
ESTABLISHMENT OF DISTRICTS**

**Section 300. Establishment of Zoning Districts.**

The City of Arab, Alabama is hereby divided into zoning districts of such number and character as are necessary to achieve compatibility of uses within each district, to implement the Official Zoning Map of Arab, and to serve the other purposes of this Ordinance, which are detailed in Article I.

**Section 301. Zoning Districts.**

For the purpose of this Ordinance, all land and water areas in Arab are hereby divided into the following zoning districts:

AG	Agriculture District
R-1	Low Density Residential District
R-2	Medium Density Residential District
R-3	High Density Residential District
MHP	Manufactured Home Park District
UM	Urban Mix
O-I	Office-Institutional District
NC	Neighborhood Commercial
GB	General Business District
HD	Historic Downtown
M-1	Light Industrial District
M-2	General Industrial District

**Section 302. Zoning Map**

The boundaries of the zoning districts are as shown on the map entitled "Zoning Map of Arab, Alabama", which, together with all explanatory materials contained thereon, is hereby made a part of this Ordinance and adopted by reference.

**Section 303. Maintenance of Official Copy of Zoning Map**

At least one official copy of the zoning map shall be maintained in the Planning Office, upon which shall be recorded, after the passage thereof, every amendment to this Ordinance which affects 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.

The Planning Office may distribute copies of the zoning map to the general public and other officials, for reference purposes. However, the official copy of the zoning map maintained in

the office of the Planning Office, 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 304. Interpretation and Rules Governing District Boundaries**

The boundaries of the zoning districts are established as shown on the Zoning Map. Unless otherwise shown on said Zoning Map, the boundaries of districts are platted lot lines, the center lines of streets or alleys or such lines extended, railroad right-of-way lines, or the corporate limit lines as they existed at the time of enactment of this Ordinance. The Administrative Officer shall make an interpretation of the Zoning Map of Arab upon the request of any person.

Where any uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the official Zoning Map, the following rules shall apply:

- A.** Boundaries shown as following, or approximately following, the limits of any municipal corporation shall be construed as following such limits.
- B.** Boundaries shown as following, or approximately following, streets shall be construed to follow the centerlines of such streets.
- C.** Boundary lines which follow, or approximately follow, platted lot lines or other property lines as shown on the Arab Tax Maps shall be construed as following such lines.
- D.** Boundaries shown as following, or approximately following, section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- E.** Boundaries shown as following, or approximately following, railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
- F.** Boundaries shown as following, or approximately following, shorelines of any lakes shall be construed to follow the mean high waterlines of such lakes, and, in the event of change in the mean high waterline, shall be construed as moving with the actual mean high waterline.
- G.** Boundaries shown as following, or approximately following, the centerlines of streams, rivers, or other continuously flowing water courses shall be construed as following the channel centerline of such water courses taken at mean low water. In the event of a natural change in the location of such streams, rivers, or other watercourses, the zone boundary shall be construed as moving with the channel centerline.
- H.** Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs 3.5.1 through 3.5.8 above shall be construed to be parallel to, and at such distances from, such features as are shown on the map.

- I. In case any further uncertainty exist after the Administrative Officer's interpretation; where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map; or in other circumstances not covered by the preceding rules, the Planning Commission shall determine the location of district boundaries.

### **Section 305. Statement of Purpose and Intent of Zoning Districts**

The purpose and intent of the use districts provided for in this Ordinance are as follows.

**Agriculture District (AG)**. This district is intended to provide for low-density residential development while allowing the continuation of agricultural or farm uses. It also serves to correlate growth with utility, service and transportation needs until more intensive urban development is warranted.

**Low Density Residential District (R-1)**. This district is intended to provide for, and protect, the quiet and peaceful character of single-family detached residential development and accessory uses normally necessary and compatible with such development. Regulations that apply within this district are designed to encourage the formation and continuance of a stable, healthy environment for residential dwellings and to discourage encroachment by commercial, industrial or other uses capable of adversely affecting the residential character of the district.

**Medium Density Residential District (R-2)**. This district is intended to provide for medium density single-family detached residential areas permitting development types such as patio and garden homes and other medium density detached dwellings. Certain structures and nonresidential uses required to serve governmental, educational, religious, recreation, and other needs of such areas may be permitted as outright or as conditional uses within the district, subject to restrictions and requirements intended to preserve and protect the residential character of the district.

**High Density Residential District (R-3)**. This district is intended to provide for high density residential areas permitting progressively higher population densities, characterized by duplexes and multiple-family structures such as townhomes and apartments. Certain structures and non-residential uses required to serve governmental, educational, religious, recreation, and other needs of such areas may be permitted as outright or as conditional uses within such districts, subject to restrictions and requirements intended to preserve and protect the residential character of the districts.

**Manufactured Home Park District (MHP)**. The purpose and intent of the MHP Manufactured Home Park District is to provide appropriate locations for the establishment of manufactured home parks within which space may be leased or rented.

**Urban Mix District (UM)**. It is the intent and purpose of this district to provide areas where a mixture of residential and commercial uses may co-exist. Commercial uses may include retail trade and personal service enterprises and shall be designed to be compatible in both use and appearance to residential development in the same district. This district may also serve as an extension of the Historic Central Business district and may act as a buffer between more intense commercial uses and residential areas. Such district shall generally be located along major arterial and/or collector roadways radiating out from the Historic Central Business district. Commercial uses developed or

expanded after the adoption of this Ordinance shall be required to provide landscaping and buffer areas to mitigate the impact of the use on surrounding residential development. All commercial uses developed in this district shall have a residential appearance from the street. Outside and open storage or display is not permitted. All storage and display shall occur entirely within a fully enclosed building.

**Office-Institutional District (O-I).** This district is intended to provide areas for the development of public, semi-public and private offices; schools, healthcare and child care facilities; places of worship and special residential development. Such uses are supportive of the surrounding residential community and should gain access via an arterial or major collector road. Uses permitted in this district should be in harmony with residential or institutional environments and should serve to transition between residential neighborhoods and more intensive commercial districts or uses. It is intended that buildings be surrounded by landscaped grounds and that signs be limited in size and location to minimize commercial impact.

**Neighborhood Commercial (NC).** (*Local Shopping District*) This District is intended for small sites in or near residential neighborhoods. The zone encourages the provision of small scale retail and service uses for nearby residential areas. Some uses which are not retail or service in nature are also allowed so a variety of uses may locate in existing buildings. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas.

**General Business District (GB).** This district is intended to be located along arterial roadways which serve higher traffic volumes and are intended for the higher intensity development. Uses in this district are intended to provide goods and services to the City as well as serving the larger trade area. Uses permitted outright or conditionally in this district may include shopping centers, restaurants, and large commercial retail establishments. Because these uses are subject to the public view and are often located at or near City gateways, which is a matter of concern to the entire City, they should provide adequate parking, controlled traffic movement, suitable landscaping and protection for abutting residential areas from the traffic and visual impacts associate with these types of commercial activities.

**Historic Downtown District (HD).** The purpose and intent of the Historic Downtown District is to promote the preservation of buildings, structures and sites of historic and architectural value within the city. Development and redevelopment within this district should reflect the historic character and scale of existing development. Uses within this district will include both commercial and residential of appropriate type and design to be compatible with existing uses and may be found as individual freestanding, and/or mix used development types. Design and function will play a major role in the review and approval of uses in this district.

**Manufacturing Districts (M-1 & M-2).** These Districts are intended to accommodate commercial areas that must be segregated, because of negative impacts that cannot be made compatible with other uses through the application of performance standards. The creation of these separate districts for manufacturing/industrial uses recognizes not only nuisances, but also infrastructure and operational incompatibilities between its permitted uses and those of other districts. Accordingly, the standards for these Districts are designed to accommodate intensive industrial uses that generate nuisances, which either cannot be handled by

technology or which are nearly impossible to police. Location criteria for these districts focus on transportation, requiring that sites have access to a railroad, an airport or a major highway.

**Special District (SD).** Special districts are hereby authorized for the purpose of providing optional methods of land development, which encourages imaginative solutions to environmental design problems and provide for a mixture of uses and density of uses with associated open space and amenities. Areas so established shall be characterized by a unified building and site development program (master plan) providing for coordinated open space and architectural treatment. The special districts authorized by this Article are also intended to provide means for the establishment of mixtures of uses, which might otherwise be considered incompatible with one another.

**Disposition of Planned Residential District (PR).** This district will no longer exist under this Ordinance and no new PR districts will be created. Instead all existing PR district have been re-designated as Special Districts (SD) and will be required to adhere to the requirements of same for future additions or expansions. *See Section 606 for Special District Standards.*

## **ARTICLE IV. GENERAL USE REGULATIONS**

### **Section 400. Introduction.**

The purpose of the regulations contained in this Article is to allow maximum utilization of land while insuring against detrimental impacts on the environment, neighboring properties, and the public interest. This insurance is provided by separating the incorporated area of the City of Arab into various zoning districts and permitting specified land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

### **Section 401. Use Regulations.**

Section 402 specifies which uses are permitted in each zoning district and defines the use categories used in this Ordinance. The purpose of this Section is to indicate which land uses may locate in each zoning district and which uses may not locate therein. A further distinction is made between uses that may locate in a given district only upon obtaining a conditional use permit to do so. The uses generally described in Section 402 are specifically listed in Sections 404 through 408.

### **Section 402. Uses Permitted by Right, Uses Permitted with Conditional Use Permits, and Uses Not Permitted.**

Except as otherwise provided by law or in this Ordinance, no building, structure, or land shall be used or occupied except in the zoning districts indicated and for the purposes permitted in this Section. The general use categories specified by Table 4-1 are defined in Sections 404 through 408.

Uses permitted by right or as a conditional use shall be subject, in addition to use regulations contained in this Ordinance, to all other regulations governing yards, lot size, lot width, building area, easements, provisions of off-street parking and loading, and to such other provisions as are specified in other Articles herein. In particular, the laws of the State of Alabama and the regulations of the Marshall County Department of Health regarding water supply and waste disposal shall be adhered to. Further, no permits shall be issued until approval is obtained from the Marshall County Department of Health for water supply and sewage disposal, unless the premises are served by public water and/or sewage facilities.

### **Section 402.01. Table of Uses**

All permitted uses and uses requiring conditional use approval pursuant to Section 903 are listed in Table 4-1. In addition, the table notes uses for which special development standards apply, regardless of whether such uses are designated as permitted or conditional. Special development standards are listed in Section 409.

A use listed in Table 4-1 in any district denoted by the letter "P" is a use permitted by right, provided that all other requirements of State law and this Ordinance have been met. . A use listed in

Table 4-1 denoted by the letter “C”, may be permitted as a Conditional Use, provided that the requirements of Article IX have been met.

In any case where a requested use is not specifically listed in Table 4-1 or Sections 404-408, of this Ordinance, the Planning Commission shall review and determine the status of the requested use. Such determination should be by reference to the most clearly similar use or uses that are specifically referred to in the Table of Uses and/or Sections 404 – 408. When the status of a use has been so approved by the Planning Commission, such determination shall thereafter have general application to all uses of the same type.

Where any use or similar use has blank spaces under zoning districts listed in the headings of the Table of Uses, such use is specifically not permitted in such zoning districts either by right or as a conditional use.

In addition to Table 4-1, the following regulations regarding permitted uses are established:

- A.** Existing garage apartments in the Residential (R), Office-Institutional (O-I), and Historic Downtown (HD) Districts are permitted uses and may be improved within the existing structure, but there shall be no increase in the number or size of dwelling units in the structure. No new garage apartments are permitted in any district in the City. When existing garage apartments are improved, off-street, paved parking spaces shall be provided and any required bufferyards shall be installed.
- B.** Uses not listed in Table 4-1 or Sections 403-408 are not permitted in any district except pursuant to Article X, which provides for interpretation of uses, or Article VIII, which provides for nonconformities.
- C.** Although a use may be indicated as permitted or conditionally permitted in a particular district, it does not follow that such a use is permitted or permissible on every parcel in such district. No use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the development standards and other regulations of this Ordinance applicable to the specific district, use and parcel in question.

**Table 4-1  
TABLE OF PERMITTED USES**

USE CATEGORY	ZONING DISTRICTS												
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Agricultural Uses:</i></b>													
Agricultural-Farming	x	P	C	C									
Agricultural - Livestock	x	P	C										
Forestry		P											
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Agricultural Support :</i></b>													
Farm Equipment sales/repair	x	C								P		P	P
Farm produce sales	x	P								P			
Farm produce supply		P								P		P	
Farm product processing	x	C											P
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Nurseries:</i></b>													
Wholesale		C								C		P	
Retail	x	C								P			
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Residential Uses:</i></b>													
Single Family Detached		P	P	P	P		P						
Bed & Breakfast	x	P	C				C				P		
Multi-Family	x				P		C				C		
Manufactured Home		P				C							
Manufactured /Modular Home Subdivision													
Manufactured Home Park						C							
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Institutional Uses:</i></b>													
Cemetery		C	C	C	C			C					
Community Center							C	C	C				
Daycare	x	C			C		C	C	P				
Group Homes	x		C	C	C								
Schools – Public/Private		C	C	C	C			P					
Nursing Home/ Assisted Living Facility					C		P	C	C	P			
Place of Worship	x	C					P	P	P	P			
Vocational or Trade Sch.		C						C		P		P	

<sup>1</sup>SDS – See Section 409. Special Development Standards

USE CATEGORY	ZONING DISTRICTS												
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Office Uses:</i></b>													
Bank or Financial Svs.							C	P	C	P	P		
Business/Professional Office	x	P					P	P	P	P	P		
Urgent Care/Surgery Ctr.								C	C	P			
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Commercial &amp; Entertainment Uses:</i></b>													
Animal Shelter		C										P	
Auto Accessory Store	x									P			
Barber/Beauty Shop							C		P	P	P		
Building Material Sales	x									P		C	C
Convenience Store (no fuel)									C	P			
Dance/Gymnastics St.							C		P	P	P		
Entertainment, Indoor									C	P	C		
Entertainment, Outdoor										P			
Garden Ctr. or Nursery									C	P	C		
General Retail, Enclosed							C		P	P	P		
Greenhouse Commercial	x	C								P		P	P
Home Improvement Ctr.										P		P	
Pawn/Smoke/Tattoo/Title Pawn/Payday Loan										P			
Recreation, Indoor									C	P	P		
Restaurant, Eat-In							C	P	P	P	P	P	P
Veterinary Office/kennel	x	P						C	C	P			
Wine Bar/Brew Pub	x								C	P	P		
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b><i>Road Service Uses</i></b>													
Auto repair, paint/body	x									P		P	P
Car Wash	x								C	P		P	P
Fireworks Sales										C			
Flea market	x									C			
Gasoline/service station	x								C	P		P	P
Hotel/Motel	x						C	C		P	P		
Outdoor/Drive-In Theatre	x	C								P			
Parking Garage								P		P	C		
Restaurant, Fast Food								C	C	P		P	P
Small Engine Repair	x									P		P	
Vehicle Sales or Rental									C	P		P	P

<sup>1</sup>SDS – See Section 409. Special Development Standards



USE CATEGORY	ZONING DISTRICTS												
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b>Recreational Rental Dwellings</b>													
Campground		C											
Cottages/cabins		C											
Recreation vehicle park	x	C								C			
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b>Recreational Uses:</b>													
Golf Course		C	C	C	C								
Park		P	P	P	P	P	P	P	P	P	P	P	P
Swimming Pool		P	C	C	C	C							
Tennis Court		P	C	C	C	C							
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b>Public Service Uses:</b>													
Armory		C								P		P	P
Broadcasting Stations		C								P		P	P
Broadcasting & Communication Tower	x	C							C	C		P	P
Government Service /Public Facility		P	C	C	C	C	C	C	C	P	P	P	P
Hospital	x	C						C		C			
Museum/Art Center							P	P	P	P	P		
Prison		C										C	C
Public Utility	x	C	C	C	C	C	C	C	C	C	C	C	C
Transportation Facilities										P	P	P	P
Utility service yard or garage		C								C		C	P
	SDS <sup>1</sup>	AG	R-1	R-2	R-3	MHP	UM	O-I	NC	GB	HD	M-1	M-2
<b>Industrial Uses:</b>													
Airport, Heliport, & Landing Strip		C										C	C
Chemicals or fuels, manufacture, process or storage	x												C
Commercial incinerator	x												C
Extraction Uses <i>Mine/quarry/etc.</i>	x												C
Food processing/packing	x												P
Freight/trucking terminal												P	P
Landfill	x												C
Manufacture of building materials												P	P

<sup>1</sup>SDS – See Section 409. Special Development Standards



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### **Section 403. Use Categories Defined.**

The categories of uses utilized by this Ordinance are defined in Sections 404 through 408. The uses not enumerated in these sections are not necessarily excluded. Article XI empowers the Administrative Officer to make interpretations of use.

### **Section 404. Agricultural Uses.**

**404.01. Agriculture.** Agricultural uses include farms (and farm residences); fish or poultry hatcheries; fur-bearing animal ranches; orchards; raising of livestock, horses, or poultry; truck farming; and all other agricultural uses. It does not include uses that may be accessory to agriculture, such as retail stores, nor does it include industries or businesses that support or are supported by agriculture.

**404.02. Forestry.** This use includes commercial logging and pulping operations, clearing or destruction of forested or woodland areas, selective cutting or clearing for commercial or other purposes, clearing for agriculture or other prospective land uses, and clearing of vegetation in reserved open space or resource protection areas. This does not include authorized clearing in accordance with plans approved pursuant to this Ordinance, removal of sick or dead trees, or removal of trees on non-contiguous lots of one (1) acre or less.

### **Section 405. Residential Uses.**

**405.01. Conventional residential.** Conventional residential uses consist of all single-family detached dwelling units. All conventional residential development approved after enactment of this Ordinance shall conform to the requirements of Section 410.

**405.02. Alternative residential.** Alternative residential uses consist of all residential developments, except those included within the conventional residential use category, approved after enactment of this Ordinance. This use category permits the residential builder considerable freedom by allowing varied types of dwellings, lot sizes, and design. It also insures adequate open space in each development. See Section 603.02

### **Section 406. Recreational, Institutional, and Special Residential Uses.**

**406.01. Outdoor recreational.** Outdoor recreational uses include arboretums; areas for cycling, hiking, and jogging; commercial stables; golf courses; nature areas; parks (private); picnic areas; play fields; playgrounds; outdoor swimming pools; tennis courts; wildlife sanctuaries; and all other outdoor recreational uses. Specifically excluded are outdoor movie theaters, miniature golf courses, and golf driving ranges. This use is basically an open-space use.

**406.02. Indoor recreational.** Indoor recreational uses include aquariums, community or recreation centers; gymnasiums; indoor skating rinks (ice or roller); arcades or billiard parlors; indoor swimming pools; tennis, racquetball and handball courts.

**406.03. Institutional Uses.** These uses include boarding houses; day or youth camps; cemeteries; churches; convents or monasteries; dormitories; day care centers; group child care homes; day or nursery schools; group homes; private libraries or museums; nursing homes; or private schools; schools or facilities for the physically or mentally handicapped and all other institutional and special residential uses.

These uses are all supportive of the residential community. They provide indoor space for recreation, hobbies, meetings, education, and worship, as well as cultural facilities, group quarters for religious groups and the infirm or elderly. Some uses may be operated for private profit.

#### **Section 407. Commercial Uses.**

**407.01. Office.** Office uses include governmental offices, business or professional offices, medical offices or clinics, and all other office uses.

**407.02. Commercial and entertainment.** This use category includes general retail commercial uses, primarily occurring indoors and serving a wide range of customers and requiring high-visibility locations. These uses include veterinary offices with indoor kennels; auto parts/accessory stores (no repairs); auto detailing; banks and other financial institutions (without drive thru windows); blueprint and copy stores; bowling alleys; commercial or trade schools (e.g., dance studios, schools for martial arts); currency exchanges; funeral homes; mortuaries; grocery stores and supermarkets (excluding convenience stores, e.g., “7-Eleven” stores); ice cream stores or stands; laundries and/or dry cleaners; light mechanical repair stores (e.g., watch, camera, bicycle, TV); stores selling liquor, or beer (in sealed containers, not for consumption on premises); lodges for fraternal orders; package stores; taverns, lounges and private clubs; restaurants (standard sit-down, not fast food); restaurant-lounges; restaurant pubs; retail sales or stores; service businesses or stores (e.g., catering, duplicating, photography, shoe repair, tailoring, travel agency, upholstery); shopping centers; theaters and auditoriums (indoor); upholstery stores; building materials sales (excluding asphalt or concrete mixing) with no outdoor storage; carpet and rug cleaning plants; extermination shops; equipment rentals (no outdoor display); automated free-standing walk-up facilities; barbershops and beauty shops; hotels and motels; and all other commercial and entertainment uses.

**407.03. Commercial outdoor recreational use.** These uses include amusement parks, drive-in theaters, fairgrounds, golf driving ranges (including miniature golf), outdoor theaters (or amphitheaters), race tracks (e.g., auto, dog, go-kart, harness, horse, motorcycle), archery ranges, sport arenas, stadiums, and all other commercial recreation uses. This group includes recreational uses that are greater nuisances than conventional outdoor recreational activities, because of their size and scale, traffic volumes, noise, light, or physical hazards such as flying objects or use of weapons.

**407.04. Recreational rental dwelling uses.** These uses include travel trailer parks, recreational vehicle parks, camps or campgrounds with overnight camping or vacation cottages, rental cabins, vacation cottages, and all other recreational rental uses. These uses are all short-term rental

facilities oriented toward leisure activities for the vacationer or organized activities such as summer camps. The maximum length of stay for any user shall be 60 consecutive days.

**407.05. Road service.** This use category includes commercial uses having a high degree of customer turnover, outdoor activity or outside storage of merchandise. These uses include boat rental and/or storage facilities; body shops; convenience stores (e.g., “7-Eleven” stores); gasoline service stations; hotels or motels; retail sales with small engine repair as an accessory use, such as lawn mower stores; fast-food restaurants and any bank with drive thru tellers; parking garages/lots; vehicle rentals; vehicle repair (body) shops; vehicle sales, supplies, and service (new or used auto, boat, bus, equipment, motorcycle, truck); and all other road services.

**407.06. Public service.** These uses include hospitals, emergency services (e.g., ambulance, fire, police, rescue), service buildings or garages, utility or broadcasting stations or towers, utility service yards or garages, public schools, public libraries/museums/art centers, public parks, public animal shelters, and all other public utility and public service uses.

**407.07. Agricultural support.** These uses include farm equipment sales and repair, farm produce sales and supply (feed, grain, fertilizer), farm product processing (cider mill, dairies, poultry, or meat processing), and all other agricultural support uses.

**407.08. Nurseries.** This category includes nurseries with or without retail sales or greenhouses. A nursery is basically an open-space use, which generates little traffic and has few nuisances, such as late hours or customer or truck noise, associated with it. Nurseries are distinguished from more intensive garden center uses.

**407.09. Regional shopping center.** This category includes commercial land development consisting of 500,000 or more square feet of gross floor area.

**407.10. Commercial support.** This use category includes uses, which support the City’s retail economy by providing merchandise distribution, storage, and repair services. These uses include beverage distributors; blacksmith shops; bulk materials or machinery storage (fully enclosed); large equipment rental/sales/service; contractors’ offices and equipment storage yards; dry cleaning and laundry plants serving more than one (1) outlet; fuel, oil, ice, coal, and wood sales; furniture cleaning plants; furniture refinishing shops; manufacturing (including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products in plants with less than 30,000 square feet of floor area or fewer than 100 employees on every shift); mirror supply and refinishing shops; monument works; ornamental iron workshops; printing plants; publishing plants; trade shops (including cabinet, carpentry, planing, plumbing, refinishing, and paneling); small engine repair as a principal use; veterinary offices with open or partially enclosed runs, yards, pens; and/or kennels; wholesale business and storage; warehouses, office-warehouse, and mini-warehouses; and all other commercial support uses.

**407.11. Neighborhood Shopping Center.** A commercial development site containing one or more commercial buildings, together with all required parking, landscaping, buffering, signs, drainage facilities, and other design features to accommodate the uses permitted on the site. The purpose of the neighborhood shopping center is to serve the limited commercial needs of nearby residential

development. It is not intended to provide commercial services to customers from other areas of the City.

Permitted uses shall include branch banks; small garden supply stores; grocery stores or supermarkets; ice cream stores; laundries and/or dry cleaners; light mechanical repairs such as cameras, watches, or televisions; barber or beauty shops; standard sit-down restaurants (no fast food establishments); gasoline service stations; and similar retail stores and service businesses.

#### **Section 408. Industrial Uses.**

**408.01. Industry.** This use category includes asphalt or concrete mixing plants; bulk material or machinery storage (unenclosed); fuel/power generation plants; grain elevators; meat packing plants; recycling facilities; truck, motor, or rail terminals; dyeing plants; food processing and packing plants; lumber yards; pilot plants; scientific (e.g., research, testing, or experimental) laboratories; also, those uses listed above as commercial support, any industrial use having 30,000 or more square feet of floor area or having 100 or more employees on any shift, and all other industrial uses.

This group contains uses that have significant potential for negative impact on any uses that would locate relatively close to them. This group differs from commercial support uses in that it includes uses that require enclosed structures, which are large, tall, and unsightly, such as concrete batching plants. These uses also have significant potential for generation of odor and may involve large amounts of exterior storage; because of their scale, they are likely to have a regional impact.

**408.02. Extraction and junkyard uses.** This category includes junk, scrap, or salvage yards and all extraction uses. These uses create major disruptions to the area's environment, even when carefully regulated. Dust, dirt, noise, and unsightly conditions can be anticipated. None of these uses are an acceptable neighbor in an urban environment.

**408.03. Airports, Landing Strips and Heliports.** This category includes any facility used for take-off, landing, storage, maintenance, and/or repair of aircraft. It also includes aviation-related activities, such as radar and communications facilities, flight schools, and cargo loading and storage areas.

#### **409.00. Special Development Standards.**

Certain uses have unique characteristics that require the imposition of development standards beyond those minimum standards which may pertain to the general group of uses encompassing the use. These uses are listed below, together with the specific standards that apply to the development and use of land for the specified activity. These standards shall be met in addition to all other standards of this Ordinance, unless specifically exempted.

**A. Agricultural Uses.**

Agricultural Production – Farming/Crops

*In AG District:* May include the growing of crops, horticulture, plant nurseries, greenhouse, hydroponic garden, orchards, bee-keeping and aquaculture.

*In R-1 & R-2 Districts:* May include crops, horticulture, plant nurseries, greenhouse, hydroponic garden, bee-keeping, and orchards provided that any structure used in the agricultural production shall be two hundred (200) feet from the nearest adjacent residential structure not on the same property.

Agricultural Production – Livestock:

The following limitations shall be placed on the keeping of livestock and fowl within the City of Arab:

Other than expressly allowed herein, no livestock, poultry or fowl shall be raised, housed, maintained or kept in any zoning district other than in the Agriculture (AG) District.

In the Residential (R-1) zoning district the specific livestock and poultry indicated below may be allowed, provided that in no event shall any such livestock or poultry be located on lots of less than three (3) acres and further provided that all animal enclosures (i.e. fences, paddocks, barns, or other forms of animal shelters) shall be setback a minimum of two hundred (200) feet from any property line or residential structure not located on the same property, whichever is greater. The following specific regulations shall apply as indicated:

*Chickens:* On lots of 3 acres or more a maximum of fifteen (15) chickens. All chickens must be housed in coops within a fenced area. No Roosters shall be allowed in the R-1 district.

*Goats:* Two (2) goats shall be permitted on lots of 3 acres or more. For each additional three acres an additional two (2) goats may be added.

Barns or other forms of shelter may not be located less than 200 feet for the nearest residential structure not on the same property.

There must be a minimum of one-half (1/2) acre of contiguous roaming/grazing area for every two goats.

*Bees:* On lots of three acres a maximum of five (5) hives may be permitted. For each additional three acres an additional two (2) hives may be added.

Hives must be setback a minimum of 200 feet from all property lines.

- Equine:* A minimum three (3) acre parcel, with a minimum of one-half (1/2) acre of cleared pastureland shall be provided for each equine.
- Cows:* A minimum three (3) acre parcel, with a minimum of one and one-half (1 ½) acres of cleared pastureland shall be provided for each head of cattle or calf/cow pair.
- Swine:* Swine are not permitted within the city limits of Arab.

In the Agricultural District (AG) any animal enclosure shall be setback at least two hundred (200) feet from any residential structure not on the same property. There shall be no other limit on the keeping of livestock, poultry or other forms of fowl with the exception that no swine shall be allowed within the City Limits of Arab, nor shall any commercial poultry houses be allowed within the City Limits of Arab.

## **B. Agricultural Support Uses.**

*Farm equipment sales/repair:* All structures and equipment storage areas shall be located at least 200 feet from the nearest residential structure under different ownership. All repairs shall be performed within a fully enclosed structure.

*Farm produce sales:* Permitted in the Agricultural District (AG), provided that:

1. Such use shall comply with required front yard setbacks.
2. Such stands shall sell only products grown or produced on the premises.

*Farm product processing in Agricultural (AG)*

1. All such uses must front on a road with a functional classification of Arterial, as designated in Appendix A.
2. Minimum lot size: five (5) acres
3. The total floor area of all nonresidential structures shall be limited to 10,000 square feet. All machinery shall be kept within a fully enclosed structure.
4. Outdoor pens or cages for animals shall be set back 150 feet from all property lines.
5. Processing facilities shall not operate between the hours of 11 p.m. and 7 a.m.

### C. Nurseries.

#### Retail sales of gardening supplies in AG district:

1. Property must front on a road with a functional classification of arterial, as designated in Appendix A.
2. Bufferyards shall be provided along all property lines as required.

### D. Residential Uses.

#### Bed & Breakfast Inn:

1. Only an existing dwelling unit that meets the following standards may be used as a bed and breakfast establishment.
2. The owner of the establishment must reside on the premises.
3. The residence designated as a bed and breakfast establishment cannot contain more than eight (8) guest rooms.
4. All guest rooms must be contained within the principal dwelling unit; except that when a bed and breakfast use is established in an historic district and the premises include accessory structure such as a carriage house, such accessory buildings may contain guest rooms provided that the total of rooms in the accessory and the main buildings does not exceed eight guest rooms.
5. Breakfast must be provided daily on the premises for the guests.
6. The owner of the establishment must obtain a business license from the City of Arab Revenue Department.
7. A sign, not to exceed six (6) square feet, shall be permitted in a location to be determined by the Planning & Zoning Department. Such sign may be illuminated to an intensity not to exceed one (1) foot candle with lights that are focused on the sign in such a way that they do not create any glare to the surrounding area.
8. In addition to the off-street parking required by the dwelling unit, one parking space shall be required for each guest room. This additional parking does not have to be paved but shall have a surface that is approved by the Planning & Zoning Department.
9. In the absence of the resident owner(s) a resident manager(s) may be permitted to operate the inn. Such arrangement shall be limited to a maximum of three (3) months in any given calendar year.

Multi-Family Residential in Historic Downtown District: Residential uses are allowed in the Historic Downtown District only in accordance with the restrictions listed below:

1. A mixed use facility in the Historic Downtown District may consist of any commercial use permitted in this District as set forth in Table 4-1 of this Ordinance; and
  - a. One dwelling unit within the same structure as the commercial as in the case of a loft apartment; or,
  - b. Three or more dwelling units within the same structure as the commercial use, as in the case of multiple unit development.
2. Each living unit shall have a minimum floor area of 600 square feet, and shall be located on the second story or above.
3. As many dwelling units may be constructed in a mixed commercial/residential facility as would be permitted if the floor area ratio for the Historic Downtown District (Table 4-2) were applied to the entire mixed commercial/residential facility.
4. No off-street parking will be required for nonresidential uses in the Historic Downtown District (Section 614.06).
5. Prior to construction of new structures or expansion of existing structures, a site plan shall be reviewed and approved pursuant to Article IX.

**E. Institutional & Special Residential Uses.** All new institutional uses must front on a road with a functional classification of Collector or Arterial, as designated in Appendix A.

Daycare:

1. Must meet all requirements of the State of Alabama
2. All activities shall be carried out in an enclosed building or fenced yard.

Group Homes: Group Homes proposed to be located in residential zoning districts shall provide documentation of the following criteria to the Planning Commission or their designee prior to being issues a business license:

1. An approved license or authorization from the State of Alabama, or other authorizing agency, to operate a group home facility must be presented along with an application for a business license.
2. No more than four (4) unrelated persons may reside in the home; however, non-resident caretakers will be permitted.

3. A parking plan showing sufficient off-street parking to accommodate residents and caregivers must be provided and approved by the Planning Commission. A garage may be counted toward off-street parking.
4. When the applicant for a group home use is not the owner of the subject property, a letter from the property owner approving the operation of a group home on their property shall be provided.
5. Waivers, exceptions or modifications of these standards may be requested through a request to the Planning Commission.

Place of Worship:

1. Any new principal structure shall be set back no less than 50 feet from any adjoining property under different ownership.
2. Related accessory uses, such as student centers, day care centers, dormitories, boarding houses, and recreation centers, shall be prohibited in Residential (R) Districts.
3. For existing places of worship in Residential (R) districts, uses are limited to sanctuaries, educational buildings, fellowship halls and benevolence buildings. The addition of such uses shall require the installation of all required bufferyards and landscaping, as well as compliance with all other applicable regulations.
4. All required parking shall be located on the development site, and not separated from the site of the principle structure by any public right-of-way.

**F. Office Uses:**

*In AG District:* Incidental to permitted uses.

**G. Commercial & Entertainment Uses.**

Auto accessory store: no repair work to be done on premises.

Building material sales/home improvement centers: all building materials shall be kept within an enclosed structure or completely surrounded by a wood stockade or other opaque fence at least six (6) feet in height.

Greenhouse: Commercial Greenhouses are allowed as a Conditional Use in the Agricultural District (AG) provided that no retail sales are made on the premises.

Veterinary office/kennel: no outdoor pens, runs or cages shall be permitted. Outdoor exercise areas will be allowed and shall be designated as such on the site plan.

Wine Bar/Brew Pub:

1. Must meeting licensing requirement of the City of Arab, Alabama.
2. Shall comply with all applicable regulations of the State of Alabama.

**H. Road Service Uses.** Any outside display of vehicles, equipment or other merchandise for sale, lease or storage shall be on a paved surface. No display of merchandise shall be allowed on the right-of-way or in any required bufferyard.

Auto repair, paint/body work:

1. Vehicles undergoing repair, painting or bodywork shall remain inside an enclosed structure at all times.
2. Unlicensed, untitled vehicles shall not be permitted on the site at any time. No body or chassis shall be stored on the site at any time.
3. All parts, including body parts, shall be stored within a completely enclosed structure.

Car Wash: Allowed as a Permitted Use in General Business District (GB) and Manufacturing Districts (M-1 and M-2); and as a Conditional in Neighborhood Commercial (NC) subject:

1. Meeting all requirements of site plan and engineering approval.
2. All water used being recirculated for reuse in the facility.

Flea Market:

1. Flea markets shall be permitted only on property fronting on an arterial road, as designated in Appendix A with all major points of ingress/egress connecting to that road.
2. At least one enclosed building of 300 square feet or more in size shall be constructed on the property.
3. Minimum lot size shall be five (5) acres, with a minimum width of 200 feet and a minimum depth of 300 feet.
4. No merchandise shall be sold or displayed less than 100 feet from adjoining residential property or 50 feet from non-residential property.
5. Parking shall be provided at the rate of one (1) space per 50 square feet of sales area, as designated on an approved site plan. Parking areas shall have a smooth, stabilized and dustless surface; provided that no more than 50 percent of the required parking spaces may be grass or other suitable material in overflow and remote locations.

Unpaved spaces and driving aisles shall be organized for efficient traffic flow, using tire stops, railroad ties, or other objects approved by the City Engineer. Parking spaces within 150 feet of any structure on the development site shall be paved with asphalt, concrete or other rigid paving material.

6. A bufferyard shall be provided along all property lines. General and parking lot landscaping shall be required.

Gasoline and/or auto service station:

1. Site. The minimum frontage on an arterial street shall be 150 feet.
2. Service Area. Pits, hoists, and all lubricating, washing, and repair equipment and workspace shall be enclosed within a building.
3. Bulk Storage. Liquid petroleum fuels shall be stored in underground tanks.
4. Structures. Structures shall conform to the following standards:
  - a. Vehicular canopy structures shall abide by applicable building setbacks. Accordingly, the maximum height of all such structures shall be noted on the site plan. The area under such canopies shall not count against the permissible Floor Area Ratio (FAR) allowed for such developments but shall count toward the allowable Impervious Surface Ratio (ISR)
  - b. Pump islands and underground fuel storage tanks shall be set back a minimum of 20 feet from any property line.
5. No part of the premises shall be used for paint spraying, body or fender repair, storage of dismantled or wrecked vehicle parts, or tire recapping.

Hotel/motel: Permitted only as a conditional use on property fronting on an arterial roadway, or on a collector road, as designated in Appendix A.

Outdoor/Drive-in theatre: Accessory uses permitted shall be limited to a refreshment stand or booth, a souvenir stand or booth, and/or a children's playground, which are for the exclusive use of patrons of the drive-in theater.

Small Engine Repair: Equipment under repair or not operational shall be screened from public view or stored indoors at all times.

Vehicle sales, lease and rentals:

Permitted as an accessory use to an automobile service station in General Business (GB), Manufacturing (M-1 and M-2); and Conditional in Neighborhood Commercial (NC), provided that:

1. The use shall not be established on a lot of less than twenty thousand (20,000) square feet;
2. The use shall not occupy more than ten percent (10%) of the total lot area.

## **I. Shopping Center Uses**

Neighborhood Shopping Centers shall meet the following requirements:

1. A neighborhood shopping center shall be located only on an arterial roadway or at the intersection of an arterial road and a collector street, as designated in Appendix A. For this purpose each quadrant of such an intersection shall be considered a separate location.
2. The total site area of a neighborhood shopping center shall be not less than three (3) acres.
3. A combination of two or more natural materials such as wood, brick, stone, stucco shall be used on the exterior surface of all structures.
4. The development shall consist of multiple structures or if less than 15,000 sq. ft. in size may be one structure, either of which shall have articulated roof lines and varying façade elevations. **(See Figure 7)**
5. All utility meters, ground-mounted air conditioning and similar mechanical units shall be screened so as not to be visible beyond the boundaries of the site.
6. A master signage plan for the overall proposed development shall be submitted and approved in conjunction with the required site plan.
7. *For Gasoline station in a neighborhood shopping center:* See Gasoline and/or Auto Service Station under Road Service Uses.

## **J. Commercial Support Uses.**

Bottling plant/bakery:

1. Minimum lot size shall be 80,000 square feet.
2. Structures shall be set back 50 feet from all lot lines.

Contractor storage yard:

All equipment and building materials shall be screened from outside view by an opaque fence no less than six (6) feet in height.

Permitted in the General Business (GB) district subject to there being no outside storage of materials or equipment.

Permitted in Manufacturing (M-1 and M-2) districts with or without outside storage of materials or equipment.

Dry Cleaning/Laundry Plant:

Allowed as a Conditional Use in General Business (GB), and as a Permitted Use in Manufacturing Districts (M-1 & M-2) Districts subject to the following:

1. Plant shall comply with all requirements of the City Fire Prevention Code
2. Plant shall be designed to operate in a manner that will not emit smoke, odor, or objectionable waste materials and which will not produce noise that will carry beyond the walls of the building which it occupies.

Mini-warehouse:

1. After receiving conditional use approval, the mini-warehouse shall be the sole use of the structure(s) in which it is located. Other activities in place of or in addition to the mini-warehouse shall not be permitted within those structures. No sales, service, or repair activities, other than the rental of dead storage space, are permitted on the premises.
2. Where an applicant proposes additional uses on the same development site, the mini-warehouse use shall be physically separated from all other uses. The conditional use approval shall be assigned to a specific portion of the site, established by an internal boundary shown on the site plan. Within that area, no use other than mini-warehouses shall be permitted.
3. No storage bay or unit in a mini-warehouse shall be used as a place of business, and no business license shall be approved for the property other than that of the mini-warehouse owner/operator.
4. No storage bay shall contain plumbing or more than one (1) electrical outlet.
5. A minimum of three (3) and maximum of five (5) spaces shall be provided in the vicinity of the office and a 27 foot minimum drive aisle to all storage unit doors.
6. The mini-warehouse facility shall be completely surrounded by a fence at least six (6) feet in height, such that access to the site can be restricted. A masonry wall or wood stockade fence shall be provided where required under Article V; otherwise, chain link may be substituted.

Office-Warehouse:

1. The office/showroom component of this use must comprise at least 25 percent of the total floor area of the use.
2. No single building shall contain more than five (5) units.
3. No equipment other than standard (2 axle) vehicles shall be parked long term in required parking and/or in front of the units.
4. There shall be no exterior display or storage of equipment and materials. All equipment and materials shall be housed inside the structure, or behind an eight (8) foot privacy fence to the rear of the structure.

Printing/publishing:

1. Minimum lot size shall be 80,000 square feet.
2. Structures shall be set back 50 feet from all lot lines.

Recycled materials collection/storage:

1. Materials collected for recycling purposes shall be limited to inert solids such as plastic, glass, paper and metal. No liquids, or objects containing liquids, shall be stored on the site. Toxic chemicals or hazardous materials of any kind shall be prohibited.
2. All materials collected for recycling purposes shall be stored within a completely enclosed structure.

Sales/minor storage of gaseous fuels: No more than 500 gallons shall be stored on the site at any time.

Sales/rental/repair of heavy equipment:

1. All repair work shall be performed within a completely enclosed structure.
2. Equipment or vehicles under repair or not operational shall be screened from public view or stored indoors at all times.

Veterinary clinic or Animal hospital:

Allowed as a Permitted Use in the Agricultural District (AG) and as a Conditional Use in the General Business District (GB), provided that no enclosure for animals is located closer than one hundred (100) feet from any property line.

**K. Commercial Recreational Uses.** All commercial recreational uses shall be subject to the following requirements:

1. No commercial recreational use shall be located within 300 feet of existing residential development.
2. No building, trailer, vehicle, or mechanical equipment supporting the use shall be located within 50 feet of any property line.

Archery or Shooting Range:

1. Allowed as a Permitted Use in General Business (GB) and Manufacturing (M-2) Districts subject to being housed in a fully enclosed structure.
2. Allowed as a Conditional Use in the Agricultural (AG) District.

Golf Driving Range/Miniature Golf: the following standards shall be met:

1. The site plan required pursuant to Section 902 shall show the layout of the property and indicate the location of all driving ranges, putting greens, fences, and structures.
2. Accessory uses permitted shall be limited to a clubhouse, refreshment stands, maintenance shed, a miniature golf course, and a pro shop.
3. Lighting shall be established in such a way that adjacent properties and roadways are not adversely affected, and that no direct light is cast upon adjacent properties and roadways.

Riding Stable or Academy:

1. Such stable shall be established on a lot having an area of not less than ten (10) acres.
2. Any structure shall be located at least one hundred (100) feet from any property line.
3. All animals shall be maintained at least one hundred (100) feet from any property line.

**L. Recreational Rental Dwellings.**

Recreational vehicle park: All recreational vehicle parks shall be developed according to the following standards:

1. Minimum lot requirements:
  - a. Minimum size for development site: 100,000 square feet.

- b. The development site shall have at least 50 feet of frontage on an arterial road, as shown in Appendix A.

2. Vehicle Site Requirements.

- a. The minimum vehicle site area shall be 1,200 square feet, with a minimum width of 20 feet and a minimum depth of 40 feet. All RV sites shall be shown on the site plan for the park.
- a. The minimum distance between recreational vehicles shall be 10 feet. The minimum distance between a recreational vehicle and any structure shall be 20 feet. The minimum allowable distance between recreational vehicles shall, for the purpose of this section, be measured from and between the outermost structural parts or attached accessory features.
- b. The addition or attachment of any accessory structures such as awnings, porches, carports, or individual storage facilities not specifically designed and included as a standard part of the original RV shall be expressly prohibited.
- c. The removal of wheels and/or the installation of skirting materials around the base of a RV shall be prohibited. A recreational vehicle shall not be permanently affixed to the ground or any structure.

3. Allowable Accessory Uses.

- a. Clubhouse, bathhouse, camp store, laundry, swimming pool, and other shared facilities for the common use of the residents of a development.
- b. No more than one (1) dwelling unit of conventional construction, at least 600 sf in size, for the use of a resident manager.

4. Bufferyards. There shall be a bufferyard along all property lines where the park adjoins a road, vacant property, or a different land use. (See Article V)

5. Parks shall not exceed the following performance criteria:

Maximum gross density:	10 RV sites/acre
Maximum I.S.R for entire park:	.25
Maximum I.S.R. for any RV site:	.60
Maximum building height (for conventional structures):	35 feet

For purposes of site plan review, it shall be assumed that impervious surfaces cover 60 percent of each designated RV site unless the site plan specifies a lesser amount. An open space area shall be provided which meets the requirements of Section 415 and which is easily accessible from all vehicle sites. The minimum size of such open space area shall be 20 percent of the entire tract area or 20,000 square feet, whichever is greater.

6. Other Regulations:

- a. Site Plan. Any applicant for the required permits to establish, construct, alter or extend a recreational vehicle park shall prepare and submit a detailed site plan in accordance with the requirements of Section 902.
- b. Access and Internal Streets. RV sites within the park shall be served by internal roads and shall not have direct access to public streets. Maintenance of private roads within the park shall be the responsibility of the developer and/or owner of the property.
- c. Off-Street Parking and Maneuvering Space. The internal circulation system of a RV park shall be designed so that parking, loading or maneuvering of vehicles shall not necessitate the use of any public street, sidewalk, or right-of-way, or any private grounds not part of the designated parking area. Sufficient maneuvering space and off-street parking facilities shall be provided at each site to accommodate a towing vehicle.
- d. Duration of Stay. Vehicle sites shall be rented by the day or week only. No RV shall remain in a park longer than 60 consecutive days.
- e. Ground Cover. Exposed ground surfaces in all parts of every vehicle site area or other vehicle parking area shall be grassed, paved, or covered with gravel to prevent soil erosion.
- f. Drainage Requirements. Surface drainage plans for the entire tract shall be reviewed by the City Engineer, who shall determine whether the proposed plan is compatible with the surrounding existing drainage pattern and any relevant drainage plan of the City, prior to issuance of building permits.
- g. Ownership. RV parks may not be platted or otherwise divided by fee simple ownership; however, the sale of interests or memberships on a condominium basis is permitted. All facilities, including roads, shall be privately owned or owned in common by residents of the park, and shall not occupy parcels of land which are deeded separately from the rest of the park. The City of Arab shall not be responsible for maintenance and/or repair of common facilities within any recreational vehicle park.

- h. No RV shall be permanently affixed to the ground or any structure, whether in an approved RV Park or otherwise located.

#### **M. Recreational Uses**

#### **N. Public Service Uses.**

Broadcasting and Telecommunication Towers: See Section 602.

Conditional Use in AG, NC, GB, and Permitted Use in M-1 and M-2 Districts; subject to:

1. All towers in excess of one hundred (100) feet must be set back from any lot used or intended to be use for a residential structure a distance equal to one-half the height of the tower or five hundred (500) feet, whichever is greater.
2. All towers in excess of one hundred (100) feet must be set back from any off-site structure a distance of one-third the height of the tower or one hundred (100) feet, whichever is greater.
3. All towers less than one hundred (100) feet must be set back from all property lines a distance of one-third the height of the tower.
4. The Planning Commission shall apply the Radio, Television and Communication Tower Standards in its consideration of applications for Conditional Use approval.
5. All towers shall meet the requirement of Section 602 of this Ordinance.

Hospital: Development site shall have ready access to an arterial road, as designated in Appendix A.

Public Utility: In All Zones whether Conditional or Permitted:

1. Utility facilities, such as distribution lines and transmission lines. Unless elsewhere permitted in the district, such facility shall not include a business office.
2. Utility substations incidental to electrical when essential for service, provided:
  - a. The structure(s) are located not less than fifty (50) feet from any property line;
  - b. The structure(s) are enclosed by a fence or wall at least eight (8) feet high;
  - c. The lot is suitably landscaped, including a buffer strip at least ten (10) feet wide along a side and rear property lines.

3. Utility substations incidental to gas, water, sewage or telephone when essential for service, provided the premises are not used for vehicle or equipment storage.

**O. Industrial Uses.**

Chemicals or fuels, manufacture, process or storage:

1. Minimum lot size shall be 100,000 square feet.
2. Storage tanks or structures shall be at least 100 feet from all property lines.

Commercial incinerator:

1. Minimum lot size shall be 100,000 square feet.
2. Structures shall be at least 100 feet from all property lines.

Extraction Uses – (mining/quarry/etc.)

1. Minimum parcel size shall be 100 acres.
2. The removal area shall be sealed by fencing, grading or other devices from general public access; all entrances shall be fenced and locked during non-business hours.
3. Drainage plans and a plan for the redevelopment of the site when the removal is completed shall be submitted with the application for a development permit.
4. The operational and removal area of such uses shall not be established within two thousand (2000) feet of a residential use or five hundred (500) feet of any other use.
5. No structures, vehicles, equipment, or parking areas shall be located within 100 feet of a property line.
6. A 300-foot buffer zone shall be established around the perimeter of the property. Within this area, the natural or existing vegetation shall be maintained or improved, and no digging, dredging, blasting, storage of tailings, or other mining-related activities shall be allowed. Where no natural vegetation exists the Planning Commission or three designee may require additional buffering as deemed necessary.
7. No extraction shall be allowed except after advertisement of a public hearing by the Planning Commission for the purpose of determining whether or not any adverse effect would result to surrounding property owners and whether or not a nuisance, as defined by City Ordinances exists.

8. This section shall not prohibit the removal of earth and rock and filling and grading in any district done for land development purposes.

Food processing/packaging:

1. Minimum lot size shall be 100,000 square feet.
2. Structures shall be at least 100 feet from all property lines.

Landfill:

Conditional Use in M-2 District subject to all applicable State and Federal laws and any conditions that might be imposed during the zoning approval process.

Manufacture of explosives:

1. Minimum lot size shall be 150,000 square feet.
2. Structures shall be at least 150 feet from all property lines.

Salvage or junkyards:

1. Setbacks. No such activity may be conducted within one hundred (100) feet of any property line or two hundred (200) feet of any property zoned or used for residential purposes.
2. Storage of Materials:
  - a. Material that is not salvageable shall not be permitted to accumulate, except in bins or containers, and shall be disposed of in an approved sanitary landfill. The period of accumulation is limited to two (2) months.
  - b. In no case shall material that is not salvageable be buried or used as fill.
  - c. Items which can be recycled or salvaged, shall be accumulated in bins or containers to be sold to a recycling firm.
  - d. Recyclable material, which cannot be stored in bins or containers, may be stored in the open, within screened area as described in (c) below.
  - e. Junkyard operators shall be responsible for compliance with all applicable Federal and State regulations pertaining to the handling, storage, and disposal of waste fluids. In no case shall disposal of waste fluids be permitted on-site.
  - f. In any open storage area, it shall be prohibited to keep any ice box, refrigerator, deep-freeze locker, clothes washer, clothes dryer, or similar air-tight unit having

an interior storage capacity of one and one-half (1.5) cubic feet or more, from which the door has not been removed.

- g. Facilities not having conditional use approval as a Junkyard Use will not be allowed to accumulate materials for more than 30 days.
3. Screening. All auto salvage yards, junkyards and storage areas shall comply with the following screening requirements:
- a. All outdoor storage facilities shall be completely surrounded by a continuous fence or wall of masonry, wood or other opaque material, which shall be a minimum of eight (8) feet in height without openings of any type, except for one entrance and/or one exit which shall not exceed 25 feet in width.
  - b. Gates at entrance or exit shall be of a material without openings.
  - c. The screen shall be constructed of the same type of material throughout.
  - d. No screen shall be constructed of metal that will rust.
  - e. Screens shall be maintained and in good repair at all times.

Sand/Gravel/Blocks Storage: Stored materials shall be completely surrounded by an opaque fence no less than ten (10) feet in height. Said fence may be constructed along property lines, but shall be set back no less than 25 feet from the right-of-way of any abutting public roads.

#### **Section 410. Height and Dimensional Regulations.**

No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area and height regulations of the district in which the building is located.

The minimum building lines, parking spaces, open spaces, and lot areas, required by this Ordinance for each existing building or for any building hereafter erected, shall not be encroached upon nor reduced.

No lot, even though it may consist of one (1) or more adjacent lots of record or lots in the same ownership, shall be reduced below the minimum dimensions required by this Ordinance. This section shall not be construed to prevent the purchase or condemnation of narrow strips of land or portion of a lot for public purposes.

No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

The following table identifies the area, yard and height requirements for the various zoning districts established by this Ordinance.

**Table 4-2: Standards for Nonresidential Uses by District**

District	Uses	Maximum FAR	Maximum ISR	Minimum Site Area <sup>2</sup>	Minimum Lot Width <sup>3</sup>
<b><i>Agricultural (AG)</i></b>					
	Agriculture/Nurseries	na	0.05	3 ac.	none
	Agriculture Support	0.25	0.50	1 ac.	none
	Institutional	0.25	.50	3 ac.	none
	Recreation Rental	0.01	0.10	3 ac.	none
	Recreation	0.02	0.40	3 ac.	none
	Public Service <sup>2</sup>	0.20	0.50	3 ac.	none
	Conditional Use	0.12	0.30	3 ac.	none
	All Other Uses	0.15	0.30	3 ac.	none
<b><i>Urban Mix (UM)</i></b>					
	Institutional	.75	.85	40,000 sf.	100'
	Office	.75	.85	30,000 sf.	75'
	Recreation	.10	.40	10,000 sf.	none
	Public Service <sup>2</sup>	.35	.60	7,500 sf.	75'
	Conditional Use	.50	.70	40,000 sf.	100'
	All Other Uses	.70	.65	20,000 sf.	100'
<b><i>Office-Institutional (O-I)</i></b>					
	Institutional	.75	.85	40,000 sf.	100'
	Office	.75	.85	30,000 sf.	75'
	Commercial & Entertainment	.40	.60	40,000 sf.	75'
	Recreational	.10	.40	10,000 sf.	none
	Public Service <sup>2</sup>	.35	.60	7,500 sf.	75'
	Conditional Use	.50	.70	40,000 sf.	100'
	All Other Uses	.70	.65	20,000 sf.	100'
<b><i>Neighborhood Commercial (NC)</i></b>					
	Office	.50	.60	20,000 sf.	75'
	Commercial & Entertainment	.40	.70	20,000 sf.	75'
	Shopping Center	.40	.60	3 ac.	100'
	Recreational	.10	.40	10,000 sf.	none
	Public Service <sup>2</sup>	.35	.60	7,500 sf.	75'
	Conditional Uses	.50	.70	40,000 sf.	100'
	All Other Uses	.70	.65	20,000 sf.	100'

**Table 4-2: Standards for Nonresidential Uses by District**

District	Uses	Maximum FAR	Maximum ISR	Minimum Site Area <sup>2</sup>	Minimum Lot Width <sup>3</sup>
<b><i>General Business (GB)</i></b>					
	Nurseries	.05	.50	80,000 sf.	none
	Institutional	.60	.70	30,000 sf.	75'
	Office	.60	.70	30,000 sf.	75'
	Commercial & Entertainment	.40	.80	30,000 sf.	75'
	Road Service	.35	.80	40,000 sf.	100'
	Shopping Center	.40	.70	3ac.	100'
	Commercial Support	.50	.70	40,000 sf.	100'
	Recreational	.10	.40	15,000 sf.	none
	Public Service <sup>2</sup>	.35	.70	7,500 sf.	75'
	Conditional Uses	.50	.80	40,000 sf.	100'
	All Other Uses	.70	.75	20,000 sf.	100'
<b><i>Downtown Historic (DH)</i></b>					
	Commercial & Entertainment	3.00	1.00	None	None
	Recreational Uses	.10	.40	15,000 sf.	none
	Public Service <sup>1</sup>	.35	.70	7,500 sf.	75'
	Conditional Uses	<i>As determined by Planning Commission &amp; Council</i>			
<b><i>Industrial (M-1) &amp; (M-2)</i></b>					
	Agricultural Support	.80	.90	40,000 sf.	100'
	Nurseries	.05	.50	80,000 sf.	None
	Office	.80	.90	40,000 sf.	100'
	Road Service	.35	.90	30,000 sf.	100'
	Commercial Support	.80	.90	10,000 sf.	100'
	Commercial Recreation	.40	.90	40,000 sf.	100'
	Recreational	.10	.40	10,000 sf.	None
	Public Service <sup>1</sup>	.50	.80	10,000 sf.	100'
	Industrial	.80	.90	40,000 sf.	100'
	All Other Uses	.40	.90	80,000 sf.	100'
<b><i>Special District (SD)<sup>4</sup></i></b>					

<sup>1</sup> No minimum lot size/width is required for public service distribution facilities for sewer, water, telephone, gas and electricity; minimum lot area for communication towers shall be determined by setbacks requirements as set out in Section 602.

<sup>2</sup> For lots not meeting the minimum size requirement in any district, see Article VIII.

<sup>3</sup> In cases where side lot lines are not parallel because the lot fronts on a curved right-of-way, minimum width at road frontage shall be as follows:

a. Curved right-of-way: 75 percent of normal width requirement

b. Subdivision cul-de-sac: 50 percent of normal width requirement

Width at road frontage shall be measured along a straight line connecting the foremost points of side lot lines.

<sup>4</sup> See Section 606.

**TABLE 4-3: Table of Dimensional Standards – Nonresidential Uses.**

Zoning District	Maximum Height Of Structure (feet)	Minimum Setbacks (in feet) <sup>1</sup>			
		Front Yard	Rear Yard	One Side <sup>2</sup>	Total Side
AG	35 <sup>3</sup>	50	50	50	150
UM	35	30	30	15	35
O-I	45	40	20	10	20
NC	35	40	20	10	20
GB	65	40	15	10	20
DH	65	4	4	4	4
M-1	45	5	5	5	5
M-2	45	5	5	5	5

<sup>1</sup> See Table 6-1 and Section 603 for Residential Setbacks

<sup>2</sup>A side yard, which abuts a dedicated public street, shall adhere to the requirements for corner lots in Section 413.

<sup>3</sup>Inhabited Structures Only

<sup>4</sup>No setbacks required for traditional downtown development. All other development types should be treated as conditional uses.

<sup>5</sup>Equal to Height of Structure

NOTE: See Table 4-2 for FAR, ISR, Lot Area and Lot Width Information.

**410.02. Height Modifications.**

The height limitations of this Ordinance shall not apply to barns, silos, or other farm structures when located on farms; church spires, belfries, cupolas and domes, monuments, water towers, transmission towers, windmills, chimneys, smokestacks, flag poles, radio or television towers, masts and aerials and similar structures not intended for human occupancy, except as otherwise restricted by other existing or hereafter adopted ordinances of the City of Arab.

**Section 411. One Principal Building on One Lot.**

Every principal single family residential building or structure hereafter erected shall be located on one lot, tract or parcel and in no case shall there be more than one (1) principal single family building or structure on a lot or parcel.

**Section 412. Through Lots.**

On lots having frontage on two streets, the required front yard shall be provided on each frontage street.

On lots having frontage on more than two streets, the required front yard shall be provided on at least two of the frontage streets. The front yard setback on the other frontage or frontages may be reduced up to one-half (1/2) of the required front yard distance, provided that the setback shall not be reduced to less than fifteen (15) feet.

**Section 413. Corner Lots.**

For any lot platted or re-platted after the effective date of this Ordinance that is adjacent to the intersection of two (2) public streets, each yard abutting a public street shall be considered a front yard and shall meet the front yard setback requirements for that particular district. Furthermore, corner lots shall also have one (1) side yard and one (1) rear yard that will meet those setbacks for the particular district. The rear yard shall be defined at the time a building permit is issued.

**Section 414. Street Frontage on Improved Public Right-of-way.**

No building shall hereafter be erected on a lot that does not abut and have access to at least one (1) improved public right-of-way.

**Section 415. Abandoned Right-of-way.**

Whenever any street, alley or other public way is vacated or abandoned by official action of the City of Arab, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the centerline of same. Thenceforth, all area included therein shall then be subject to all appropriate regulations of the extended zoning district(s).

**Section 416. Private Roads and Rights-of-way.**

Private roads within the City's three (3) mile planning jurisdiction shall be built to current city standards. Any future request for dedication of existing private roads or rights-of-way to the city shall require that said roads or rights-of-way be improved to current city standards prior to being considered for acceptance by the City Council.

**Section 417. Resource Protection Standards**

**A.** All development shall be preceded by the identification of any environmental or natural feature described below and shall meet the specified standards for environmental protection.

**B.** Site alterations, re-grading, filling and clearing or planting vegetation prior to approval of the plans for development shall be a violation of this Ordinance. Reference in this section to "open space" is intended to mean the term as it is defined by Article II and described in Section 422.

**C.** Perennial Streams – 50' from top of stream bank on either side shall remain undisturbed unless otherwise permitted by the City Engineer.

**D.** Steep slopes.

1. Areas with slopes of 33 percent (3:1) or greater: not more than 15 percent of such areas shall be developed and/or re-graded and/or stripped of vegetation with the exception that no

more than five (5) percent of such areas may be disturbed in the case of erosion-prone soils, as defined by the Natural Resources Conservation Service.

2. When identifying “steep slope” areas of a development (rise/run  $\geq$  33%) the engineer shall use a topographic map or site plan having a contour interval of not less than 2 feet to determine changes in elevation (rise). Unless otherwise approved by the Planning and Engineering staff a length (run) of not more than 100 feet shall be used to calculate the approximate slope of the area under consideration.

3. When a proposed development will not meet the standards of Section 417.D.1. above, a development plan must be submitted for the review of the City Engineer and approval of the Planning Commission. Approval of this development plan shall be based on its consistency with the intent of this Ordinance.

#### **Section 418. Reclamation of Undeveloped Land.**

In the event that construction of a development has not been completed within one year of date of approval of the preliminary plat or development plan; said development shall be reviewed by the Planning Commission to determine if reasonable progress toward completion of the development is being made. Evidence of reasonable progress may include, but shall not be limited to, installation of streets, utility lines and stormwater management facilities; laying structural foundations; and completion of any stage of a development approved under a staging plan. However, the clearing and grubbing of land, in the absence of other improvements, shall not by itself constitute evidence of reasonable progress.

Upon a determination that reasonable progress is not being made, the Planning Commission may require the owner of the development site to restore the land to the same condition that existed prior to the initiation of the development, and place a time limit on completion of said restoration.

If such restoration is not feasible, the City Engineer and the Administrative Officer shall work with the property owner to determine an acceptable condition or degree of reclamation; at the very least, the site shall be sodded or planted in grass, and appropriate measures shall be taken to prevent or eliminate soil erosion. In all cases, restoration activities shall be consistent with appropriate Best Management Practices as recommended by the Alabama Forestry Commission, the Alabama Department of Environmental Management (ADEM) and/or the Natural Resources Conservation Service (NRCS).

## **Section 419. Areas Subject to Flooding.**

The boundaries of special flood hazard areas shall be identified by referencing the most current FEMA Flood Insurance Rate Maps (FIRM), an approved Letter of Map Revision (LOMR) or an approved Letter of Map Amendment (LOMA).

The boundaries of any special flood hazard area shall be clearly denoted on all development plans for parcels subject to flooding. Said boundaries shall be determined using a site specific, topographic survey of the parcel and the appropriate FIRM, LOMR, or LOMA.

On those parcels for which no base flood elevation (BFE) has been developed, it shall be the responsibility of the owner to have a registered professional engineer or hydrologist to establish a BFE.

On-site topographic surveys shall be performed to locate the precise floodplain line on a parcel prior to any development. The survey shall use the flood profile contained in the sources listed above or, if no such profile exists, by performing standard runoff calculations such as those contained in Standards and Specifications for Soil Erosion and Sediment Control, prepared by the Natural Resources Conservation Service.

**419.01. Permanent open space.** All such areas shall be permanent open space. No uses or improvements other than those permitted herein shall be permitted in any area consisting of floodway as defined by this Ordinance.

**419.02. Permitted uses.** The following uses are permitted within the floodway fringe as a matter of right:

- A. All uses that are permitted in designated open spaces.
- B. All uses that are classified as agriculture, nurseries, and outdoor recreation.
- C. Piers, bridges and bridge approaches, picnic shelters, and stormwater detention facilities, so long as the building permit application shows that a licensed engineer has certified that such structures are designed to withstand the forces exerted by the 100-year flood event at that location.

**419.03. Building Elevation.** All other buildings or any residential, institutional, office, commercial and entertainment, commercial recreation, recreational rental dwelling, or nursery uses (other than those specifically named in this Section) may be permitted as conditional uses pursuant to Section 903, provided that all habitable floor area shall be raised so that no floor, or its structural supports, or any utility line has less than one (1) foot of clearance between its lowest point and the 100-year flood elevation. Any reduction of cross-sectional area due to vertical supporting members shall be offset by compensatory storage. Vehicular access to such structures shall be at or higher than the 100 year base flood elevation (BFE).

*Exceptions to 419.03 above may be as follows subject to the approval of the City Engineer:*

- A. A non-residential building may have its finished floor elevation below the BFE as long as it fully complies with FEMA requirements.
- B. A non-residential building may have parking or parking access below BFE as long as it fully complies with FEMA requirements.

*Note: Evidence of full compliance with FEMA requirements must be provided at time of submission.*

**419.04. Installation of fill materials.** Fill may be placed within the floodway fringe only when allowed as a conditional use pursuant to Section 903 and approved by the City Engineer. An application for such conditional use shall be accompanied by detailed fill plans, showing existing and proposed conditions. If a structure is to be placed on the fill, the plans shall show the structure as well. In considering the application, the Planning Commission, in consultation with the City Engineer, shall determine whether the proposed fill meets the general standards set forth in Section 903, and the following additional standards:

- A. The cross-sectional area of a riverine floodplain shall not be reduced by more than two and one-half (2 ½) percent on either side of the centerline of the watercourse; an inland depressional floodplain may have its location and contours altered through cut and fill over 30 percent of its surface area.
- B. Compensatory storage shall be provided to offset the storage lost through the filling.
- C. All changes in velocity, depth of flood elevation, or storage shall be limited to the property owners who have been granted flood or flow easements, provided that in no event shall an increase in flood elevation be permitted if it would affect any existing building or bring any building to within one (1) foot of the flood elevation.
- D. In no instance shall the depth of fill in a riverine floodplain exceed five (5) feet, nor shall any fill be placed within 50 feet of the top of the stream bank or in a location which might be endangered by or accelerate a meander. In an inland depressional floodplain the depth of fill measured from the natural grade to the new surface shall not exceed five (5) feet.
- E. Fill shall consist of soil or rock materials only; sanitary landfills shall not be permitted in the floodplain. Further, all fill areas shall be stabilized with material that will insure and protect against erosion hazards, undercutting, and undermining.

**419.05. Filling in Floodway.** No filling in the floodway shall be permitted except upon review and recommendation of the City Engineer and/or in conjunction with a future adopted Flood Damage Prevention Ordinance.

**419.06. Structural anchoring.** Any structure placed in the floodplain shall be anchored firmly to prevent floodwaters from carrying it downstream. Such anchoring shall be sufficient to withstand a

flood velocity of six (6) feet per second. The Planning Commission shall require the applicant to submit the written opinion of a registered professional engineer that the proposed structural design meets this standard.

#### **Section 420. Lakes and Ponds.**

All such areas that serve a stormwater or flood retention purpose shall be permanent open space maintained by the developer, property owner or other legally bound and authorized agent. No development or diverting of these bodies of water shall be permitted without a development plan approved by the City Engineer. Alteration of lakes and ponds shall be permitted only if surface area and flood retention volumes remain unchanged or are enlarged.

*Lake Shorelines:* The shorelines of lakes [two (2) acres or greater in size], consisting of the area within 100 feet from the shorelines, shall contain no more than 15 percent impervious surfaces. At least 75 percent of all such areas shall be permanent open space.

*Pond Shorelines:* The shorelines of ponds [less than two (2) acres in size], consisting of the area within 50 feet from the shorelines, shall contain no more than 15 percent impervious surfaces. At least 75 percent of all such areas shall be permanent open space.

#### **Section 421. Drainageways.**

Re-grading, stripping of vegetation, or filling in drainageways is permitted only after review and written approval by the City Engineer, provided that the resultant drainageway has less velocity than existed previously or reduces stream bank erosion through the provision of erosion control measures.

#### **Section 422. Open Space.**

Land that is required by this Ordinance to remain as open space may be used for the recreation, agriculture, resource protection, amenity and other purposes specified in this Section. Open-space land shall be freely accessible to all residents of a development, with the exception that agricultural land uses shall be permitted to restrict access to that land to those solely engaged in agricultural pursuits.

Open space shall have qualities making it useful to residents of the development for either passive or active recreation, and will be developed to serve that purpose. Open spaces shall serve an important environmental/resource protection or visual role in separating the development from existing public ways or from other existing or potential developments; or shall be of value in dividing the development into coherent sub-areas. Non-recreational buildings, except those related to agricultural uses permitted under Section 422.01(C) shall not occupy open-space land.

**422.01.** All developments required by this Ordinance to provide open space shall meet the following requirements.

- A.** Land designated as open space shall be maintained as open space and may not be separately sold, subdivided, or developed, and no structures shall be built on such land, except as provided below. All such properties shall be owned and maintained by the developer, owner of the development site, homeowners association, or other private entity approved by the City Attorney.
  
- B.** An open-space plan shall be submitted as a part of the application for a site plan or subdivision approval. This plan shall designate and indicate the boundaries of all open-space areas required by this Ordinance. The plan shall:
  - 1. designate areas to be preserved as open space. The specific design of open-space areas shall be sensitive to the physical and design characteristics of the site.
  - 2. designate the type of open space, as established in this Section, to be provided.
  - 3. specify the manner in which the open space shall be perpetuated, maintained, and administered in accordance with Section 422.02.
  - 4. include proof of a mandatory and functioning Home Owners Association and contact information for same. The Arab Department of Planning & Zoning shall be provided an annual update of said contact information
  
- C.** The types of open space that may be provided to satisfy the requirements of this Ordinance, together with the maintenance required for each type, are as follows:
  - 1. *natural areas* are areas of undisturbed vegetation or areas replanted with vegetation after construction. Woodlands and wetlands are specific types of natural areas. Natural watercourses are to be maintained as free flowing and devoid of debris. Stream channels shall be maintained so as not to alter the base flood elevation.
  - 2. *agricultural uses* specified in Section 404.01.
  - 3. *garden plots* are the division of open space into plots for cultivation as community gardens. Any change of use for the open space must be with the approval of the adjoining land owners and the Home Owners Association.
  - 4. *recreational areas* are areas designed for specific, active recreational uses having minimal requirements for structures, such as tennis courts, swimming pools, softball fields, and golf courses. An enclosed structure shall be permitted in a recreational area only where it directly supports a specific facility and does not require off-street parking. Recreational areas shall be accessible to all residents of the development.

5. *greenways* are linear green belts linking residential areas with other open-space areas. These greenways are encouraged to designate developed bicycle paths, footpaths, bridle paths, fitness trails, or other similar development. Inter-connecting the greenway system between residences and recreational areas is encouraged.
- D.** Open space shall be appropriately located and large enough to address the open space characteristics cited throughout Section 422.

1. No dwelling unit shall be located more than 750 feet from designated open space. The Planning Commission may waive this distance requirement where the developer proposes a major recreational facility which will occupy at least 50 percent of the required open space for the development. No more than ten (10) percent of the dwelling units in the development may be occupied before this facility is completed and available for use.

Where intervening non-recreational properties separate a dwelling unit from an open space area, the Administrative Officer may require an easement or other means of access for non-motorized traffic to avoid the need for pedestrians to cross or travel on roads carrying vehicular traffic.

2. No parcel of property, or portion thereof, less than 40 feet wide and 7,500 square feet in size shall be counted toward the designated open space requirement. Open space areas containing paved or stabilized paths for pedestrians and/or bicycles shall be exempt from this requirement if such paths are part of a comprehensive circulation system serving a portion of the development or are included in connecting Greenways.
3. All open space shall be easily visible and freely accessible.
4. The following shall not count toward fulfillment of designated open space requirements:
  - a) platted lots for residential use or designated sites for manufactured homes or recreational vehicles;
  - b) easements for roads, driveways or any other use which is not consistent with the purposes of open space as established in this Section;
  - c) parking areas, including adjacent areas containing required landscaping;
  - d) public or private right-of-way;
  - e) private roads and driveways;
  - f) areas of required spacing between structures, manufactured homes or recreational vehicles;

- g) Commonly owned lawns consisting of grass with or without trees.  
(i.e. condominiums, townhouses, patio homes, etc.)
- h) areas which have been cleared of vegetation, excavated, filled, or otherwise altered from their natural state unless such alteration is consistent with the proposed use of the open space parcel approved as part of an overall development plan;
- i) any development site (as established by a site plan) containing a clubhouse or a non-recreational use including, but not limited to, office, restaurants, gift shops, and groundskeeper storage buildings;
- k) any other areas which the Administrative Officer finds to be inconsistent with the intent of this Section.

In addition, no lake, pond, or other permanent water body shall constitute more than 25 percent of the total open space required for the development. No golf course shall constitute more than 60 percent of the total open space required for the development.

**422.02. Preservation of open space.** Open-space areas shall be maintained so that their use and enjoyment as open space is not diminished or destroyed. Where open space is to be provided within a subdivision, such areas shall be designated by creating separate parcels within the perimeter of the plat. These parcels shall be given a sequential lot number, labeled as to their intended use, and the plat shall note the entity or entities having ownership and maintenance responsibility.

Where open space is provided within a development site, which is the subject of a site plan, and is under different ownership than the rest of the site, it shall nevertheless remain part of the development site pursuant to Section 902.12. Unless the site plan is amended or withdrawn in accordance with Section 902.10, the open space areas shall be used only as provided in Section 422. The site plan shall note the entity or entities having ownership and maintenance responsibility.

Open-space areas may be owned, preserved, and maintained as required by this Section by any of the following mechanisms or combinations thereof:

- A.** Common ownership of the open space by a homeowner's association, which assumes full responsibility for its maintenance.
- B.** Deed-restricted private ownership that shall prevent development and/or subsequent subdivision of the open-space land and provide the maintenance responsibility. This arrangement shall be noted on the site plan and/or subdivision plat. Full and proper written legal documentation of said ownership and maintenance responsibilities shall be submitted to the Administrative Officer and be approved by the City Attorney prior to commencement of development activities.

## **Section 423. Transportation Impact Report.**

**423.01. Purpose.** The transportation impact report shall identify the traffic impacts of a proposed use. The report shall show improvements required to: insure safe ingress to and egress from a proposed development; maintain adequate street capacity, and eliminate hazardous conditions. The report also will be used to determine whether the proposed development is consistent with transportation-related policies of the City of Arab.

**423.02. Applicability.** The Planning Commission and/or the City Engineer, particularly in the following cases, may require a transportation impact report:

- A. Any development that proposes to take direct access to any collector or arterial road.
- B. Any residential development that proposes the construction of 30 or more dwelling units.
- C. Any use that will generate in excess of either 100 trips per acre per day or 250 trips per day. Trip generation rates for proposed uses shall be determined by consulting the latest edition of Trip Generation published by the Institute of Transportation Engineers, and/or the City Engineer.

**423.03. Contents of transportation impact report.** The transportation impact report shall contain, as a minimum, the following data and information:

- A. General site description. A detailed description of the highway network within one (1) mile of the site, a description of the proposed land uses, the anticipated stages of construction, and the anticipated completion date of the proposed land development shall be provided. This description, which may be in the form of a map, shall include the following items: (a) all major intersections, (b) all proposed and existing ingress and egress locations, (c) all existing roadway widths and rights-of-way, (d) all existing traffic signals and traffic-control devices.

In addition, any changes to the highway network within one-half (1/2) mile of the site, proposed by any governmental agency, shall be described. This description shall include the above items, as well as any proposed construction project that would alter the width and/or alignment of the present highway. Such information can be obtained from the City Engineer, County Engineer and Office of the Division Engineer, Alabama Department of Transportation.

- B. Description of existing traffic conditions. A report based on the following shall be provided: A 24-hour traffic count shall be conducted for a period of five (5) weekdays (Monday – Friday) on all roadways that have direct access to a proposed development site. The existing average daily traffic (ADT) volume and the highest average peak hour volume for any weekday hour between 3 PM and 6 PM shall be recorded. These traffic volumes shall be averaged to determine the average hourly peak traffic volume for the five days Monday through Friday.

- C. Transportation impact of the development. The average weekday trip generation rates (trip ends) and the highest average hourly weekday trip generation rate between 7 AM and 9 AM and between 3 PM and 6 PM for the proposed use shall be determined from the latest edition of Trip Generation published by the Institute of Transportation Engineers, or from figures provided by a qualified traffic engineer. A report shall be made detailing the nature and extent of the trip generation expected to result from the proposed development.
- D. Analysis of transportation impact. The projected total future peak hour traffic demand shall be calculated for all roads fronting on a proposed site and all major intersections within one-half (1/2) mile of the site. This demand shall consist of the anticipated traffic that will be generated by the proposed development, plus an assumed normal increase of traffic volume of one (1) percent per year, unless traffic-engineering studies indicate a different rate of change. An analysis shall be undertaken to determine if roadways and intersections will operate at the appropriate level of service following completion of the development given the future peak hour traffic that will be generated by the proposed development.

**423.04. Traffic control devices.** Whenever, as the result of additional traffic generated by a proposed development, it is determined that there is a need for a traffic signal, a regulatory sign, additional right-of-way or acceleration/deceleration lanes, the developer shall make such planned improvements a part of his development plans and shall propose a schedule to the Planning Commission for making such improvements. Anticipated improvements required by future development, and the developer share in those improvements, are listed in the following paragraphs.

- A. Traffic signs. Include the normal stop, yield, caution, and street signs, but also may include special signs such as “watch for traffic entering”, “blind hill” and “pedestrian crossing”, may also be required. Such signs will be placed by the developer entirely at the developers’ expense. These signs shall be specified, installed, and maintained in accordance with the Manual on Uniform Traffic Control Devices.
- B. Traffic signals. Include any and all lighted signals. Such installations will be placed at the direction of the agency having jurisdiction. This paragraph also applies to signalization and improvement of railroad crossings. Because of the timing of the actual installation of signals by authorized agencies, the developer will be required to post a bond guaranteeing the estimated cost of improvements covered by this paragraph.

#### **Section 424. Clear View of Intersection Streets.**

To provide a clear view of intersecting streets to the motorist, there shall be a triangular area of clear vision formed by the two intersecting streets. The size of this triangular area is a function of traffic volume and speed and is depicted for right-angle intersections in *Figure 8*. At oblique intersections, in which two roads form an angle of 60 degrees or less, required clear areas shall be determined by the City Engineer, based on design criteria set forth in the most recent edition of A

Policy on Geometric Design of Highways and Streets, prepared by the American Association of State Highway and Transportation Officials (AASHTO).

Where, in the opinion of the Planning Commission, there are unusual and/or specific circumstances relating to a street intersection such that the application of *Figure 8* may not be appropriate, the intersection shall be referred to the City Engineer who shall recommend a triangular area of clear vision using the standards contained in the current edition of the Manual of Uniform Traffic Control Devices.

On any portion of a lot that lies within the triangular area defined according to this section, nothing shall be erected, planted, placed, or allowed to grow in such a manner as materially to impede vision between a height of two and one half (2.5) feet and ten (10) feet above the grade at the intersection of the street center lines.

**Section 425. Traffic Management.**

**425.01. Curb Cuts.**

Because frequent curb cuts and driveways providing access to numerous adjoining properties are a severe impediment to the proper functioning of major streets, on-site circulation and cross-access agreements between lots are required, to control the problem when land is subdivided. There shall be a minimum spacing of 300 feet for driveways and other curb cuts on arterial streets and 300 feet on collector streets. In areas where single-family detached homes abut collector streets, an average distance of 125 feet shall be allowed between curb cuts.

New single-family residential lots shall not be allowed direct access to collector and arterial roadways without approval of the City Engineer.

The following table summarizes required distances between curb cuts and street corner property lines:

<b>Development Type</b>	<b>Street Type</b>		
	<i>Arterial</i>	<i>Collector</i>	<i>Local</i>
Non-Residential	125'	100'	100'
Multiple Unit Development per §603.02(e)	125'	100'	100'
All Other Residential	125'	100'	25'

Where an intersection contains a left-turn stacking lane, any driveway opposite such lane shall be designed to permit entrance and exit by right turn only. Such "right turn" entrances shall be constructed with raised islands to prevent left-turn movements. No left turns shall be permitted where such turning motions would cross an acceleration or deceleration lane in proximity to an intersection.

Required distances between curb cuts and between curb cuts and street corner property lines shall be measured from the edge of the curb cut.

**425.02. Access for Lots of Record and Redevelopment.**

In the interest of public safety, lots of record, as defined by this Ordinance, shall be afforded vehicular access at the direction of the City Engineer and in accordance with the MUTCD. This access may take the form of a curb cut, or shared curb cut, directly onto a public right-of-way or may be limited to cross-access via an adjoining lot (see Section 425.04). The City reserves the right to adopt access plans for thoroughfares in rapidly redeveloping areas in order to facilitate traffic management and public safety. The Planning Commission and City Council shall approve such plans.

**425.03. Acceleration/Deceleration Lanes.**

Acceleration/deceleration lanes shall be provided by the developer at the direction of the City Engineer. Such improvements must be designed and constructed to city, county or state standards. The cost of such improvements will be borne entirely by the developer.

**425.04. Cross-Access Requirements.**

Adjoining lots with frontage upon collector or arterial roads may be required to provide cross-access and permanent ingress/egress easements to adjacent properties in the interest of accommodating the curb-cut requirements, public safety and facilitating vehicular traffic. Such access shall be required at the discretion of the City Engineer.

**425.05. Median Cuts.**

Center medians are designed and constructed both for traffic safety and aesthetic considerations. Such public improvements are constructed at great expense to the public and, therefore, any alteration of the existing or planned roadway medians shall be allowed solely at the discretion of the City Council, and/or ALDOT; and only where such alteration is in the interest of public safety. Where such alterations are allowed, the entire cost shall be borne by the applicant. The improvement of other medians or similar traffic control devices in proximity to the proposed development may be required in consideration for any allowed median alteration.

**425.06. Additional Right-of-way.**

Additional right-of-way required by a specific governmental plan for the improvement of a given existing or proposed roadway shall, where possible, be divided equally between adjoining property owners on both sides of the existing roadway, and shall be dedicated to the City or other appropriate governing agency. Said right-of-way may be required at the time of subdivision or site plan review.

## **ARTICLE V. LANDSCAPE AND BUFFER REQUIREMENTS**

### **Section 500. Introduction.**

This article recognizes the importance of trees and landscaping throughout the city and their relationship with the economic, ecological and cultural processes that give Arab its tradition and identity. Through preservation, replacement, and maintenance of the urban forest, this ordinance will provide a better quality of life for the citizens of Arab.

Urban landscaping aids in preventing soil erosion, siltation of streams and reservoirs and flood damage. Trees are essential in providing shade and natural cooling, preventing air and noise pollution, as well as preserving community character.

### **501. Purpose.**

The purpose of this chapter is to:

- protect the public health, safety and welfare by mitigating incompatibility between adjacent uses through the establishment of buffers between non-compatible land uses;
- improve the quality of life for Arab citizens through the reduction of noise, glare, heat and air pollution;
- preserve, protect and maintain the healthy existing vegetation and encourage, where possible, the incorporation of native plant materials and ecosystems into landscape design and discourage the proliferation of invasive plant species;
- establish and maintain sustainable amounts of tree canopy on public and private lands in the City;
- improve community character by encouraging aesthetically pleasing sustainable design practices, while allowing innovative, diverse and cost conscious approaches for design, installation and maintenance of landscaping;
- promote the conservation of local waterways and aquifers by encouraging the planting of native species, or site specific species;
- provide means for natural aquifer recharge and prevent excess runoff through the provision of landscaping and bufferyards;
- facilitate compliance with Local, State and Federal legislation relative to water and air quality, including, but not limited to, the Clean Air Act (Title 42, Chapter 85 of the U.S. Code) and the Clean Water Act (Title 33, Chapter 26 of the U.S. Code).

### **502. Scope.**

This article does not contain all the regulations and requirements for development activities, design and construction for the City of Arab. Approval of a landscape plan pursuant to the provisions herein does not serve as a substitute for obtaining and complying with all other applicable city ordinances, regulations, building and other related codes, zoning restrictions, subdivision and other applicable regulations.

The provisions of this ordinance shall have applicability to all site and land development projects and development activities within the corporate limits of the City, including the development of subdivisions (but not individual lots within subdivisions).

### **503. Applicability.**

This ordinance shall apply to all land located within the Corporate Limits of the City of Arab, Alabama as well as land to be annexed if developed prior to annexation.

- A.** The provisions of this ordinance shall apply to all new construction, redevelopment, or change of use for any multifamily residential, commercial, or industrial use and shall become applicable to any property for which any land development permit is required. The requirements shall remain applicable at all times once land has become subject to these provisions.
- B.** All development for which this ordinance is applicable shall provide a detailed landscape plan along with all other required submission materials.

Prior to any development on any property in the City, the developer or person in charge or control thereof shall make application to the Department of Planning & Zoning and have a landscape plan approved as part of the overall development approval process. A landscape plan must be submitted, along with the Site Plan, and approved by the Planning Commission or their designee or their designee prior to the issuance of any land development permits, (i.e. *land development permit, building permit, etc.*)

The Site Plan shall be in conformance with Section 902 of this Ordinance and, in accordance with the provision of this ordinance, shall adequately and sufficiently address traffic, parking, stormwater, sanitary sewer, erosion, use of BMPs, etc.

#### 504. Definitions.

The following definitions are provided for clarification of terms used in Article V.

**Application:** A form provided by and submitted to the Department of Planning & Zoning by a developer desiring a landscape plan to engage in development as herein defined.

**Applicant:** A developer as herein defined, including applicant or developer's representative, who is applying for approval of a landscape plan.

**Bioswale:** Vegetated surfaces that are designed to treat sheet flow from adjacent surfaces. Bioswales function by slowing runoff velocities and filtering out sediment and other pollutants, and by providing some infiltration into underlying soils.

**Buffer:** An area of land, including landscaping, berms, walls, fences and building setbacks, or any combination thereof, that is located between land uses and is intended to mitigate negative impacts between uses.

**Caliper:** The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four-inch caliper size, and as measured at 12 inches above the ground for larger sizes.

**Canopy Trees: See Tree**

**City:** The City of Arab, Alabama, whose address is 740 North Main Street, Arab, Alabama 35016.

**Critical Root Zone:** An area on the ground around a tree that is within the drip line of a tree.

**DBH (diameter at breast height):** refers to the diameter of a tree four and one-half feet above ground level.

**Developer.** Any person, firm, partnership, corporation or other legal entity engaged in or seeking to engage in development activity as herein defined.

**Development:** For the purposes of this article only, any manmade or earth change to property including, but not limited to, preparation of land for the construction of buildings or other structures, mining, dredging, filling, grading, regrading, paving, clearing, excavating, or drilling operations. This definition also includes changes or improvements to any property subject to these regulations such as curb and gutter, storm drainage structures, streets, drainage facilities, sidewalks, and related public or private roads and the installation of utilities.

**Drip Line:** A vertical line extending downward from the outermost tips of the tree branches to the ground.

**Erosion:** The wearing away of land by the action of wind, water, gravity or a combination thereof.

**Evapotranspiration:** loss of water from the soil both by evaporation and by transpiration from the plants growing thereon.

**Grading:** Altering the shape of the ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling & shaping or any combination thereof and shall include the land in its cut or filled condition.

**Hedge:** A row of closely planted shrubs, bushes or any kind of plant forming a boundary or fence.

**Land Development Permit or Permit (LDP):** A written document which authorizes development in accordance with the provisions in this article and subject to any additional or specific requirements that may be stated therein.

**Site Plan or Plan:** A properly documented written plan, prepared, signed and stamped by a registered professional engineer, licensed in the state, consisting of a completed application with supporting documents demonstrating that development as herein defined will occur upon an identified parcel of land within the area in compliance with all provisions of the City.

**Landscape Administrator:** The staff member designated by the Planning Commission or their designee to administer this article.

**Landscaping:** Refers to the treatment of grade, groundcover, vegetation and ornamentation for a given area; including, but not limited to, plant materials such as trees, shrubs, groundcovers, perennials and annuals; and any other materials such as rocks, water, walls and fences; and any other feature affecting layout and use of the site.

**Lot—Parcel—Property:** Refers to a single undivided portion of land that is either legally recorded in the office of the Marshall County Probate Judge, or is being proposed in good faith by well-prepared plan drawings for the purpose of being legally recorded. It is the responsibility of the property owner (or his/her agent) to insure that the property is legally recorded with the office of the Marshall County Probate Judge.

**Low Impact Development (LID):** comprises a set of approaches and practices that are designed to reduce runoff of water and pollutants from the site at which they are generated by means of infiltration, evapotranspiration, and reuse of rainwater. LID techniques manage water and water pollutants at the source and thereby prevent or reduce the impact of development on rivers, streams, lakes, coastal waters, and ground water.

**Parking Lot or Garage:** An open area or a structure used exclusively for the temporary off-street storage of motor vehicles. Such area or structure may be an independent business or may be used in conjunction with any other business or commercial use. A fee may be charged.

**Parking space:** a delineated area reserved for the parking of a single vehicle.

**Perimeter Planting Strip:** Land area located within the boundary of a lot and required to be set aside and used for landscaping upon which only limited encroachments are authorized.

**Property Line:** A line dividing one lot from another or from a street or any public or private space.

**Rain Garden:** Vegetated surfaces that are designed to treat sheet flow from adjacent surfaces. Filter strips function by slowing runoff velocities and filtering out sediment and other pollutants, and by providing some infiltration into underlying soils.

**Redevelopment:** The demolition and/or rebuilding or expansion of a site's physical development.

**Right-of-way:** A general term denoting public ownership or interest in land, usually in a strip which has been acquired for or devoted to the use of a street or alley.

**Runoff:** The water from rain or melted snow that flows over the ground.

**Shrub:** A low growing usually multi-stemmed, woody plant.

**Stormwater:** The flow of water resulting from precipitation and occurring immediately following rainfall or a snowmelt.

**Street Trees:** Any existing tree or any tree to be planted on the street right-of-way.

**Tree:** A usually tall, woody plant, distinguished from a shrub by having comparatively greater height and, characteristically, defined as:

Canopy (Large Maturing) — Single trunk whose height is greater than 35 feet at maturity, or

Understory (Small Maturing) — Single trunk or multi-stem whose height is less than 35 feet at maturity.

**Tree, Understory:** See Tree

**Utility Easement:** A non-possessory interest given to or acquired by a utility, governmental agency, or private agency for the use of real property in the possession of

another for a stated purpose such as locating utilities, including all types of pipelines, television cable, telephone and electric cables. Also includes corridors on public rights-of-way occupied by overhead utility lines.

**Vegetated:** Any ground surface covered with plant life.

**Woodland:** An area of natural vegetation or planted material, at least 50 feet in depth, covering one (1) acre or more and consisting substantially of canopy trees.

## **505. Landscape Plan Submittal Requirements.**

**505.01. Approval.** A landscape plan must be submitted and approved by the Planning Commission or their designee prior to the issuance of a Land Development Permit or Building Permit.

The architect, landscape architect, engineer, surveyor of record, horticulture professional, or landscape contractor shall certify that the landscape plan submitted meets the minimum landscape and bufferyard requirements of this article.

**505.02. Format and materials.** The landscaping plan and details shall be drawn to the same standard scale as the development plan or a scale which shows all landscaping accurately. Landscape plans shall be included as part of an application for a Land Development and/or Site Plan approval. All landscape plans must be reviewed and approved by the Commission and/or their designee.

### **505.03. General information.**

Complete landscape plans submitted for review and approval shall include the following:

- A.** Title block, showing the title of the development, name and address of the owner/developer, name and address of the person or firm preparing the plan, date of preparation, scale, north arrow, and the date of all revisions.
- B.** A location map, showing the relative location of the site to the nearest existing public street intersection.
- C.** The boundaries of the subject property including the location and description of all adjoining property, the location and names of all adjoining streets and easements. If property is a part, or phase, of a larger development, the location/relationship to the overall development shall be indicated.
- D.** The required number of parking spaces and the proposed number of parking spaces of subject property/development.

- E.** Location and dimensions of all entrances and exits of the parking lot, the manner in which vehicles will be parked, all traffic circulation patterns, and the location and names of all utility lines, easements or right-of-ways on, or adjacent to, the site.
- F.** All details needed to communicate appearance, and methods of construction and/or installation.
- G.** A planting schedule, keyed to the plant materials shown on the landscape plan, listing all proposed plant materials by botanical name, common name, cultivar or variety if any, quantity of materials, size of materials at planting, plant spacing, and existing trees approved for use.
- H.** Location of all existing and proposed buildings, accessory structures and paved areas.

## **506. General Requirements.**

### **506.01. Site protection and general planting requirements.**

- A.** *Topsoil.* To the extent needed and practical, topsoil moved during the course of construction shall be preserved and stockpiled for re-use on the site.
- B.** *Existing trees.* Preservation of each existing healthy tree of an approved species (See Table 5-1), within required landscape areas, may count toward fulfillment of these requirements.
  - 1. The existing tree to be preserved must be approved by the Planning Commission or their designee to receive credit.
  - 2. Existing trees that are credited towards meeting the requirements of this section shall be subject to the same maintenance and replacement requirements as newly planted trees.
  - 3. Upon approval of the Planning Commission or their designee an existing area of native vegetation meeting the definition of woodland, may be deemed to satisfy planting of a specific area or bufferyard required by this Ordinance regardless of the mix of plant materials otherwise required.
- C.** *Slope plantings.* Landscaping of all cuts and fills and/or terraces shall be matted or protected until plant cover is adequate to control erosion.
- D.** *Utility Easements.* Plantings within Utility Company Easements must comply with the following:

1. Minimum distances measured horizontally from mature trees to overhead utility lines shall be:  
  
    Canopy Trees:       30 feet  
    Understory Trees:  15 feet
2. The location and species of trees proposed for location in utility easements shall be approved by the governing public utility before installation.
3. Any part of a tree growing within 15 feet of an overhead utility line will require maintenance by a certified line trimmer approved by any affected utility companies.
4. This article shall not be construed to impair:
  - a. the right of eminent domain granted by State laws to utilities, whether public or private, or
  - b. a utilities' right to design, locate, erect, construct, re-construct, alter, protect or maintain utility poles, towers, lines, conduits, pipes or mains reasonably required in the public service or
  - c. a utilities' right to exercise authority conferred by statute, franchise, certificate of convenience and necessity, license or easement. Maintenance, repair, and extension of any public and private utility lines or related infrastructure are expressly allowed. The preceding will apply to work done by the utility's employees, agents and contractors doing work for the utility.
5. Planting trees and shrubs on underground utility easements ***shall be avoided***, due to the likelihood that root systems may damage or restrict the installed systems.

**E. Plant Material Standards:**

*Canopy Trees:* Shall have an average mature crown spread of at least 25 feet, be a minimum of eight feet in height and have a caliper of at least two inches at planting.

*Understory Trees:* Shall have an average mature crown spread of at least 15 feet, be a minimum of five (5) feet in height and have a caliper of at least one and one-half inches at planting.

**Note:** *No more than 30% of plant material may consist of crepe myrtle.*

*Shrubs:* Shall be a minimum size of three gallon containers and of such species to obtain a height of 24 inches within two years.

- F. Planting strips, buffers and planted islands are to be sodded, seeded, mulched or planted with shrubs or ground cover so as to leave no bare ground after landscape materials have been installed and permitted to grow for two years. Where mulch is used the area must be kept free of weeds.
- G. Stormwater inlets shall be located within a perimeter planting strip and incorporate rain gardens, bioswales or other staff approved stormwater mitigation techniques to promote infiltration and reduce stormwater runoff and non-point source pollution. Rain Gardens shall include at least one (1) tree. Alternative designs that accomplish the intent of this ordinance may also be permitted subject to approval of the Planning Commission or their designee.
- H. Wherever a required bufferyard overlaps or coincides with a parking area as defined in this Section, the bufferyard shall take precedence; the required parking area planting shall be placed in another location.
- I. The integration of Low Impact Development techniques as part of the landscape plan may be used to meet these requirements.

**506.02. Trash Receptacles.**

- A. All commercial trash receptacles shall be placed on a pad approved by the City Engineer that allows for pick-up and maintenance as needed.
- B. All commercial trash receptacles shall be enclosed with a fence or wall that is impervious to sight, at a minimum of six (6) feet tall, and is consistent with the architectural materials of the primary structure.
- C. All screens will be completely enclosed with a latching gate.
- D. Trash receptacle sites shall not be located within landscaped areas that are required by this article.

**507. Redevelopment.**

Redevelopment of an existing built site which involves the complete removal of existing structures to allow for complete redevelopment shall be required to meet all requirement of this Section. In the event that the site itself is nonconforming by size or has other topographic constraints the Planning Commission or their designee may authorize the utilization of the standards of Section 512 Alternative Compliance.

When redevelopment involves the expansion of a site’s physical development the following increases in building size will trigger compliance with this Article:

<b>Total Original Square Footage</b>	<b>Proposed Expansion</b>
Less than 2,000 sf	25% or greater
2,000 – 5,000 sf	20% or greater
5,001 – 10,000 sf	15% or greater
Over 10,000 sf	10% or greater

**508. Landscaping Standards.**

It shall be the responsibility of the developer and/or property owner to select species from Table 5-1 which are appropriate to the locations in which they will be planted, and to maintain them so as to meet the intent of this Ordinance.

All plant materials shall meet minimum standards of caliper, fullness of form, height, root ball and vigor as described by the American Association of Nurserymen standards published in the current edition of American Standards for Nursery Stock.

**508.01. Frontage Landscape Standards.**

Street frontage buffers shall be, at a minimum, ten (10) feet in depth along all adjacent public rights-of-way. Frontage landscaping shall include a minimum of one (1) canopy tree, two (2) understory trees and six (6) shrubs per fifty (50) linear feet of the frontage, or fraction thereof. Shrubs are optional in areas where a berm at least four (4) feet in height is used. Trees and shrubs shall be well distributed, though not necessarily evenly spaced.

The following additional frontage landscaping standards shall apply:  
(See *Figure 9*)

- A. lots with less than one hundred fifty (150) feet of frontage shall have a street frontage buffer depth of ten (10) feet;
- B. lots with one hundred fifty (150) to two hundred fifty (250) feet of frontage shall have a street frontage buffer depth of twenty (20) feet;
- C. lots with over two hundred fifty (250) feet of frontage shall have a street frontage buffer depth of thirty (30) feet.

For developments of two (2) or more acres with frontage of two hundred fifty (250) feet or more, the street frontage buffer shall be bermed in order to minimize the visual impact of the off-street parking area, unless the Commission or their designee determines that the natural topography does not require the site to be bermed. The berm shall not have a

slope of greater than one (1) foot of rise per three (3) feet of run, and shall not be less than four (4) feet in height at its apex. Landscape material for bermed street frontage buffers shall be in accordance with the requirements outlined above. (*See Figure 12*)

Frontage landscaping within the site distance triangle at driveways and street intersections, shall have an area of visibility between the heights of two and one-half (2.5) feet and six (6) feet above the street grade to afford a clear line of sight in the interest of vehicular traffic safety. (*See Figure 8* for sight distance triangle detail)

### **508.02. Perimeter Landscape Standards.**

Perimeter landscaping must be provided within the property lines between the off-street parking area and adjoining properties. Planting areas existing in the public rights-of-way or on adjoining property shall not count toward the required perimeter landscaping area. Perimeter landscaping areas adjacent to adjoining properties shall be at least ten (10) feet in depth, excluding walkways, measured perpendicularly from the adjacent property to the back of curb, and shall contain the following plant material:

- One (1) canopy tree; three (3) understory trees; and four (4) shrubs per 100 linear feet of property, or fraction thereof.

Should a commercial/industrial development abut a residential district, a higher perimeter landscaping criteria shall apply. The perimeter landscaping areas along the common property line shall have a twenty (20) foot landscaped buffer area consisting of the following:

- an eight foot (8') fence with landscaping consisting of 4 canopy trees; six understory trees and 10 shrubs per 100 linear feet of property line
- Or
- a planted hedge creating a solid unbroken visual screen reaching eight (8) feet in height within two (2) years of planting

It is intended that this bufferyard be of sufficient density to afford protection to the residential district from the glare of lights, blowing paper, dust and debris, visual encroachment and effectively reduce the transmission of noise. (*See Figure 10*)

The perimeter buffer area shall be maintained in clean and neat condition.

Where topography provides a more effective buffer than the above described buffer, or where topography renders the above described buffer ineffective, the Planning Administrator or City Engineer may recommend:

- A. Reducing the width of the required buffer by no more than fifty (50) percent,
- B. Reducing the width or waiving the required undisturbed buffer,

- C. Allowing reforestation with native vegetation in lieu of all or a portion of the required planted buffer,
- D. Any combination of the above stated measures.

**508.03. Interior/Parking Landscape Standards.**

Planted islands and/or peninsulas shall be provided for any off-street parking area of twenty (20) or more parking spaces (not including the areas of perimeter and foundation landscaping) with dimensions and arrangements as follow:

*(See Figure 11)*

- A. Each island or peninsula, to count toward the total interior landscape requirements, shall be at least two hundred and fifty (250) square feet in area; however, the maximum contribution of any individual island or peninsula to the total interior landscaping requirement shall be five hundred (500) square feet.
- B. Island and peninsulas, must be at least eight (8) feet in their least dimension, measured from back of curb to back of curb.
- C. Islands and peninsulas in off-street parking areas shall be as uniformly distributed as practicable, to subdivide large expanses of parking areas, to regulate traffic flow, to protect pedestrians, and to permit access by emergency vehicles. When practicable, islands and/or peninsulas shall be placed at the end of rows of parking spaces or between the circulation drives and parking rows, to channel traffic safely around the parking areas and to demarcate parking rows.
- D. The interior landscaped area shall contain at least an average of one (1) tree and four (4) shrubs per one hundred (100) square feet of landscaped area. Each island or peninsula shall contain at least one (1) tree.
- E. There shall be no more than 10 contiguous parking spaces without a landscape island, or peninsula.
- F. *Excavation of parking lot islands.*
  - 1. All parking lot islands, peninsulas, and planting areas shall be excavated to remove all crusher run or parking lot base material and back filled with quality top soil, except those areas where existing vegetation is to be preserved. The top soil shall be high in organic matter and will allow water to percolate. The excavation of these planting areas shall be to a minimum of 24” and will freely allow penetration of hand-held probe to a minimum of 24”.

2. Inspection of these planting areas shall be conducted by the Planning/Building inspector during the construction process. Failure to comply with these requirements can result in a stop work order issued by the inspectors.

#### **508.04. Foundation Planting Standards.**

Building foundations shall be required to have a landscaped bed with a minimum depth of seven (7) feet along the front of the primary structure. Beds shall contain both understory trees and shrubs and may also contain other greenery and seasonal color. There shall be a minimum of one (1) shrub for every four (4) feet of façade length with a minimum height at planting of twenty-three (23) inches. Understory trees shall be used as accents to shrubbery and may be placed in groups at corners and near building entrances. Landscaping shall be planted within a bed of mulch or ground cover other than turf grass, and be protected by some barrier, such as curbing or tire stops, from damage by vehicles and maintenance equipment. Plant material shall be well distributed throughout the bed, though not necessarily evenly space.

Summary:      Shrubs = 1 per 4' of front façade and 23" in height at planting  
                    Understory = grouped at corners and entrances of building

#### **509. Conditional Uses.**

The Planning Commission and/or City Council, as part of Conditional Use Approval, may place additional requirements on a Site Development Plan, including but not limited to landscape requirements, above and beyond those specified in this article.

#### **510. Protection of Preserved Trees during Construction**

Existing tree(s) shall only be counted toward required landscaping where the following management standards are met:

- A. During construction, the critical root zone of the tree(s) to be preserved shall be fenced and protected from compaction, trenching, harmful grade changes and/or other injury and be shown on an approved landscape plan.
- B. Pavement, building foundations or other impervious surfaces shall not encroach into the critical root zone, unless preservation practices are followed to insure exchange of oxygen, water and nutrients to the root system. Said preservation practices shall be provided in written and/or graphic form to the Planning Commission for review and approval.

- C. Sidewalks or other forms of hard surfaces that do not require soil compaction and are not intended for vehicular use may be located within the critical root zone only if preservation practices are followed to insure exchange of oxygen and water to the root system. Said preservation practices shall be provided in written and/or graphic form to the Planning Commission for review and approval.

### **511. Compliance.**

For any criteria for which this article applies, the architect, landscape architect, engineer, surveyor of record, horticulture professional, or landscape contractor must certify, to the Planning Commission or their designee, that the landscaping has been installed to meet the minimum requirements of this article. The site will be inspected before a final certificate of occupancy will be issued.

In the event that inclement weather delays the installation of landscape materials by less than thirty (30) days, the developer may make a written request to the Planning Commission or their designee for an extension to the time of completion for the planting schedule in the approved landscape plan. The request must specifically state the reason for the delay as well as an estimated date for completion. Failure to complete the installation within 15 days of specified date will constitute non-compliance.

No certificate of occupancy shall be issued for any new development that has not met the requirements of this article or an approved landscaping plan. Additions or renovations to existing parking areas shall also receive a certificate of occupancy prior to usage. When circumstances preclude immediate planting, the administrator may release the development for a certificate of occupancy after:

- A. The owner or developer has completed all curbing, irrigation systems and other non-planting components of the landscaping plan; and
- B. Posted a completion bond or certified check in an amount equal to one hundred twenty-five (125) percent of the total cost, including labor, of the remaining landscaping installation.

Required surety shall be made payable to the City of Arab and submitted to the Planning Commission or their designee or City Engineer. The Commission or their designee or Engineer shall set the time limit for completion and approval of any guaranteed landscaping, but in no case shall the time period exceed six (6) months after the date the certificate of occupancy is issued.

## 512. Alternative Compliance.

A. *Intent.* The Landscape Requirements are intended to encourage development practices which are conscious of the character of the City and its ecological processes. Conditions associated with individual sites may under certain circumstances warrant approval of alternative methods of compliance. Conditions may arise where normal compliance is impractical or impossible, or where maximum achievement of the Purpose and Intent of this Article can only be obtained through alternative compliance. It is not the intent of this section to allow alternative compliance on the basis of economic hardship. In the event that such conditions are present, the Planning Commission or their designee shall have authority to adjust the requirements of this article as provided below in accordance with the following:

1. *Request for Alternative Compliance Review.* Requests for alternative compliance must be made in writing at the time of application and may be granted for any permit application to which the Landscape Requirements apply, when one or more of the following conditions are met:

- (a) Improved environmental quality would result from alternative compliance.
- (b) Topography, soil, vegetation, drainage or other site conditions are such that full compliance is impractical.
- (c) Spatial Limitations, unusual shaped pieces of land, or unusual servitude requirements may justify alternative compliance.
- (d) Public safety considerations make alternative compliance appropriate.
- (e) Public Improvement (i.e. streets, water, sewer, etc.) projects make alternative compliance appropriate.
- (f) The site is part of a development for which a master plan has been submitted which makes adequate provision for landscaping.

The above conditions must be substantiated as part of the written request for Alternative Compliance.

(2) *Methods of Alternative Compliance.*

- (a) Reduction in the amount, or variation in types, of required landscaping
- (b) Reduction of buffer widths.
- (c) Modification of required structures (i.e. fences, walls, berms, etc.)

- (d) Modification in configuration or amount of required parking to accommodate landscaped islands

In all instances, at the discretion of the Planning Administrator, such requests for alternative compliance may be referred to the Planning Commission for review and approval.

### **513. Ownership & Maintenance.**

The owner of property developed in accordance with an approved landscape plan shall be responsible for maintaining all landscaping in good condition. The maintenance required under this section shall include the prompt replacement of all dead or damaged landscaping materials, whether from natural or unnatural causes, so as to insure continued compliance with the requirements of this ordinance.

All landscape and bufferyard materials shall be maintained by the owner of such materials so that the purpose and effect of the landscaping and bufferyards is not diminished. The following minimum maintenance activities are required:

- A.** Replacement of plant materials destroyed by any cause.

In the case of any canopy tree removed or otherwise destroyed by the willful act of the property owner, tenant or contractor, a tree of the same or larger caliper must be used as a replacement. Where replacement at the same or larger caliper is not feasible, the Planning Commission or their designee may provide alternative replacement criteria.

- B.** Repair and/or replacement of fences and walls that deteriorate or are damaged by any cause.
- C.** Restoration of berms that are altered by erosion, construction, or other causes.
- D.** Irrigation of landscape materials is strongly recommended, particularly for larger development sites. Landscaping lost due to lack of rainfall or irrigation shall be required to be replaced by the property owner.

Bufferyards constitute an integral part of a development site, and may not be subdivided, sold, dedicated, or otherwise conveyed separately from the development site of which they are a part. The City shall not approve any development plan in which a required bufferyard or any portion of a required bufferyard lies on land, which is not part of the development site.

**514. Legal aspects, other Regulations.**

All local, state and federal laws and regulations shall be considered when interpreting provisions of, or technical specifications published pursuant to, this article. In each instance, the more restrictive requirement shall govern unless sound engineering judgment can determine and prove that the more restrictive requirement would be otherwise unnecessary. In most instances, laws and regulations that are phrased more explicitly shall apply over those items that are not phrased as precisely.

Nothing herein contained shall authorize a person to engage in development or earth changes in a manner inconsistent with current zoning or subdivision regulations or other applicable codes or ordinances. All development or earth changing activity shall be in conformity with current zoning and/or subdivision regulations and all other applicable codes or ordinances.

A landscape plan does not authorize any person or developer to engage in any activity that would violate any other applicable code, ordinance, regulation or state or federal laws nor substitute for obtaining any licenses or permits otherwise required.

**515. Penalty for Violation.**

Failure to comply with the requirements of this Article shall be deemed a violation of the Ordinance and subject to penalties as set out in Section 1009 of this Ordinance. Violators will be given written notice of the violation and permitted 15 days to correct the violation before a citation is issued. Thereafter, each day shall be considered a separate offense and shall be punishable by the maximum fine established by the City Council of Arab.

**Table 5-1: Approved Plant Materials**

Trees contained in the following list are preapproved for use and meet the requirements of this article. Any tree which is not on this list may be submitted for approval to the Planning Commission and/or their designee, prior to the approval of a Land Development Permit. Tree which exhibit poor health characteristics, are not native to the climate range in Arab, Alabama or are considered invasive will not be approved for installation.

<u>Scientific Name</u>	<u>Common Name</u>
<i>CANOPY TREES:</i>	
Acer rubrum	Red Maple
Acer saccharum	Sugar Maple
Acer freemanii	'Autumn Blaze'
Acer x freemanii	Freeman Maple
Betula nigra	River Birch
Carpinus caroliniana	American Hornbeam
Carya ssp.	Hickory
Cedrus deodora	Deodor Cedar
Celtis laevigata	Sugarberry
Celtis occidentalis	Hackberry
Cornus x 'Rutican'	Constellation Dogwood
Cryptomeria japonica	Japanese Cedar
Fagus grandifolia	American Beech
Fraxinus americana	White Ash
Fraxinus pennsylvanica	Green Ash
Ginkgo biloba	Ginkgo; Maidenhair
Liquidambar styraciflua 'Rotundaloba'	Fruitless Sweetgum
Liriodendron tulipifera	Tulip Tree; Tulip Poplar; Yellow Poplar
Magnolia grandiflora	Southern Magnolia
Metasequoia glyptostroboides	Dawn Redwood
Nyssa sylvatica	Black Tupelo (Black Gum, Sour Gum)
Ostrya virginiana	Hophornbeam
Pinus elliotii	Slash Pine
Pinus glabra	Spruce Pine; Walter's Pine
Pinus palustris	Longleaf Pine
Pinus taeda	Loblolly Pine
Pinus virginiana	Virginia Pine
Pistacia chinensis	Chinese Pistache
Platanus occidentalis	Sycamore
Quercus spp.	Oak Tree
Salix babylonica	Weeping Willow
Sequoia sempervirens	Redwood
Taxodium distichum	Bald Cypress
Tsuga canadensis	Eastern Hemlock; Canadian Hemlock

<b><i>CANOPY TREES: (cont.)</i></b>	
<i>Ulmus alata</i>	Winged Elm
<i>Ulmus parvifolia</i>	Chinese Elm; Lace Bark Elm
<i>Zelkova serrata</i>	Japanese Zelkova
<b><i>UNDERSTORY TREES:</i></b>	
<i>Acer barbatum</i>	Florida Maple
<i>Acer buergeranum</i>	Trident Maple
<i>Acer palmatum</i>	Japanese Maple
<i>Amalanchier</i> x ‘Autumn Brilliance’	Autumn Brilliance Serviceberry
<i>Cercis canadensis</i>	Eastern Redbud
<i>Cornus florida</i>	Flowering Dogwood
<i>Cornus kousa</i>	Kousa Dogwood
<i>Crataegus phaenopyrum</i>	Washington Hawthorn
<i>Ilex latifolia</i>	Lusterleaf Holly
<i>Ilex</i> x <i>attenuate fosteri</i>	Foster Holly
<i>Ilex</i> x ‘Emily Bruner’	Emily Bruner Holly
<i>Ilex</i> x ‘Nellie R. Stevens’	Nellie R. Stevens Holly
<i>Ilex</i> x <i>attenuate</i> ‘Savannah’	Savannah Holly
<i>Ilex</i> x <i>attenuate</i> ‘East Palatka’	East Palatka Holly
<i>Ilex verticillata</i>	Winterberry; Holly; Black Alder
<i>Juniperus virginiana</i>	Eastern Red Cedar
<i>Juniperus virginiana</i> ‘Idylwild’	Idylwild Juniper
<i>Lagerstroemia indica</i>	Crape Myrtle
<i>Magnolia grandiflora</i> ‘Claudia Wannamaker’	Claudia Wannamaker Magnolia
<i>Magnolia grandiflora</i> ‘Bracken’s Brown Beauty’	Bracken’s Brown Beauty Magnolia
<i>Magnolia grandiflora</i> ‘Little Gem’	Little Gem Magnolia
<i>Magnolia grandiflora</i> ‘D.D. Blanchard’	D.D. Blanchard Magnolia
<i>Magnolia grandiflora</i> “Margaret Davis”	Margaret Davis Magnolia
<i>Magnolia stellata</i>	Star Magnolia
<i>Magnolia</i> x <i>soulangiana</i>	Saucer Magnolia
<i>Magnolia virginiana</i>	Sweet Bay Magnolia
<i>Malus</i> spp.	Crabapple
<i>Myrica cerifera</i>	Southern Wax Myrtle
<i>Osmanthus fortunei</i>	Fortune’s Osmanthus
<i>Osmanthus fragrans</i>	Tea Olive
<i>Oxydendrum arboreum</i>	Sourwood; Lily of the valley tree; Sorrell tree
<i>Prunus serrulata</i>	Japanese Flowering Cherry
<i>Prunus subhirtella</i>	Higan Cherry
<i>Prunus</i> x <i>yedoensis</i>	Yoshino Cherry
<i>Thuja occidentalis</i>	Eastern White Cedar
<i>Vitex agnus-castus</i>	Lilac Chaste Tree

<b>DECIDUOUS SHRUBS:</b>	
Abelia x grandiflora	Glossy Abelia
Aesculus parviflora	Bottlebrush Buckeye
Berberis thunbergii atropurpurea 'Crimson Pygmy'	Crimson Pygmy Barberry
Buddleia davidii	Butterfly-Bush
Chaenomeles speciosa	Common flowering quince
Cotinus coggygia	Common Smokebush
Euonymus alatus compactus	Burning Bush; winged euonymus
Exochorda racemosa	Pearlbush
Forsythia xintermedia	Border Forsythia
Hibiscus syriacus	Shrub althea; Rose of Sharon
Hydrangea macrophylla	Big Leaf Hydrangea
Hydrangea quercifolia	Oakleaf Hydrangea
Jasminum floridum	Showy Jasmine
Jasminum nudiflorum	Winter Jasmine
Kerria japonica	Japanese kerria
Kolkwitzia amabilis	Beautybush
Lagerstroemia indica/fairiei	Crape Myrtle
Magnolia stellata	Star Magnolia
Spiraea x bumalda 'Anthony Waterer'	Anthony Waterer Bumalda Spirea
Spiraea cantoniensis	Reeves Spirea; Double Reeves Spirea
Spiraea prunifolia	Double Bridalwreath Spirea
Spiraea thunbergii	Thunberg Spirea
Spiraea x vanhouttei	Vanhoutte Spirea
Viburnum x burkwoodi	Burkwood Viburnum
Viburnum carlesii	Korean Spicebush
Viburnum dentatum	Arrowwood viburnum; Southern arrowwood
Viburnum prunifolium	Blackhaw Viburnum
Viburnum plicatum	Japanese Snowball
Viburnum plicatum var. tomentosum	Doublefile viburnum
Vitex agnus-castus	Lilac Chastetree
Weigela florida	Old Fashioned Weigela
<b>EVERGREEN SHRUBS:</b>	
Berberis sargentiana	Sargent Barberry
Berberis julianae	Wintergreen Barberry
Buxus microphylla japonica	Japanese Boxwood
Buxus microphylla koreana	Korean Boxwood
Buxus microphylla cultivars	Wintergreen boxwood
Eaeagwus ebbengai	Ebbengei elaeagnus
Elaeagnus pungens reflexa	Bronze Eaeagnus
Ilex x 'Nellie R. Stevens'	Nellie R. Stevens Holly
Ilex x aquipermyi	Brilliant Holly
Ilex x attenuate 'Savannah'	Savannah Holly

<i>EVERGREEN SHRUBS: (cont.)</i>	
<i>Ilex attenuate</i> ‘Fosteri’	Foster Holly
<i>Ilex cassine</i>	Dahoon
<i>Ilex cornuta</i> ‘Burfordii’	Burford Chinese Holly
<i>Ilex cornuta</i> ‘Carissa’	Carissa Holly
<i>Ilex cornuta</i> ‘Needlepoint’	Needlepoint Holly
<i>Ilex cornuta</i> ‘Rotunda’	Rotunda Chinese Holly; Dwarfed horned holly
<i>Ilex cornuta</i> ‘Burfordii Nana’	Dwarf Burford Holly
<i>Ilex crenata</i> ‘Hetzii’	Hetz Japanese Holly
<i>Ilex crenata</i> ‘Rotundifolia’	Roundleaf Japanese Holly
<i>Ilex crenata</i> ‘Helleri’	Heller Japanese Holly
<i>Ilex crenata</i> ‘Compacta’	Compacta Japanese Holly
<i>Ilex crenata</i> ‘Convexa’	Convexleaf Japanese Holly
<i>Ilex glabra</i>	Inkberry
<i>Ilex latifolia</i>	Lusterleaf Holly
<i>Ilex vomitoria</i>	Yaupon Holly
<i>Ilex vomitoria</i> ‘Pendula’	Weeping Yaupon
<i>Ilex vomitoria</i> ‘nana’	Dwarf Youpon Holly
<i>Illicium parviflorum</i>	Small Anise-tree
<i>Juniperus chinensis</i> spp.	Juniper
<i>Juniperus conferta</i> ‘Blue Pacific’	Shore Juniper; Blue Pacific Juniper
<i>Juniperus horizontalis</i> ‘Bar Harbor’	Bar Harbor Juniper
<i>Juniperus horizontalis</i> ‘;Plumosa compacta’	Andorra juniper
<i>Juniperus horizontalis</i> ‘Wiltoni’	Blue Rug Juniper
<i>Juniperus parsoni</i>	Parsons Juniper
<i>Leucothoe populifolia</i>	Rainbow Leucothoe
<i>Ligustrum japonicum</i>	Japanese Privet
<i>Ligustrum japonicum</i> ‘Rotundifolium’	Curlyleaf Ligustrum
<i>Lonicera fragrantissima</i>	Winter Honeysuckle
<i>Mahonia bealei</i>	Leatherleaf Mahonia
<i>Michelia figo</i>	Banana Shrub
<i>Myrica cerifera</i>	Southern Waxmyrtle
<i>Nandina domestica</i>	Nandina
<i>Osmanthus heterophyllus</i>	Holly Osmanthus; Holly Tea Olive; False Holly
<i>Osmanthus x fortunei</i>	Fortunes Osmanthus/Tea Olive

## **ARTICLE VI. DETAILED AND SUPPLEMENTAL USE REGULATIONS**

### **Section 600. Purpose.**

The purpose of this Article is to specify the detailed regulations, including bulk, layout, setbacks and lot area, which apply to specific land uses. Standards over and above those imposed by other sections of this Ordinance are necessary for certain land uses which, although permitted as of right in certain districts, have characteristics that might have negative impacts on nearby uses without these additional regulations. This Article also specifies the regulations applicable to temporary and accessory uses, and it details the off-street parking and loading requirements of permitted land uses.

### **Section 601. Standards Applicable to Certain Uses.**

In addition to compliance with other regulations imposed by this Ordinance, the following standards are required of the specific uses enumerated below.

#### **601.01. Renovation, Adaptive Reuse, and Preservation of Structures.**

Because there may be value to the community in the renovation, reuse and preservation of structures, and because these actions serve the public interest, renovation, reuse, and preservation of structures are encouraged in all zoning districts.

**A.** In addition to a site plan required pursuant to Section 902, each proposed renovation, reuse or preservation of an existing structure shall include a floor plan showing the internal use of the structure.

**B.** It is anticipated that the renovation, reuse, and preservation of existing structures will involve difficulties with maximum densities in some zoning districts, bufferyard requirements and off-street parking. Where these conditions occur, the Planning Commission or their designee may impose such standards as fencing, screening, and planting as he/she deems appropriate to buffer existing adjacent properties. The Planning Commission or their designee shall, in the case of higher densities and off-street parking, make such recommendations as deemed reasonable in supporting the concepts of renovation, reuse, and preservation of structures in the City of Arab.

**601.02. Exceptions to Minimum Yard Requirements.** The following structures shall be allowed to project into or be constructed in any minimum required yard as follows:

- awnings and canopies, roof overhangs and balconies not to exceed three (3) feet;
- bay windows, not to exceed two (2) feet;
- clotheslines; driveways and their curbs, fences, walls, and hedges may be constructed in minimum yard areas, provided that their installation does not violate any other provision of this Ordinance.

- Uncovered decks of no more than 30 inches in height may extend to within five (5) feet of the property line.

Nothing contained in this Section shall be construed to allow encroachment of any feature into a required bufferyard.

**601.03. Voluntary Dedication of Property for a Public Purpose.** No existing lot shall be reduced in area or dimension below the minimum requirements applicable to such lot under the provisions of this Ordinance. Except that when a lot is reduced in dimension or total area by 20 percent or less by the voluntary dedication by the owner and acceptance of a portion of such lot by the City for a public use, the lot shall be considered to contain the dimensions and area it contained prior to such dedication. However, for purposes of measuring compliance with setback requirements of this Code, the dimensions and area of such lot as it exists after the voluntary dedication shall apply.

**601.04. Limitations on Animals.** – See Section 409.00 (A) of this Ordinance

**601.05. Moving of Buildings.** No structure shall be moved from one development site to another, whether on the same or a different parcel, unless such structure shall, at the new location, comply with all applicable provisions of this Ordinance.

## **602. Telecommunications Tower Standards**

The following standards shall apply to all communications or broadcast towers regardless of type, purpose or function constructed in the City of Arab. These standards shall be used by the Planning Commission in the granting of approval for towers and accessory communications facilities.

- A. *General Regulations and Requirements.* All requirements for site plan approval, as set out in Article IX, shall be met at the time of application for site of new towers.
- B. *Safety/Structural Design of Towers.* All broadcast towers must comply with requirements as set out in the latest edition of the EIA-222 code “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures,” as amended, published by the Electronic Industries Association and all other applicable structural safety standards, building and technical codes having jurisdiction, so as not to endanger the health and safety of residents, employees or travelers in the event of structural failure of the tower due to extreme weather conditions or other acts of God.
- C. *Appearance and Landscaping.* At a tower site, the design of the building and related telecommunication facilities shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunication facilities to the natural setting and built environment to reduce visual obtrusiveness.

If an antenna is installed on a structure other than a tower, the antenna and supporting telecommunication facilities must be of a color that is identical to, or closely compatible with, the color of supporting structure so as to make the antenna and related facilities as visually unobtrusive as possible.

A landscaped buffer, reviewed and approved by the Planning Commission, shall effectively screen the view of the tower compound from adjacent public ways and residential properties.

- D. *Lighting Restrictions.*** There shall be no lighting on any tower except when required by the Federal Aviation Administration (FAA) or Federal Communications Commission (FCC). In cases where the FAA or FCC does require a tower to be lighted, any such lighting shall be the minimum necessary to comply with federal regulations. Written documentation of any FAA or FCC directives to light a tower differently than provided herein must be submitted with the site plan application.

Any security lighting used at the facility shall be of low intensity, shall not be directed or reflected away from the site, and must not illuminate any portion of the site higher than ten (10) feet.

- E.** No portion of any antenna array may extend beyond the property line.
- F.** Accessory telecommunications facilities shall be no taller than fifteen (15) feet in height, and shall be compatible with the surrounding area.
- G. *Security.*** A chain link fence shall be installed around the perimeter of the compound, with a minimum height of eight (8) feet as measured to the top of the fence (or barbed wire, if applicable). Such fence is to be located on the perimeter of the compound unless otherwise approved as part of the site plan submitted with the application of site plan approval. Guy anchors may be fenced separately from the main compound. Climbing pegs shall be removed from the lower 20 feet of all broadcast towers.
- H. *Off-Street Parking and Access.*** Driveways and parking, consisting of an all-weather paved surface, shall be provided to assure access to the telecommunication facility for maintenance or emergency services. Provisions shall be made to provide access clearances for emergency vehicles. A copy of a recorded access easement or a copy of a lease granting access may be required in the absence of a dedicated right-of-way.
- I. *Co-location Requirements.*** No new tower shall be established if space is structurally, technically and economically available on an existing tower which would serve the area that the new tower would serve. Documentation that reasonable efforts have been made to achieve co-location shall be submitted to the Planning Commission. Towers shall be designed to provide and maximize shared use to the extent possible, given the structural and technical limitations of the type of tower proposed. In any event, co-location shall be encouraged and preferred to new installation alternatives.

**J. Maintenance.** The owner of a broadcast tower shall be responsible for maintaining the structural integrity, safety, appearance, screening, buffers, security and other installations required by this Section, and by any other applicable codes, ordinances, regulations, statutes or conditions of approval imposed by the City of Arab or its authorized representatives, in perpetuity for as long as said tower remains on a site.

**K. Abandoned Facilities.** Any broadcast facility that ceases to be used for its original communications purpose shall be removed at the owner's expense. The owner of the facility shall provide the Planning Department with a copy of the notice to the FCC of the intent to cease operations, and shall have 120 days from the date of such ceasing to remove the obsolete tower and all accessory structures and to restore the site to its natural condition.

In the case of multiple providers sharing use of a single tower, notice will still be required from each provider as to their cessation of operations, and such provider will be required to remove its facilities within the one hundred and twenty (120) day period prescribed above. At such time as all providers sharing use of a tower cease operation of their facilities located thereon, the owner of the tower shall complete the removal and restoration process as set forth herein.

**L. Area and Dimensional Requirements.** The following area and dimensional regulations shall apply to all facilities covered by this Section:

1. *Minimum Lot Area:* Determined by setback requirement.

2. *Minimum Setbacks:* Each tower shall be set back from all property lines a distance equal to 50 percent of its height (when site is a leased portion of a larger parcel, setbacks shall be measured from the property lines, not the leased site). Maintenance/equipment buildings must meet the setback requirements as specified for the zoning district in which they are to be constructed.

3. All buildings, structures, facilities and accessories associated with the proposed tower are to be wholly contained within the required security fence. Guy anchors may be fenced separately from the main compound.

**M. Height and Location Restrictions.** In regard to the height and sitting of all broadcast facilities and their associated structures the following regulations shall be observed:

1. No broadcast tower site boundary shall be located closer than 200 feet to any residence.

2. No tower shall be located less than a distance equal to its height, as measured from the base of the tower, from any Residential (R) District zoning boundary. Any new towers so located shall further be restricted to a monopole or self-supporting design.

3. No tower shall exceed a height of 300 feet.
4. Where such facility is constructed in conjunction with a principal structure it shall be sited behind the front plane of said structure. Property located in the Agricultural District (AG) shall be exempt from this provision.

### **603. Residential Use Regulations.**

This Section specifies the minimum lot dimensions and other requirements for each type of residential unit permitted by this Ordinance, except in areas designated as Special District (SD).

When a lot size exceeds the minimum permitted area, all other standards applicable to the minimum lot area shall nevertheless apply. The figures specified in the tables of this Section are expressed in terms of square feet, feet, or a ratio, whichever applies.

Lot sizes and other requirements for residential lots within Special Districts (SD) shall be established through the review and approval of the required Master Development Plan, (See Section 605).

**603.01. Conventional Residential Uses/Subdivisions.** A conventional residential uses/subdivisions consists of single-family dwellings on individual lots and, unless otherwise required by Article V, requires no public or community open space, including resource protection and recreation land.

A conventional subdivision is characterized by division of the entire subject parcel into lots. Table 6-1 provides development standards for conventional subdivisions in the Residential (R) Districts.

**Table 6-1: Lot Area, Setback, Bulk Regulations and Parking Requirements: Conventional Residential Uses/Subdivisions.**

Zone	Minimum Lot Area <sup>1</sup>	Minimum Lot Width <sup>2</sup> (Ft.)	Setbacks (feet)			ISR <sup>4</sup>	Height (Ft.)	Off-Street Parking
			Front	Rear	Minimum Side <sup>3</sup>			
AG	1 acre	150	35	40	15	.20	35	2
R-1	15,000	100	35	40	10	.25	35	2
R-2	10,500 <sup>5</sup>	75	35	35	10	.25	35	2
R-3	<b>See Section 603.02 Alternative Residential Development Styles</b>							
MHP	<b>Section 604 for Area, Dimensional and Other Requirements for MHP</b>							

<sup>1</sup>Unless a Special District zoning is requested and a Master Plan submitted, lots must be sized and developed according to the zoning requested.

<sup>2</sup>In cases where side lot line are not parallel because the lot fronts on a curved right-of-way, minimum width at road frontage shall be as follows:

1. Curved right-of-way: 75 percent of normal width requirement.
2. Subdivision cul-de-sac: 50 percent of normal width requirement

Width at road frontage shall be measured along a straight line connecting the foremost points of the side lot line.

<sup>3</sup>A side yard, which abuts a dedicated public street, shall adhere to the requirements for corner lots in Section 413.

<sup>4</sup>Maximum Impervious Surface Ratio.

<sup>5</sup>Developments containing lots of less than 10,500 square feet in size must be part of a Special District Master Plan development and are required to have a minimum of 20% Open Space.

**603.02. Alternative Residential Development Styles.** The purpose of this section is to provide innovative development types that make efficient use of land and public facilities, and/or to protect natural features.

Alternative residential developments may contain one or more of the housing types that are specified in this subsection subject to the overall density standards established through approval of a Master Development Plan. For purposes of calculating density, the development site shall include all platted lots, together with road, drainage facilities, utility sites and any other common property within the perimeter of the subdivision plat, regardless of whether or not such facilities will ultimately be dedicated to the City. Such developments shall contain the minimum amount of open space specified in the Master Development Plan. Prior to approval of the final plat, the Planning & Zoning Department shall verify that all parcels or tracts not intended for use as residential lots are clearly delineated on the plat as to size and dimension. The purpose, ownership, and responsibility for maintenance for each parcel or tract shall be noted on the plat.

Unless specifically accepted by the City Council, the City of Arab shall not be responsible for maintenance and/or repair of any common facility or properties.

Alternative residential developments shall be self-contained in terms of meeting the requirements of this Ordinance. In addition to other relevant requirements, site plans and subdivision plats shall designate and establish maintenance responsibility for all required recreation, resource protection, and other open space and common properties within the development site. Where an alternative residential development is to be built, Special District Zoning, along with the associated Master Development Plan may be required.

The following subsections specify the standards and requirements for each dwelling type in detail.

**A. Zero Lot Line.** Under this development concept, each residential lot contains a dwelling unit placed along one side lot line in order to maximize usable open area within the lot. All zero lot line subdivision plats shall show driveways, walkways, patio slabs, and building envelopes for all structures. No windows, doors, air conditioning units or other openings or projections of any kind shall be permitted where the structure meets the zero side lot line. However, a window may face the zero side yard if it is recessed at least five (5) feet from the property line. (*See Figure 13*)

For each unit constructed along a side lot line, an easement of five (5) feet in width shall be created on the adjoining property. The purpose of this easement is to permit maintenance and repair of the portion of the structure bordering the zero side yard. All maintenance easements shall be shown on the final plat, along with an indication of the lot to which each easement is assigned. No fence, patio, deck, or structure of any kind shall be placed within a maintenance easement.

Zero lot-line units shall not take access from an arterial road.

In addition to the bufferyard requirements of Article V, zero lot-line subdivisions shall also meet the following development criteria:

Minimum Lot Area	4,500 sf
Maximum I.S.R. on individual lots	.55
Maximum F.A.R.	.35
Minimum Yards:	
<i>Front/Side on Street</i>	20 ft.
<i>Side Opposite zero setback line</i>	5 ft.*
<i>Rear</i>	20 ft.
Minimum Lot Width	45 ft.
Off-Street Parking Spaces	2

*\*or width of any easement along a side lot line, whichever is greater.*

**B. Town House.** This development type consists of a subdivision, platted according to the requirements of the Subdivision Regulations, which is designed for town house dwelling units as defined in Article II. Each town house unit shares a common wall with another such unit on one or both sides, has individual entrances (not used by other units) in the front and rear, and may be placed on its own lot within the subdivision or on common lots managed through a condominium association. Town house structures shall contain at least three (3) and not more than ten (10) dwelling units. Such units may have multiple stories or combinations of one- and two-story sections; however, in no case shall one unit be above or behind another. Front, side and/or rear yards may be enclosed by a masonry wall not exceeding six (6) feet in height provided that such walls do not prevent a clear view of intersecting streets. (See Section 424). *(See Figure 14)*

In addition to meeting all other requirements of the Subdivision Regulations, plats for town house development shall show driveways, walkways, patio slabs, and building envelopes for all structures. No more than ten (10) town house units shall be permitted in any structure.

Town house lots may be accessed via alley ways to the rear of the lots or from dedicated parking areas. In no case shall town house lots take direct access from any public road.

Minimum Lot Area	2,000 sf per unit
Maximum I.S.R. on individual lots	.60
Maximum F.A.R.	.60
Minimum Yards:	
Front	15 ft.
Side (end units)	10 ft.*
Side on Street	20 ft.
Rear	15 ft.
Minimum Lot Width	18 ft. per unit
Off-Street Parking Spaces	1 per bedroom

*\*or width of any easement along a side lot line, whichever is greater.*

**C. Twin House.** This development type consists of a subdivision, platted according to the requirements of the Subdivision Regulations, which is designed for twin house dwelling units as defined in Article II. Each twin house unit shares a common wall with another such unit on one side, has individual entrances (not used by other units) in the front and rear, and shall be placed on its own lot within the subdivision. Twin house structures shall consist of two (2) dwelling units; such units may have multiple stories or combinations of one-and two-story sections; however, in no case shall one unit be above or behind another. Front, side and/or rear yards may be enclosed by a masonry wall not exceeding six (6) feet in height provided that such walls do not prevent a clear view of intersecting streets (see Section 424). *(See Figure 15)*

In addition to meeting all other requirements of the Subdivision Regulations, plats for twin house development shall show driveways, walkways, patio slabs, and building envelopes for all structures.

Twin house lots may be accessed via alley ways to the rear of the lots or from dedicated parking areas. In no case shall twin house lots take direct access from any public road.

Minimum Lot Area	3,500 s.f. per unit
Maximum I.S.R. on individual lots	.45
Maximum F.A.R.	.30
Minimum Yards:	
Front/Side on Street	25 ft.
Side	10 ft.
Rear	20 ft.
Minimum Lot Width	25 ft.
Off-Street Parking Spaces	1 per bedroom

**C. Duplex Subdivision.** This development type consists of two-unit structures in which dwelling units may be constructed side-by-side, one above another, or one behind another. The development site shall be platted as a subdivision containing one (1) duplex structure per lot. In no case shall any duplex lot or development site be subdivided so as to create separate lots for dwelling units within a duplex structure. While ownership of the dwelling units may be separated on a condominium basis, the land on which the structure is built shall remain undivided common property.

Duplex lots shall not take access from an arterial road. Duplex lots may be accessed via alley ways to the rear of the lots or from dedicated parking areas.

Duplex developments shall be designed according to the following standards:

Minimum Lot Area	7,000 sf
Maximum I.S.R. on individual lots	.45
Maximum F.A.R.	.30
Minimum Yards:	
Front/Side on Street	25 ft.
Side	10 ft.
Rear	20 ft.
Minimum Lot Width	75 ft.
Off-Street Parking Spaces	1 per bedroom

**D. Multiple Unit Development.** This development type consists of four (4) or more dwelling units on an undivided lot.

All multiple unit developments shall be subject to site plan approval pursuant to Section 902. Separate ownership of the units is permitted on a condominium basis; however, in no case shall the development site be platted or otherwise divided for the purpose of assigning specific lots or parcels to particular dwelling units.

Minimum Lot Area	10,000 sf
Maximum I.S.R. on individual lots	.75
Maximum F.A.R.	.85
Minimum spacing between buildings	15 ft.
Minimum Lot Width	70 ft.
Off-Street Parking Spaces	1 per bedroom

**604. Manufactured Home Park District (MHP)**

The purpose and intent of the MHP Manufactured Home Park District is to provide appropriate locations for the establishment of manufactured home parks within which space may be leased or rented. An application for Manufactured Home Park District (MHP) zoning shall require a site plan as specified in Section 604.05.

**604.01. Definitions**

**Manufactured Home.** A home transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length, or when 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 foundation, when connected to the

required utilities, and includes plumbing, heating, air-conditioning and electrical systems. The home is built to the National Manufactured Housing Construction and Safety Standards Act.

**Manufactured Home Space.** Land within a manufactured home park that has been designated for the placement of one single or multi-sectional manufactured home for the exclusive use of its occupants.

**Manufactured Home Park.** A parcel of land under single ownership which has been planned for the placement of three (3) or more manufactured homes for residential occupancy. The lots in the community may be leased to residents to place their manufactured homes and in some cases the home and the lot may be leased by the owner to the resident.

**Manufactured Home Pad.** The hard surface part of an individual manufactured home space that has been reserved for the placement of the manufactured home, accessory structures or additions.

**HUD Seal Required.** Prior to installation, each manufactured home shall bear a seal certifying compliance with the Manufactured Home Construction and Safety Standards Act published by the U.S. Department of Housing and Urban Development. Any existing mobile home or trailer not bearing such a seal shall be deemed a non-conforming structure and shall be treated as a non-conforming structure and use in accordance with the regulations established in Article VIII of this Ordinance.

#### **604.02. Permitted Uses**

Within a MHP Manufactured Home Park district no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses.

- A. Manufactured Home Park.
- B. Manufactured Home Park Office.
- C. Recreation Buildings and Playground.
- D. Service facilities for the exclusive use of manufactured home park residents including self-service laundry.
- E. Structures and uses required for the operation of a public utility or the operation or maintenance of the manufactured home park.
- F. One identification sign meeting the requirements of the Arab Sign Regulations containing thereon only the name and address of the manufactured home park. Said sign may be lighted by indirect light only.

**G.** One accessory storage building per manufactured home space is permitted. Said storage building shall meet all of the requirements of Section 604.04 U of this Article.

**H.** Traffic control signs.

**604.03. General**

**A.** In manufactured home parks, recreational vehicles shall not be occupied as living quarters and manufactured home sales lots shall not be permitted, but manufactured homes may be sold on manufactured home parks spaces they occupy while in residential use.

**B.** Prior to the placement of a manufactured home in a manufactured home park, a permit shall be obtained from the Administrative Officer, subject to compliance with all provisions of this Ordinance.

**C.** Manufactured home units that do not bear a seal as defined in Section 604.01 shall not be permitted within a manufactured home park within the City of Arab.

**604.04. Site Standards**

The following site standards shall apply for all manufactured home parks hereinafter established or altered.

**A. Land Area Requirements.** The minimum area for any manufactured home park shall be five (5) acres.

**B. Site Dimensions and Setbacks.** The following standards for each manufactured home space shall apply for all manufactured home parks hereinafter established or altered.

1. Each manufactured home space, to be occupied by a single wide unit, shall have a minimum area of four thousand (4,000) square feet with a width of not less than forty (40) feet. Each manufactured home space, to be occupied by a double-wide or multi-section unit shall have a minimum area of five thousand (5,000) square feet with a width of not less than fifty (50) feet.
2. There shall be a minimum twenty (20) foot separation between each manufactured home and any adjacent manufactured home or structure. Said separation shall be measured to include all additions or attachments.
3. The minimum front, side, and rear yard setback for each manufactured home space within the manufactured home park shall be as follows:

Front: 15 feet  
Rear: 15 feet  
Sides: 10 feet

- C. *Peripheral Buffer Area.*** A buffer area twenty-five (25) feet wide shall be located along all manufactured home park property lines not bordering a public street. The buffer area shall be installed in accord with the requirements of Article V of this Ordinance. No building or structure of any kind shall be erected or maintained in the required buffer area.
- D. *Minimum Frontage.*** All manufactured home parks shall have access to and a minimum frontage of fifty (50) feet on a dedicated, public street. The yard setback for all parts of the manufactured home park that abuts a public street shall be thirty-five (35) feet.
- E. *Internal Roadways.*** All interior manufactured home spaces shall abut upon an internal roadway having a paved surface not less than thirty (30) feet in width. The internal roadway shall be continuous or shall be provided with a cul-de-sac having a minimum radius of sixty (60) feet. No internal roadway ending in a cul-de-sac shall exceed four hundred (400) feet in length. Such roadways shall be hard surfaced and shall meet the design standards and construction specifications for residential streets required by the Arab Subdivision Regulations. A concrete lay-down curb or acceptable substitute shall be used as approved by the Administrative Officer. Internal roadways and parking areas shall be maintained free of cracks, holes and other hazards at the expense of the operator/manager of the manufactured home park. All roadways shall be numbered or named in a manner approved by Marshall County 911.
- F. *Future Rights-of-Way.*** The applicant/developer of a manufactured home park should be aware that any future development or subdividing of the parcel on which the manufactured home park is located will require rights-of-way widths as provided for by the Arab Subdivision Regulations. Therefore, future access through the manufactured home park could require redevelopment that might eliminate spaces or otherwise decrease the functional use of the site.
- G. *Height.*** The height of any manufactured home, building or structure shall not be greater than thirty-five (35) feet. The height of the manufactured home frame above the ground elevation, measured at 90° to the frame, shall not be greater than three (3) feet.
- H. *Required Pad.*** Each manufactured home space shall contain a cement or asphalt stand upon which the manufactured home will be situated.
- I. *Common Recreation Area.*** Not less than ten percent (10%) of the gross land area of the manufactured home park shall be devoted to common recreational areas and facilities. Said open space shall be grassed and/or landscaped or otherwise designed and made available for recreational use and shall be maintained in a usable and sanitary condition. Such areas shall be consolidated into usable, central areas with minimum dimensions of not less than thirty (30) feet in any direction.

- J. *Deck or Patio Requirements.*** Each Manufactured home space shall be provided with a deck or paved patio of at least one hundred twenty (120) square feet. No horizontal dimension of the deck or paved patio shall be less than eight (8) feet. Patios shall be surfaced with concrete, asphalt or other approved hard surface. Required parking areas may not be considered to meet the requirements for a deck or patio.
- K. *Off-Street Parking.*** There shall be two (2) paved, all weather off-street parking spaces for each manufactured home space; two (2) spaces for the park office; one (1) space for every two (2) washing machines in a self-service laundry facility. All off-street parking shall have direct access to an interior street within the manufactured home park and there shall be no driveway access to an exterior street. The required off-street parking space shall meet all design and construction specifications of the City of Arab.
- L. *Water and Sanitary Sewer Requirements.*** The entire area of the manufactured home park shall be adequately served by water and sanitary sewer facilities. Each manufactured home shall be connected to the municipal water system and to the municipal sewage disposal system, if available. The design and specifications of the utility systems shall meet all city specifications and shall be approved by the City of Arab. If a municipal system is not available, then a private central system shall be required until such time as the municipal system(s) become available. The design and specifications of any private system shall meet Marshall County Health Department specifications and shall be installed under inspection of the appropriate City of Arab Department.
- M. *Electrical Facilities.*** All electrical lines, equipment and installation leading to each manufactured home space shall be designed, constructed and maintained in compliance with the National Electrical Code (NFPA 70). When separate meters are installed, each meter shall be located on a standard post on the lot line of each manufactured home space. Wiring shall comply with applicable local and state electrical codes. All required permits shall be obtained prior to hook-up or installation of electrical services.
- N. *Lighting.*** Adequate lighting shall be provided and shown on the site plan for approval by the Arab Planning Commission. All electric and telephone lines must be placed underground when possible.
- O. *Drainage.*** The ground surface in all parts of a manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a licensed professional engineer.
- P. *Soil and Ground Cover.*** Exposed ground surfaces in all parts of every manufactured home park shall be protected with a vegetative growth that is capable of preventing soil erosion and eliminating dust.
- Q. *Skirting.*** The installation of skirting shall be required for all manufactured homes in the manufactured home park. Installation shall be in accordance with the manufacturer's installation instructions. Acceptable materials may include masonry, stone, metal, vinyl, or other materials manufactured for the purpose of skirting.

- R. *Storage Underneath Manufactured Home.* There shall be no storage of any kind underneath any manufactured home.
- S. *Tie-Downs.* Each manufactured home shall have tie-downs, anchoring or other devices securing the stability of the manufactured home. The installation of tie-downs or anchoring shall be in conformance with standards set out by the Alabama Manufactured Housing Commission.
- T. *Fencing.* Fences, if provided, on individual manufactured home sites shall be uniform in height and shall not exceed thirty (30) inches in height and shall be constructed in such a manner as to provide firefighting personnel access to all sides of each manufactured home.
- U. *Design and Location of Storage Facilities.* One (1) storage building with a maximum capacity of one hundred fifty (150) square feet and a maximum height of fifteen (15) feet per manufactured home may be provided on the rear of the manufactured home space within two (2) feet of the space line. Storage buildings shall be designed in a manner that will enhance the appearance of the park and shall be faced with masonry porcelain steel, baked enameled steel or other material equal in fire resistance, durability and appearance, or of an equal material approved by the Administrative Officer. A storage building shall only be used by the occupants of the manufactured home.

#### **604.05. Manufactured Home Park Site Plan Approval**

An application for MHP Manufactured Home Park zoning shall be accompanied by a Site Plan, which, if approved, shall become a requirement of the zoning district. No building permit shall be issued for construction of any part of the manufactured home park unless the proposed development is in accord with the approved Site Plan.

- A. The site plan shall be drawn to a suitable scale not smaller than one-inch equals one hundred (100) feet and shall show the following information:
  - (1) Scale, north arrow, location, total site acreage and acres to be developed, proposed title of the park, vicinity map showing the location of the project in relation to the surrounding community, and legal description of the proposed Manufactured Home Park.
  - (2) The name of the owner and the designer (architect, engineer, or landscape architect) of the proposed manufactured park development.
  - (3) Existing zoning of the project site and the zoning of adjacent land.
  - (4) The boundaries of the property involved including the location of all existing easements, section lines, and property lines, existing streets, buildings, approximate location of all utilities on or near the project site and other physical features in or adjoining the project site.

- (5) Names and addresses of all adjacent landowners.
- (6) The proposed use of all building or structures and the proposed number, location, and dimensions of all manufactured home spaces along with a typical layout of a manufactured home space showing landscaping, location and type of stand, patio, walkways, parking area, curb and gutter location, storage building, if any, and other improvements.
- (7) The location and dimensions of proposed points of entry and exit for vehicles, roadways, parking facilities and walkways, location and width of proposed right-of-ways and easements, the location of buffer areas and landscaping, location and dimensions of recreational areas.
- (8) The location of all utilities and a description of their availability and capability to serve the proposed development.
- (9) All other significant information required by this Ordinance, and any other information which would assist in the Planning Commission's review of the request for MHP zoning.

**604.06. Non-Conforming Manufactured Homes on Individual "Fee Simple" Lots.**

It is not the intent of this Ordinance to deprive a property owner of their homestead and thereby their right to restore or replace a non-conforming manufactured home, on a fee simple lot, should their home be destroyed by fire or natural disaster. In the event that a nonconforming manufactured home is destroyed by fire or natural disaster in excess of fifty (50%) of the appraised value as set out in Article VIII, restoration or replacement may be permitted provided that:

- A. The manufactured home was, and will continue to be, occupied by the owner of said property;
- B. The restoration or replacement does not result in a structure which appraises at a lesser value than that of the original structure.
- C. The restoration or replacement shall be approved by the City Council prior to any zoning certificates being issued.
- D. The restoration or replacement shall take place within twelve (12) months of being damaged.
- E. Noncompliance with Health Department or other governmental agency regulations shall prohibit the nonconforming use of the site, and
- F. Expansion of the site for additional nonconforming uses shall not be permitted.

### **Section 605. Master Development Plan.**

Where any development site is to be developed in stages or phases, no plat or phase plan for any fraction of the site shall be accepted for review, unless a Master Development Plan is submitted. A Master Development Plan shall be required in connection with any request for Alternative Residential Development or Special District (SD) zoning. A Master Development Plan shall also be required for any development containing a mixture of residential and non-residential land uses, and/or more than one of the dwelling unit types described in Section 603.02.

The Master Development Plan shall be a conceptual plan showing the entire development site and all component stages or phases, and shall express the overall development concept for the site at build-out. The plan shall show all proposed streets and shall demonstrate compatibility between adjacent land uses. The plan has two additional purposes: to ensure that required amenities keep a reasonable pace with residential construction in a phased development; and to establish an outer perimeter for the purpose of calculating density and required open space.

The Master Development Plan shall include the following information:

- A.** outer boundary or perimeter of the overall development site, including a valid legal description;
- B.** approximate locations of all proposed streets;
- C.** type, number and approximate locations of all dwelling units;
- D.** overall gross density for the development site, as well as density for each individual stage or phase;
- E.** location and approximate acreage of all resource protection, recreation, and open space lands and other common properties;
- F.** location of all streets and drainage facilities;
- G.** required bufferyards; and
- H.** any other information which Planning and Development Services determines to be relevant.

Where a Master Development Plan is submitted in conjunction with a Special District (SD) zoning this plan shall include a written statement addressing design standards within the development, including minimum residential lot sizes and widths, building setbacks, building heights, signage, impervious surface and floor area ratios, and any other information Planning and Development Services determines to be relevant. Upon approval, this written statement shall become a component of the Master Development Plan and shall be binding upon all future development on the site.

When a Master Development Plan is required, such plan shall be reviewed and approved by the Planning Commission prior to or simultaneously with any regular site plan or subdivision plat submitted. Upon approval of the Master Development Plan, the developer may submit and, the Planning Commission may approve, subdivision plats or site plans for individual phases or stages.

The Master Development Plan shall include a schedule showing density and open space on a cumulative basis upon completion of each phase. All stage or phase plans shall be consistent with the approved Master Development Plan.

Once approved, the Master Development Plan shall become a binding condition of development on the site, and subsequent stages or phases of the development shall be substantially consistent with it. If Planning and Development Services finds that any stage or phase plan substantially deviates from the approved Master Development Plan, a revised master plan shall be required for Planning Commission review prior to approval of further site plans or subdivision plats within the development.

Any of the following changes shall constitute a “substantial deviation:”

- A. An increase or reduction in land area of the development.
- B. An increase in the total number of dwelling units.
- C. Provision of less than the required percentage of recreation, resource protection, or open space land.
- D. Proposal of single family attached, duplex, multi-family or zero lot-line development in place of approved single family detached housing.
- E. Any significant addition, removal or rearrangement of land uses and streets.

Master Development Plan approval shall expire 24 months after granted unless significant progress has been made toward implementation of the development. Such progress shall be commensurate with the scale of the project.

#### **Section 606. SPECIAL DISTRICT (SD)**

Special districts are hereby authorized for the purpose of providing optional methods of land development, which encourages imaginative solutions to environmental design problems. Areas so established shall be characterized by a unified building and site development program providing for coordinated open space and architectural treatment. The special districts authorized by this Article are also intended to provide means for the establishment of uses, which are generally considered to be incompatible with most other land usage.

**606.01. Procedure.** The procedure to be followed in the creation of special districts shall conform to the regulations for any other zone change with the following exceptions.

**A.** Any petition for the establishment of a Special District shall be submitted to the Planning Commission for its review and action. Approval of the request shall be based on the Commission's consideration of the following:

- 1.** That the proposed development is consistent with the intent and purpose of this ordinance to promote public health, safety, and welfare.
- 2.** That the final plan for the proposed development meets the requirements of this ordinance as well as the requirements of all other regulating bodies.
- 3.** That an approved method of sewage disposal is available to the tract under consideration.

**B.** The establishment of a Special District will be for the express purpose of improving the tract of land in accordance with the approved plan of development for the particular tract of land and for the uses set forth in the development plan.

**C.** If, within two (2) years from the effective date of the zone amendment, construction has not commenced, the Planning Commission may, by appropriate action, repeal the amendment establishing the Special District. Once construction is started the improvements set forth in the plan of development must be completed within two years from date of issuance. Otherwise, the Planning Commission may repeal the amendment establishing the Special District. Extension of time may be granted as long as satisfactory progress is being made.

**D.** Unless specific variations are noted on the development plan and approved by the Planning Commission, the most restrictive requirements for parking, loading, yards, and dimensional regulations for the proposed use shall be applicable to the Special District.

**606.02. Shopping Center – Special District (SC-SD)**

**A.** A special district created for the purpose of establishing a planned shopping center may be allowed in any district except the RE, RS and RG districts.

**B.** The Planned Shopping Center District shall be laid out, developed and used according to a plan prepared in compliance with the provisions of this article in order to provide for modern retail shopping facilities in appropriate locations to serve residential neighborhoods or regional areas. Any owner or owners of a tract of land may request that such tract of land be zoned as a Planned Shopping Center District by proceeding under the provisions of this article, but the failure of such owner or owners to apply under this article shall not prevent them from constructing or causing to be constructed a retail sales complex, customarily called a Shopping Center, upon such tract of land provided the same is zoned so as to permit its use for this purpose.

**C.** The use of each building or premises shall be in accordance with the plan referred to in this Article, which use shall be limited to services, offices, clinics, parking, retail sale or merchandise, and similar activities ordinarily accepted as shopping center uses. No building shall be designed, constructed, structurally altered or used for residential purposes, except to provide within the buildings allowed, facilities for a custodian, caretaker, or watchman employed on the premises.

**D.** The structures permitted in this article shall observe a maximum height of seventy-five feet.

**E.** The owner or owners of a tract of land may submit to the Planning Commission a plan for the development and use of such tract for the purpose of and meeting the requirements set forth in this article. Said plan shall comply with all requirements of this article and shall be accompanied by evidence concerning the feasibility of the project and the effect of the proposed development on surrounding property and other physical conditions, which plan and supporting evidence shall include each of the following:

- 1.** A site plan defining the areas wherein buildings may be constructed, the areas which will be developed for parking and the proportionate amount thereof, the location of roads, driveways and walks and the points of ingress and egress, including access streets where required, the location and height of walls, the spaces for loading, the location, size, character and number of signs, the location and character of exterior lighting, and the character and extent of landscaping, planting and other treatment for protection of adjoining property.
- 2.** A drainage plan approved by the Planning Commission.
- 3.** A copy of any deed restrictions intended to be recorded.
- 4.** A professional report on the needs and extent of the market to be served, and general economic justification.
- 5.** A professional traffic analysis indicating the effect of the proposed shopping center on adjacent streets and roadways and also indicating the direction and amount of traffic flow to and from the shopping center.

**F.** Before any action thereon, the proposed planned shopping center plan, together with the required supplementary information shall be referred to the Planning Commission for study and report. Reasonable additional requirements may be required by the Planning Commission for the protection of adjoining residential property.

### **606.03. Residential – Special District (RS-SD)**

**A.** The regulations established in this section are intended to provide optional methods of land development with provisions for commercial, religious, educational and cultural

facilities, which are integrated with the total project by unified architectural and open space treatment.

**B.** A planned residential development shall only be permitted in the AG, R-1, R-2, R-3 and MHP districts.

**C.** The following uses are permitted:

1. Single family attached and detached dwellings.
2. Any alternative dwelling type shown in Section 603.02.
3. Multiple family dwelling including condominiums and town houses.
4. Commercial uses. For each one hundred (100) dwelling units to be established, four (4) acres may be set aside for commercial use provided that adequate protection of adjacent properties is afforded by the plan.
5. Recreation uses. Recreation uses may include a community center, golf course, swimming pool, or parks, playground or other recreational uses. Any structure involved in such use shall have a thirty-five (35) foot setback from all property lines.
6. The amount of land set aside for permanent open space shall be fifteen (15) percent of the gross development area.
7. Educational uses.
8. Community facilities such as churches and other religious institutions and non-profit clubs such as country clubs, swim and/or tennis area.

**D.** The following requirements are minimums and are intended to serve as a guide in plan formulation. The Planning Commission retains the authority to waive the provisions of this section or to impose greater requirements than herein stated. All buildings shall be set back from street right-of-way lines and from the periphery of the project to comply with the following requirements:

1. There shall be a front yard for all detached single-family dwellings of not less than twenty-five (25) feet. The front yard setback for all other structures shall be as determined by the Planning Commission.
2. Unless indicated elsewhere, all buildings shall have a setback of not less than twenty-five (25) feet.

3. In no case shall a lot, for a single family detached structure, be created with an area of less than 4,000 square feet or a frontage of less than sixty (60) feet at the building line.

E. In addition to other applicable regulations the following rules shall be observed.

1. The application must be accompanied by a site development plan showing the use or uses, dimensions and locations of proposed streets, parks, play-grounds, other open spaces, residential buildings, commercial buildings and such other pertinent information as may be necessary to adequately determine that the proposed development meets the purpose of this ordinance.

2. The Planning Commission shall review the conformity of the proposed development by employing recognized principles of design and land use planning. The minimum yard and maximum height requirements of the zoning district shall not apply except as set forth herein. The Planning Commission may impose conditions regarding layout, circulation, and other physical improvements.

3. Where the planned residential development provides for single family attached (row houses) or single family detached housing to be held under individual ownership by the occupant, a plat of development shall be recorded and shall show building lines, common land, streets, easements and other applicable features.

4. The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with its surrounding neighborhood. It shall include provisions for recreation areas to meet the needs of the anticipated population.

### **Section 607. Mixed-Use Developments.**

Developments, other than those within a Special District (SD) which include more than one use on the same site, and in which the uses fall into two or more different use categories, shall be treated as mixed-use developments; and are required to meet the standards of this Section in addition to any other regulations imposed by this Ordinance.

All uses proposed within a mixed-use development must be permitted under Table 4-1 in the district in which the development is to be located, or be approved as part of a Special District zoning and Master Development Plan. Uses shown in Table 4-1 as conditional must be approved under the provisions of Section 903.

For review purposes, a separate development site for each land use category shall be delineated within a mixed-use development wherever possible. For shopping centers and any other case in which the different land uses occupy a single structure, the most restrictive requirements relating to any of the individual uses will be applied to the entire site.

## **Section 608. Accessory Structures**

Except as otherwise provided in this Ordinance, accessory structures shall be permitted only in rear yards and shall meet the following requirements:

- A.** Detached accessory buildings shall be permitted only in rear yards with the exception of detached automobile garages, which may be permitted behind the front plane of the principal structure in a side yard.
- B.** Detached accessory buildings in residential districts shall not exceed a single story of fifteen (15) feet in height, measured from grade to eave, and shall not be nearer than five (5) feet to any side or rear lot line. Detached automobile garages located in a side yard must maintain the side yard and front yard setbacks for the applicable zoning district.
- C.** The total square footage of all detached, enclosed accessory structures in residential districts such as garages, barns, pool houses, etc. are counted toward the total allowable lot coverage for the zoning district in which they are located.
- D.** No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is accessory.
- E.** No mobile home, recreation vehicle, travel trailer or manufactured home may be used as an accessory structure in any zoning district unless otherwise permitted in this Ordinance.
- F.** On any one (1) residential lot, the total floor area of all accessory structures shall be limited to 50 percent of the floor area of the principal structure. This shall include open carports, gazebos and greenhouses, but not swimming pools. Lots of three (3) acres or larger in the Agricultural (AG) district shall be exempt from this limitation.
- G.** Accessory structures shall be constructed of materials compatible with those of the principle structure; with the exception that one (1) metal or prefabricated residential accessory structure not exceeding 200 sq. ft. in size may be allowed in the rear yard.

## **Section 609. Height Modifications.**

The height limitations of this Ordinance shall not apply to barns, silos, or other farm structures when located on farms; church spires, belfries, cupolas and domes, monuments, water towers, transmission towers, windmills, chimneys, smokestacks, flag poles, radio or television towers, masts and aerials and similar structures not intended for human occupancy, except as otherwise restricted by other existing or hereafter adopted ordinances of the City of Arab.

**Section 610. Corner Lots.**

For any lot platted or re-platted after the effective date of this Ordinance that is adjacent to the intersection of two (2) public streets, each yard abutting a public street shall be considered a front yard and shall meet the front yard setback requirements for that particular district. Furthermore, corner lots shall also have one (1) side yard and one (1) rear yard that will meet those setbacks for the particular district. The rear yard shall be defined at the time a building permit is issued.

**Section 611. Fences, Walls and Hedges**

Fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard with the following restrictions:

- A. No fence, wall or hedge along the perimeter of any front yard in a residential district shall exceed four and one-half (4½) feet in height.
- B. No fence, wall or hedge along the perimeter of any side yard or rear yard in a residential district shall exceed six and one-half (6½) feet in height except as required for a retaining wall or where authorized by the Board of Adjustment.
- C. In the case of corner lots, the provisions of Section 417 shall restrict the location of fences, wall, or hedges.

**Section 612. Detailed Accessory Use Regulations.**

**612.01. Home Occupations.**

It is the purpose of this Section to provide residents of the City of Arab a wide range of opportunities in the use of their residences in profitable activities. However, the character of the City's residential areas must also be preserved. Therefore, these regulations shall ensure that such activities remain limited in scope so as not to interfere with the principal use of any residential neighborhood or development.

**A. General Regulations.** All home occupations shall meet the following criteria:

- 1. The home occupation must be clearly secondary and incidental to the use of the dwelling unit as a residence. No more than 25 percent of the total floor area of the dwelling shall be used for the home occupation, to a maximum of 500 square feet. For the purposes of this Section, "total floor area" shall include all heated and ventilated areas within the dwelling. Garages, carports, outside storage rooms, and porches shall be excluded.

At the Administrative Officer's option, a floor plan of the residence may be required, indicating the specific location(s) and extent of the business activity.

2. The exterior appearance of the dwelling unit and/or premises shall not be altered, nor the occupation within the dwelling unit conducted, in any manner that would cause the premises to differ from its residential character or from the character of the neighborhood.
3. The home occupation shall be operated in the existing dwelling unit, which shall not be enlarged to accommodate the business activity.
4. No new accessory structure shall be built, nor shall any existing accessory structure be used, for the purpose of operating the home occupation.
5. There shall be no visible evidence that the dwelling is being used to operate a home occupation. Signs shall not be permitted.
6. No more than two (2) company or commercial vehicles shall be parked at the premises at any time – including but not limited to cars, vans, trucks, and utility trailers. Off-street parking shall be provided on the premises, as required by Section 614. No parking of commercial or residential vehicles shall be permitted on the street or in the required front yard.
7. A maximum of one (1) person not residing in the dwelling may engage in the operation of the home occupation.
8. No merchandise shall be distributed to customers on the premises.
9. All advertising material indicating the business hours, address and/or physical location of the business shall also state “By Appointment Only” and/or “No On Site Service”.
10. There shall be no outside display or storage of materials, goods, supplies, or equipment used in the home occupation on the premises.
11. The operation of a home occupation shall not create any nuisance such as excessive traffic, on-street parking, noise, vibration, glare, odors, fumes, smoke, dust, heat, fire hazards, electrical interference or fluctuation inline voltage, or hazards to any greater extent than that normally experienced in the residential neighborhood, or be present or noticeable beyond the property boundaries of the home occupation premises.
12. The operation of a home occupation shall not involve the sale of any dangerous or deadly weapons such as knives, firearms, or air guns.
13. The on-site repair of vehicles shall be prohibited as a home occupation.

**B. Application Procedures.** Any applicant for a home occupation permit shall pay a fee as established in Section 1007, and submit an application form, together with any required attachments, to the Administrative Officer. The Administrative Officer shall have five (5) business days to approve or deny the application, or inform the applicant that more information is needed to reach a decision.

Each applicant for home occupation approval shall submit a deed to the property on which the proposed business will be conducted. If the applicant does not own the property, he/she shall obtain from the owner a signed and notarized letter of authorization to apply for home occupation approval.

No more than one (1) home occupation shall be approved in any residential dwelling unit. A fraternity, sorority, or boarding house shall constitute a single dwelling unit.

If an applicant fails to provide required documentation, or provides insufficient information, to determine compliance with this Section, the application shall be denied.

**C. Other Provisions.**

1. Home-based businesses offering child or adult day- or nighttime-care services to more than two (2) persons shall not be considered home occupations under this Section, but shall be regulated under Section 612.02. These businesses, if previously approved as home occupations, may continue operating as such until the expiration of the current business license.
2. Yard or garage sales shall be exempt from these regulations under the following conditions:
  - a) sales shall last no longer than two (2) consecutive days;
  - b) sales are held no more than four (4) times per year, with an intervening time period of at least 30 days;
  - c) the property on which the sale is conducted shall be owned by one of the participants;
  - d) no goods purchased for resale may be offered for sale;
  - e) no consignment goods may be offered for sale;
  - f) all directional or advertising signs shall be removed immediately upon completion of the sale.
3. The Administrative Officer, or his/her designee, shall be permitted upon reasonable request to enter and inspect the premises of an approved home occupation at any time to verify compliance with these regulations.

4. Any existing home occupation not in compliance with these regulations may continue operating as a nonconforming home occupation under the following conditions:
- a) the home occupation was approved prior to the effective date of these regulations;
  - b) the home occupation is in compliance with all regulations in effect at the time of its approval;
  - c) the business activity has continued since the effective date of these regulations without ceasing for a period in excess of 30 days;
  - d) the home occupation holds a valid business license issued by the City of Arab Business License Office;
  - e) the home occupation has operated in a lawful manner at all times prior to adoption of these regulations;
  - f) all signs shall be removed immediately;
  - g) Limitation on company vehicles and outside display/storage of materials shall become effective immediately upon adoption of this Ordinance.

**612.02. Family Child Care Home.**

It is the intent of this Subsection to regulate the operation of family child care homes so that the average neighbor, under normal circumstances, will not be aware of their existence.

Any resident of a dwelling unit in the City of Arab providing family child care shall apply for and receive a permit from the Planning Commission or their designee subject to the following regulations:

- A.** The childcare activity shall be licensed to and operated by a resident of the dwelling unit in which it is located.
- B.** The childcare activity must be clearly incidental to the use of the structure as a residence.
- C.** Child care services shall be provided to a maximum of six (6) non-resident children at any one time.
- D.** The appearance of the dwelling unit, structure, and/or premises shall not be altered, nor the child care activity within the structure conducted, in any manner which would

cause the premises to differ from its residential character or from the character of the neighborhood.

**E.** The family child care home shall be operated in the existing dwelling unit. No new or existing accessory structure shall be built or used for the purpose of the child care activity.

**F.** No sign shall be permitted in connection with the family child care home.

**G.** The total number of persons engaged in the operation of the family child care home shall not exceed four (4). Up to two (2) persons other than those residing in the dwelling may engage in the operation of the business, provided that there is sufficient off-street parking space to accommodate the vehicles of such non-resident employees.

**H.** Off-street parking spaces shall be provided on the premises, as required by Section 610, or as otherwise necessary.

**I.** The operation of a family child care home shall not create any nuisance such as excessive traffic, on-street parking, or noise to any greater extent than that normally experienced in the residential neighborhood, or be present or noticeable beyond the property boundaries of the child care premises.

**J.** The family child care home shall at all times possess an appropriate license issued by the State of Alabama. A copy of such license shall be furnished to the Planning Commission or their designee upon request. Revocation or expiration of the State license shall automatically void any permit issued by the City.

### **612.03. Subdivision Amenities.**

It is the intent of this Section to allow the provision of recreational amenities within a subdivision as uses, which are secondary and incidental to the principal residential use. Such features are intended to be low in intensity, have minimal impacts on neighboring properties, and serve only residents of the subdivision in which it is located or other developments that are directly adjacent. Amenities approved under this Section may not be subject to the parking requirements, nor shall they generally require conditional use approval by the Planning Commission.

Upon submission of a scaled drawing showing all proposed improvements, the Planning Commission or their designee shall approve subdivision amenities if they meet the requirements listed below. Those not meeting the provisions of this Section shall be evaluated as principal uses and shall be subject to all applicable regulations.

**A.** Amenities that may be approved under this Section include swimming pools, playgrounds, parks, and courts or fields for particular sports such as tennis, shuffleboard,

softball, basketball, and volleyball. Specifically excluded are golf courses, golf driving ranges, and miniature golf.

**B.** All amenities shall be located on lots or parcels whose recreational purpose is clearly identified on the recorded subdivision plat. Where an amenity is proposed on an existing lot, which is not designated for recreational purposes, it shall be processed by the Planning & Zoning Department as a conditional use under Section 903.

**C.** Structures shall be limited to one (1) per parcel, shall be set back 25 feet from all lot lines and shall not exceed 1000 square feet in size inclusive of restroom facilities. Any recreational parcel containing a structure shall have frontage on a public road within the development.

**D.** If required for the overall development, bufferyards and landscaping shall be prorated for the amenity site.

**E.** A minimum of three (3) and a maximum of five (5) off-street parking spaces shall be provided.. Vehicles and/or equipment used by employees shall be stored in an enclosed structure.

**F.** Amenities that occupy required open space within a Master Planned and/or a Special District Development shall be limited to those uses that are allowed under Section 422.

### **613. Temporary Uses.**

Temporary uses are permitted only as expressly provided in this Section. No temporary use shall be established unless a permit evidencing the compliance of such use with the provisions of this Section and other applicable provisions of this Ordinance shall have first been issued, as provided in Article X.

#### **613.01. General Regulations.**

Temporary uses as detailed below shall be subject to the following, unless otherwise provided for in this Section:

**A.** Notarized, written authorization from property owner with deed to property attached.

**B.** Documentation from the Marshall County Health Department must be provided that adequate arrangements for temporary sanitary facilities have been made.

**C.** No permanent or temporary lighting shall be installed without an electrical permit and inspection.

**D.** All uses shall be confined to the dates specified in the permit.

- E.** Hours of operation shall be confined to those specified in the permit.
- F.** The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within five (5) days after the closing event.
- G.** Public parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawful parking.
- H.** Traffic control arrangements required by the Arab Public Safety Department, Police Division, in the vicinity of or at major intersections shall be the responsibility of the applicant.
- I.** Property owners shall be responsible for restitution and/or repair of any damage resulting to any public right-of-way or property as a result of the event.
- J.** Serving of alcoholic beverages shall not be permitted without approval from the Arab City Council.

**613.02. Use Limitations.**

- A.** The principal use or structure, together with any temporary uses or structures, shall not jointly exceed the impervious surface ratio (ISR) or any standard contained in Article IV.
- B.** No signs in connection with a temporary use shall be permitted except as specified in Section 613.03.

**613.03. Particular Temporary Uses Permitted.** The following are temporary uses, which are subject to the specified regulations and standards, in addition to the other requirements specified in this Ordinance.

**A. Carnival or circus.**

1. Permitted only in General Business Districts (GB).
2. Maximum length of permit shall be 15 days.
3. No structure or equipment shall be permitted within 500 feet of any residential property line.
4. Permitted sign shall have a maximum size of 32 sq. ft.

**B. Christmas tree sales.**

1. Permitted only in Agricultural (A-1), Neighborhood Commercial (NC) and General Business (GB) districts.
2. Maximum length of permit for display and open-lot sales shall be 45 days.
3. Permitted sign shall have a maximum size of 32 sq. ft.

**C. On-Site Contractor's office and construction equipment sheds.**

1. Permitted in any district where use is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
2. Maximum length of permit shall be one (1) year.
3. Office or shed shall be removed upon completion of construction project.
4. Signs shall be permitted only in accordance with the Arab Sign Regulations.

**D. Events of public interest.**

1. Permitted only in Agricultural (A-1), General Business (GB) and Historic Downtown (HD) districts..
2. Events may include but are not limited to outdoor concerts, auctions and athletic events and associated concessions and activities.
3. Permitted sign shall have a maximum size of 32 sq. ft.

**E. Fireworks Stand.**

1. Permitted only in General Business (GB), and Manufacturing (M-1 and M-2) districts.
2. Front setback requirements shall be waived.
3. Side and rear yard setbacks shall conform to the minimum required for the zoning district.
4. A minimum of five (5) off-street parking spaces per fireworks stand. Improved parking areas shall not be required.
5. Advertising signs on the site shall conform to the requirements of the Arab Sign Regulations.

6. Maximum length of permit shall be 30 days.

## **F. Modular Buildings as Temporary Uses.**

### **1. *Business Establishments:***

- a) Permitted only while a permanent structure is actively being constructed.
- b) Must be a modular building, subject to “d” below.
- c) Permitted only in Neighborhood Commercial (NC) and General Business (GB) districts.
- d) Maximum length of permit shall be six (6) months. Subsequent 90 day extensions may be granted by request to the Planning Commission
- e) Any proposed sign for the temporary location shall be approved by the Planning Commission or their designee and have a maximum size of 32 sq. ft.

### **2. *School Classrooms (Public or Private):***

- a) Temporary location shall be treated as a conditional uses and shown on a site drawing filed with the Planning & Zoning Department.
- b) Must be underpinned and kept free from weeds and debris.
- c) Maximum length of permit shall be three (3) years. Further extensions will require recommendation of the Commission and approval by the City Council.
- d) May be a manufactured building if placement is for one year or less; must be modular if planned placement is for more than one year.

## **G. Real estate sales office.**

1. Permitted in any district for any new subdivision approved in accordance with Arab Subdivision Regulations. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office for the duration of the temporary use permit.

2. Maximum length of permit shall be one (1) year. Additional permits may be requested through approval of the Planning Commission.

## **H. Religious tent meeting.**

1. Permitted only in Agricultural (A-1), Office & Institutional (O-I), and General Business (GB), districts.

2. Maximum length of permit shall be 15 days.

3. Permitted sign shall have a maximum size of 32 sq. ft.

**I. Sale of farm produce.**

1. Permitted in Agricultural (A-1), Neighborhood Commercial (NC), General Business (GB) and Historic Downtown (HD) districts. Prohibited in Manufacturing (M-1 and M-2), and all Residential (R) districts.
2. Sales areas, including the produce stands, shall be set back a minimum of 20 feet from the nearest right-of-way of any street or highway.
3. No permanent structures shall be permitted without an approved site plan meeting all the requirements of Section 902.
4. Permitted sign shall have a maximum size of 32 sq. ft.

**J. Temporary shelter.**

1. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a manufactured home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations:
  1. Appropriate building permits must be issued prior to location of temporary shelter on the site.
  2. Required water and sanitary facilities must be provided.
  3. Maximum length of permit shall be one (1) year, but the Chief Building Inspector may extend the permit for a period or periods not to exceed 60 days in the event of circumstances beyond the control of the owner. Requests for the extension shall be made in writing at least 15 days prior to expiration of the original permit. In no case shall the length of the original permit plus all extensions exceed eighteen (18) months.
  4. The manufactured home shall be removed from the property within 14 days of issuance of the Certificate of Occupancy for the new or rehabilitated residence, or in one (1) year, whichever is less.

**K. Tent sale/outdoor sales activity.**

1. The outdoor storage or display of merchandise shall be exempted from these requirements under either of the following conditions:
  - a) merchandise occupies an outdoor display area, which is permanent in nature and designated as such on an approved site plan;

b) merchandise is located in a temporary display area which does not occupy required parking spaces, driveway aisles, or required bufferyards, and customers must enter the building to make a purchase.

2. Tent sales and similar activities are permitted only in Business (B) Districts, on property developed with a principal commercial use, with proper pedestrian and vehicular access. They shall be prohibited on vacant property.
3. Where the temporary sales activity constitutes a conditional use on the site, it shall not be permitted unless conditional use approval has been recommended by the Planning Commission and granted by the City Council.
4. The applicant shall submit a site plan specifying the location of all tents, temporary structures, equipment, and merchandise on display.
5. Permitted sign shall have a maximum size of 32 sq. ft.
6. All electrical connections shall be inspected and approved by the Building Inspections Department.
7. The Planning Commission or their designee may establish additional requirements as necessary to minimize hazards and promote efficient traffic circulation on the site.
8. The maximum duration of the permit shall be 15 days. A maximum of four (4) permits per calendar year may be authorized, and at least 30 days shall elapse between the expiration of one permit and the approval of another.

#### **Section 614. Off-Street Parking and Loading**

There shall be provided at the time of creation or enlargement of any use or of any main building or accessory structure, off-street parking and loading spaces, as required in this Article, for motor vehicles with adequate access to all spaces. No certificate of occupancy will be issued upon completion of any building or group of buildings unless and until all off-street parking and loading requirements shall be in place and ready for use. The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the temporary parking of motor vehicles, is prohibited.

##### **614.01. Location of Parking Spaces.**

Parking spaces for all uses or structures shall be located on the same lot with the principal use unless offsite parking facilities are approved by the Planning Commission. Offsite parking facilities shall not be located more than two hundred (200) feet from the lot on which the principal use to be served is located. Offsite parking must be located in a zoning district where off-street parking facilities for employees and customers are permitted. Where required parking spaces are not located on the same lot as the principal use, a written agreement assuring the continued availability of such offsite

facilities to serve the principal use shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney, and shall be filed with the application for a building permit.

**614.02. Combined Parking Spaces.**

The required parking space for any number of separate uses may be combined in one (1) lot, but the required space assigned to one (1) use may not be assigned to another use at the same time, except that one-half (½) of the parking space required for places of worship, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.

**614.03. Design Standards.**

An off-street parking space shall be a paved asphalt or concrete surfaced area not located in a street or alley, permanently reserved for the temporary storage of motor vehicles and connected with a street or alley by an all-weather surfaced driveway which affords unobstructed ingress and egress to each space. The driveway and required off-street parking spaces shall meet all City of Arab design standards for parking space size and driveway widths, according to parking space angles shown on the site plan. Paved asphalt or concrete surfaces shall comply with City of Arab parking lot construction standards.

**614.04. Off-street Parking, General Requirements.**

- A.** The requirements listed in this Section specify the minimum number of off-street parking spaces.
- B.** For all required off-street parking, the minimum size of each standard parking stall shall be nine (9) feet by twenty (20) feet, exclusive of aisle width, which shall be delineated by striping or other similar means. Parking other than perpendicular parking shall comply with the standards set out in the International Building Code.
- C.** Unless otherwise noted, all parking spaces required herein, including adequate driveways and maneuvering areas shall be improved with a suitable, hard surface, permanent type of pavement.
- D.** If the required number of spaces is not a whole number, the number of required spaces shall be rounded up to the next higher whole number.
- E.** Except as provided in Section 614.02, all required parking spaces shall be provided on the same development site for which they are required; location of required spaces on adjoining property or across a public right-of-way shall be prohibited.
- F.** All parking spaces shall be delineated by appropriate fixed curbing, painted lines (a minimum of four inches (4”) wide), or other fixed markers.

**G.** Alternate forms of parking (i.e. compact spaces) other than that defined as “standard” above shall be considered by the staff on a case by case basis. Under no circumstances shall such parking comprise more than fifteen (15) percent of the overall required parking.

**H.** Queuing Spaces shall be nine feet (9’) by twenty-four feet (24’)

**I.** Truck loading spaces shall be an accessible rectangle having a width of twelve (12) feet and a length of seventy (70) feet. Any overhead obstructions shall have a vertical clearance of fifteen (15) feet.

**J.** In all applicable districts, the following off street loading requirements shall apply:

<b>Residential Uses</b>	None Required
<b>Commercial Uses:</b>	
<b>0 – 30,000 sf</b>	<b>1 berth</b>
<b>30,001 – 50,000 sf</b>	<b>2 berths</b>
<b>50,001 – 70,000 sf</b>	<b>3 berths</b>
<b>Greater than 70,000 sf</b>	<b>1 berth for each additional 100,000 sf or fraction thereof</b>

**614.05. Residential Parking.**

- A.** See Section 603 for the off-street parking requirements for residential uses.
- B.** Reduction in number of off-street parking spaces. When a development is specifically designed to be used for senior citizens, all such units shall be required to provide a minimum of one (1) parking space for each such unit.
- C.** Required parking for any residential dwelling unit within a subdivision shall be provided within the boundaries of the lot on which it is located.
- D.** Parking for single-family detached dwellings on fee simple lots is exempt from the striping requirements set forth in Section 614.

**614.06. Non-residential Parking.**

On-site parking will not be required for nonresidential uses in the Historic Downtown (HD) district. For all other district, the following minimum number of parking spaces shall be required of the nonresidential uses specified below.

Reference herein to “employee(s) on the largest work shift” means the maximum number of employees employed at the facility regardless of the time period during which this occurs and regardless of whether any such person is a full-time employee. The largest work shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

The term “capacity” as used herein means the maximum number of persons that may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

**A. Parking Requirements by Land Use Category.**

The following criteria shall be used when no Specified Use Standard has been provided in Section 614.02 B. below.

1. Agricultural uses: one (1) space per employee on the largest shift. The Planning Commission may, based upon the type and intensity of the agricultural use, waive the requirement for parking to be of hard surface pavement.
2. Agricultural support uses: one (1) space per 750 square feet of gross floor area.
3. Commercial and entertainment uses: one (1) space per 250 square feet of gross floor area; for uses exceeding 100,000 square feet, one (1) space per 300 square feet of gross floor area.
4. Commercial/recreational uses: one (1) space per four (4) patrons to the maximum design capacity of the facility.
5. Commercial support uses: one (1) space per 750 square feet of gross floor area.
6. Extraction uses: one (1) space per employee on the largest shift.
7. Industrial uses: one (1) space per 1000 square feet of adjusted gross floor area, plus one (1) space per company vehicle normally stored on premises.
8. Institutional, indoor recreational, and special residential uses: one (1) space per four (4) patrons to the maximum capacity.
9. Nursery uses: one (1) space per 300 square feet of gross floor area. Plus one (1) space per 2000-sq. ft. of outdoor display area.
10. Office uses: one (1) space per 250 square feet of gross floor area.
11. Outdoor recreational uses: one (1) space per four (4) patrons at design capacity.
12. Public services uses: one (1) space per employee on the largest work shift, plus one (1) space per company vehicle normally stored on the premises.

**13. Recreational rental uses:** one and one-half (1.5) spaces per rental site; plus one space per 250 square feet of office area.

**14. Road service uses:** one (1) space per 150 square feet of gross floor area. Road Service uses utilizing a drive-in window shall provide queuing space for at least six (6) vehicles from the start of the stacking lane to the service window; and at least one and one half (1.5) vehicles from the service window to the exit to a public right-of-way.

## **B. Parking Requirements for Specified Uses.**

**1. Airport:** one (1) space for each four (4) aircraft that can be parked or stored at the facility, whether indoors or outdoors; plus one (1) space for each four (4) seats in waiting areas and restaurants; plus one (1) space for each 250 square feet of office and other administrative or support uses.

**2. Amusement center:** one (1) space for each 100 square feet of gross floor area.

**3. Assembly, Places of:** one (1) space per four (4) seats of maximum capacity.

**4. Assisted living facilities:** one (1) space per dwelling unit.

**5. Athletic field:** 20 spaces for every diamond or athletic field, or one (1) space for every four (4) seats of design capacity, whichever is greater.

**6. Auction house:** one (1) space for each four (4) seats of design capacity, whether indoors or outdoors.

**7. Auto parts store:** one (1) space per 300 square feet of gross floor area.

**8. Auto rental:** one (1) space per 400 square feet of gross floor area.

**9. Automated, freestanding walk-up facility:** one (1) space per facility. If accessory to another use, no additional spaces are required.

**10. Banks:** one (1) space per 300 square feet of gross floor area, plus four (4) stacking spaces per drive-in lane.

**11. Beauty and barber shops:** two (2) spaces per chair or one (1) space per 150 square feet of gross floor area, whichever is larger.

**12. Bicycle sales and repair shop:** one (1) space per 300 square feet of gross floor area.

**13. Boarding house:** one (1) space per room.

- 14. Bowling alley:** four (4) spaces per lane, plus any additional space required for restaurant facilities, game rooms and other accessory uses on the site.
- 15. Car wash (full service):** five (5) employee spaces; plus four (4) stacking spaces for each wash stall.
- 16. Car wash (self-serve):** one (2) stacking spaces per stall (including stall); plus one drying space per stall.
- 17. Carpet store:** See Furniture Store.
- 18. Church:** See Assembly, Places of
- 19. Community, civic or recreation center:** one (1) space per 250 square feet of gross floor area.
- 20. Contractor's office/storage yard:** one (1) space per 250 square feet of office area; plus one (1) space per 1,500 square feet of indoor storage area; plus one (1) space per 4,000 square feet of outdoor storage area.
- 21. Convenience store and/or self-service gas station (no vehicle repairs):** one (1) space per 150 square feet of gross floor area. Service areas at pumps may be counted toward required parking spaces. In no instance shall a required parking space conflict with vehicles being fueled or awaiting fuel. Convenience stores with on-site or attached eating establishments shall also meet requirements for restaurant parking. (See Section 614.07 "Shared Parking")
- 22. Day care center or nursery school:** one (1) space per 250 square feet of gross floor area; plus one (1) off-street parking or loading space per ten (10) children. Maximum enrollment and number of employees shall be noted on the site plan. Parking or loading spaces designated for children shall be located such that there is direct pedestrian access into the facility without crossing streets or driveways.
- 23. Drive-in theater:** one (1) space per automobile station, plus one (1) space per employee.
- 24. Drug and alcohol treatment center:** one (1) space per two (2) beds and one (1) space per staff member, based on state licensing requirements and maximum design capacity.
- 25. Dry cleaning facility:** one (1) space per 1,000 square feet of gross floor area, but in no case less than three (3).
- 26. Employment agency:** one (1) space per 250 square feet of gross floor area.

- 27. Exterminator:** one (1) space per 800 square feet of gross floor area, plus one space per company vehicle.
- 28. Funeral home:** one (1) space per four (4) patron seats in each chapel or viewing area, plus one (1) space per 300 square feet of office space.
- 29. Furniture store:** one (1) space for each 750 square feet of gross floor area.
- 30. Gas station, full-service:** one (1) space per 150 square feet of retail area, plus one (1) space per service bay, plus one (1) space per 250 square feet of office space. In no instance shall a required parking space conflict with vehicles being fueled or awaiting fuel. Service areas at pumps may be count toward parking spaces.
- 31. Golf courses (nine and eighteen hole):** 35 spaces per nine (9) holes. Parking shall be provided for other uses accessory to a golf course (e.g., restaurants, pro shops, driving ranges) at the rate of 50 percent of normal requirements.
- 32. Golf driving range:** one and one-half (1.5) spaces per tee.
- 33. Golf, par three:** 25 spaces per nine (9) holes.
- 34. Grocery or supermarket (stand-alone):** one (1) space per 250 square feet of gross floor area.
- 35. Health club/spa/gymnasium:** one (1) space per 275 square feet of gross floor area.
- 36. Hospital:** two (2) spaces per patient bed, plus two (2) spaces per emergency room examination table or bed
- 37. Hotel or motel:** one and one quarter (1.25) spaces per room. Parking shall be provided for other uses accessory to a hotel or motel (e.g., restaurants, bars, meeting rooms, etc.) at the rate of 65 percent of normal requirements.
- 38. Junkyards:** two (2) space per acre of land area.
- 39. Kennel:** one (1) space per 500 square feet of floor area, but not less than three (3) spaces.
- 40. Laundromat:** one (1) space per 250 square feet of gross floor area.
- 41. Lumberyard or Home Improvement Center:** one (1) space per 500 square feet of gross floor area, plus one (1) space per 1,500 square feet of outdoor storage/display area.

- 42. Machinery sales** (*includes cars, boats, RVs, Heavy Equipment, tractors, etc.*): one (1) space per 400 square feet of gross floor area, plus two (2) spaces per service bay, plus one (1) space per 2,500 square feet of outdoor display/storage area. (*See Also Vehicle Sales & Service*)
- 43. Medical offices:** one (1) space per 250 square feet of gross floor area.
- 44. Miniature golf:** one and one half (1.5) space per hole.
- 45. Mini-warehouse:** a minimum of three (3) and maximum of five (5) spaces shall be provided in the vicinity of the office and a 27 foot minimum drive aisle to all storage unit doors.
- 46. Movie theatre:** See Assembly, Places of
- 47. Nursing homes:** one (1) space per three (3) beds.
- 48. Office Warehouse:** one (1) space per 250 square feet of office area, plus one (1) space per 1,500 square feet of gross warehouse floor area.
- 49. Outdoor theater:** one (1) space per four (4) patrons to the maximum capacity of the facility inclusive of both indoor and outdoor capability.
- 50. Parcel delivery service:** one (1) space per 750 square feet of gross floor area.
- 51. Plumbing and heating supply:** one (1) space per 750 square feet of gross floor area. *See Also Contractors office.*
- 52. Printing and publishing plant:** one (1) space per 1,000 square feet of gross floor area.
- 53. Private clubs:** one (1) space per four (4) persons to the maximum capacity of the facility.
- 54. Public assembly hall:** See Assembly, Places of
- 55. Radio/television station:** one (1) space per 1,000 square feet of gross floor area.
- 56. Recreational vehicle park:** one (1) space per recreational vehicle site, plus one (1) space per 250 square feet of gross floor area of permanent habitable structures on the development site.
- 57. Restaurant, fast food:** one (1) space per 100 square feet of gross floor area. Sufficient space on-site shall be provided to accommodate queuing vehicles. Such space shall at a minimum provide capacity for four (4) vehicles from the

start of the stacking lane to the order board; two (2) vehicles from the order board to the service window; and one and one-half (1.5) vehicles from the service window to the exit to a public right-of-way. In no instance shall stacked vehicles block primary ingress/egress to the site.

**58. Restaurant, standard:** one (1) space per four (4) patron seats or one (1) space per 150 square feet of gross floor area, whichever is greater. (*Including Outdoor Seating*)

**59. Schools:**

**a) Elementary/Primary:** five (5) spaces, plus one (1) space per classroom or one (1) space per six (6) seats of largest assembly room, whichever is greater.

**b) Junior high:** five (5) spaces, plus one (1) space per classroom or one (1) space per six (6) seats of largest assembly room, whichever is greater.

**c) Senior high:** ten (10) spaces, plus one (1) space per classroom, plus one (1) space for each five (5) students or one (1) space per ten (10) seats of largest assembly room, whichever is greater.

**d) College:** one (1) space for each five (5) students (based on the maximum design capacity) plus two (2) spaces per three (3) employees.

**60. School, commercial or trade:** one (1) space for each five (5) students (based on the maximum design capacity) plus two (2) spaces per three (3) employees.

**61. Shopping center:** one (1) space per 250 square feet of gross floor area. In a shopping mall, common pedestrian areas, except food courts, may be excluded from the calculation. Shopping centers over 650,000 square feet shall have one (1) space per 300 square feet of gross floor area.

**62. Skating rink, ice or roller:** one (1) space per four (4) patrons to maximum capacity.

**63. Swimming facility:** one (1) space per 200 square feet of gross water area.

**64. Taverns, dance halls, nightclubs, and lounges:** one (1) space per 75 square feet of gross floor area.

**65. Telecommunications tower:** one (1) off-street parking space to accommodate a maintenance vehicle for unoccupied structure. Occupied structures must comply with parking requirements as set out under Public Service uses.

- 66. Tennis, racquetball, and handball courts:** two (2) spaces per court.
- 67. Theaters and auditoriums:** See Assembly, Places of
- 68. Truck terminal:** one (1) space per truck normally parked on the premises, plus one (1) space per 500 square feet of office floor area.
- 69. Vehicle sales and service accessory to vehicle sales:** One (1) space per 2,000 square feet of interior or exterior sales, display, or storage area up to a total of 20 spaces.
- 70. Vehicle repair and maintenance services:** one (1) space per 400 square feet of office and indoor display area, plus one (1) space per service bay (excluding bay).
- 71. Veterinary office:** one (1) space per 500 square feet of gross floor area.
- 72. Warehouse:** one (1) space per 2,000 square feet of gross floor area, plus one (1) space per company vehicle normally stored on the premises.

#### **614.07. Shared Parking.**

In order to reduce impervious surface and resulting stormwater runoff, establishments may be allowed to share up to 20 percent of the required parking spaces. In all cases where parking is to be shared by uses on different lots, the subject parcels or lots shall be adjacent to one another, have adequate cross access, and in no case shall properties bound under a shared parking agreement, or plan, be separated by a public right-of-way. (*See Figure 16*)

The intention to share parking facilities must be represented to the Planning Staff prior to site plan approval by means of a written agreement between the various property owners, or in the case of a single owner, an overall shared parking plan for the properties or development sites. Said agreement or plan shall be binding upon all subsequent purchasers, inheritors, subjects and assigns. Should there be a change in the use within any individual structure or location which is bound by a shared parking agreement or plan, the transfer of the shared parking agreement shall be subject to the review and approval of the Planning Commission or their designee, or at his/her discretion, the review and approval of the Planning Commission and City Attorney.

**614.08. Reduction in the Number of Required Off-Street Parking Spaces for Large Uses** (*over 500,000 square feet of gross floor area*). In order to prevent the establishment of a greater number of parking spaces than are actually needed to meet the particular needs of a development site containing over 500,000 square feet of gross floor area, a reduction in the number of required off-street parking spaces may be permitted. This reduction shall be permitted subject to the following conditions:

- A.** A maximum reduction of one (1) parking space per every 1,000 square feet of gross floor area or 20 percent of the total spaces required can be permitted. The site plan shall

indicate the location and dimensions of the parking area provided, and shall include calculations showing the number of parking spaces eliminated pursuant to this Section which otherwise would have been required.

**B.** Sufficient area must be reserved to provide for the total number of off-street parking spaces required by Section 614. The purpose of this reservation is to insure adequate area to meet any future need for additional parking spaces. Prior to site plan approval, the applicant shall sign a written statement agreeing to provide additional spaces up to the full amount required by Section 614 upon notification by the Planning Commission or their designee and/or the Planning Commission that such spaces are needed. This statement shall be provided to the Planning & Zoning Department and City Attorney in letter form and shall be reproduced on the site plan.

**C.** The reserved parking area shall be shown on the site plan and shall be grassed, landscaped or otherwise covered in vegetation. It shall not include signs or other structures, drainage or percolation fields for sewage disposal, areas exceeding 12 percent slope, required bufferyards, areas of general or off-street parking landscaping required under Article V, setbacks, or areas which would otherwise be unsuitable for parking spaces due to the physical characteristics of the land or other requirements of this Ordinance.

#### **614.09. Parking, Storage or Use of Major Recreation Equipment.**

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, used for transporting recreational equipment whether occupied by such equipment or not. No major recreational equipment shall be parked or stored on any lot in a residential district for a period of time not to exceed forty-eight (48) hours during loading or unloading unless the following conditions are met:

- A.** All such vehicles shall be placed in a carport or enclosed building or located behind the front building line or lines in the case of a corner lot, but no closer than five (5) feet to any side or rear lot line.
- B.** Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant.
- C.** In the case of multi-family structures, all such recreation vehicles or equipment shall be stored at one (1) location and be screened from view by a fence or vegetation adequate to conceal the vehicles or equipment from view.
- D.** Trailer coaches and other vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and not used for living, sleeping or housekeeping purposes and shall not be connected to sanitary sewer facilities, or have a fixed connection to electricity, water or gas when parked or stored on a residential lot, or in any location not approved for such use.

**Section 615. Lighting.**

All lighting must be directed and/or shielded so as to focus lighting onto the use as established and away from adjacent property and areas of pedestrian and vehicular traffic including, but not limited to, sidewalks and streets.

All lighting fixtures incorporated into non-enclosed structures (i.e. gas pump canopies, car washes, etc.) must be fully recessed into the underside of such structures.

Light or glare from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed or located in such a manner as to focus lighting onto the use and away from adjacent property and areas of pedestrian and vehicular traffic including, but not limited to, sidewalks and streets. (*See Figure 17*)

A lighting plan must be provided with all development plans (i.e. site plans and subdivision plats) showing, at a minimum, placement of all lighting structures, height of structures, and illumination levels taking into account landscaping and other possible obstructions.

**Section 616. Flag Lots.**

A flag lot is a lot that has minimal frontage on a publicly owned and maintained street, whose width some distance back from the street boundary line meets all Ordinance requirements. (*See Figure 5*)

The purpose of flag lots is to reduce the number of direct access points to arterial and collector roads. Flag lots may be permitted, even though they do not meet the minimum lot width requirements at the street boundary line, subject to the following conditions:

- A. Flag lots shall be limited to single family residential use only. No more than one (1) dwelling unit shall be authorized for any one (1) flag lot access strip.
- B. A flag lot may be used within a subdivision to provide a lot fronting on an arterial or collector road with access to an internal subdivision street. In such cases, vehicular access to the lot from the arterial or collector shall be prohibited. In any event, no more than 10 percent of the lots in any subdivision may be approved as flag lots.
- C. Flag lots providing access to arterial or collector roads shall be prohibited.
- D. Flag lot “stems” or access strips shall be at least 25 feet in width as measured at the road frontage. The land area within the access strip shall not count toward the required minimum lot size.
- E. Where otherwise consistent with the provisions of this section, flag lots may be created in groups not exceeding two (2); in such cases, access strips shall be adjacent to each other and form a total width of 50 feet. A distance of 500 feet shall separate non-adjacent flag

lot access strips on the same side of the road. All access strips shall be at least 25 feet from an intersection.

- F.** The Administrative Officer shall identify the front, side and rear lot lines of a flag lot for determining yard requirements, allowable locations of accessory structures, and other purposes.
- G.** Flag lots shall meet the minimum allowable lot size for the zoning district in which they are proposed, not including the area contained within the flag lot “stem”

**ARTICLE VII. - RESERVED FOR FUTURE USE**

## ARTICLE VIII. NONCONFORMITIES

### Section 800. Purpose.

It is the purpose of this Article to provide for the regulation of nonconforming structures, lots of record and uses, and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this Ordinance that those nonconformities that adversely affect orderly development and the value of nearby property not be permitted to continue without restriction.

Nonconformities are existing uses, lots, buildings and structures that were previously lawful, but that would be prohibited or subject to more stringent regulation under the zoning districts and related requirements established by this Ordinance or subsequent amendments.

- A. Legally established buildings, structures and uses in existence at the time of adoption of this Ordinance shall be permitted to continue subject to the provisions of this Article.
- B. Uses that were illegally established prior to the adoption of this Ordinance shall remain illegal and be subject to penalties and remedies that are pursued.

It is the intent of this Ordinance that legal nonconformities, as described in “A” above, be allowed to continue, in accordance with the requirements of this Article, but not be enlarged or used as the grounds for additional nonconformities. This Article provides for the regulation of legally nonconforming lots, uses, buildings and structures; specifies the conditions under which a legal nonconformity can be continued, expanded or modified; and the circumstances under which a legal nonconformity shall be terminated

### Section 801. Definitions.

**Nonconformity.** Any land use or physical design of development, structure, or lot of record legally established prior to the effective date of this Ordinance, or subsequent amendment to it, which would not be permitted by, or is not in full compliance with, the regulations of this Ordinance.

**Nonconforming Use.** An activity using land, buildings, and/or structures for purposes which were legally established prior to the effective date of this Ordinance, or subsequent amendment to it, and which would not be permitted to be established as a new use in the zone in which it is located by the regulations of this Ordinance.

**Nonconforming Structure or Development Site.** Any structure or development site, established prior to the effective date of this Ordinance or subsequent amendment to it, which does not fully comply with the standards of this Ordinance.

**Nonconforming Lot of Record.** Any validly recorded lot which at the time it was recorded fully complied with all applicable laws and ordinances, but which does not fully comply with

the lot requirements of this Ordinance concerning minimum area, minimum lot width, or minimum street frontage.

**Section 802. Authority to Continue.**

**802.01.** Except as otherwise provided in this Article, any nonconforming lot, use, or structure lawfully existing on the effective date of this Ordinance, or subsequent amendment thereto, may be continued so long as it remains otherwise lawful.

**802.02.** No nonconformity shall be enlarged upon, expanded, or extended unless such alteration is in full compliance with all requirements of this Ordinance, except as noted in this Section. Normal maintenance and incidental repair of nonconformity shall be permitted, provided that this does not violate any other section of the Article.

**A.** Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition; provided that such restoration is not otherwise in violation of the various provisions of this Section prohibiting the repair or restoration of partially damaged or destroyed structures.

**B.** An extension, for the exclusive purpose of providing required off-street parking or loading spaces, involving no structural alteration or enlargement of such structure, shall not be deemed an expansion of nonconformity, subject to the restrictions of this Article.

**C.** Nothing in this Article shall be interpreted to prohibit routine maintenance, restoration of a structure to a safe condition, and/or internal renovations, provided the total value of such activities does not exceed 50% of the appraised value of the structure as determined by the Marshall County Tax Assessor.

**802.03.** No nonconformity shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**802.04.** Regardless of any other provision of this Article, no use or structure which is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this Ordinance.

**802.05.** The burden of establishing the nonconforming status of any structure or land use under the terms of this Article, in all cases, shall be upon the owner of such nonconformity and not upon the City of Arab.

**802.06.** In the event that a structure or premise occupied by a nonconforming use becomes and remains vacant for a period of one hundred eighty (180) days, or is used for a use that is permitted in the zoning district in which such structure or premises is located, the use of same shall thereafter conform to the use regulations of the district in which such structure or premise is located, regardless of the intent of the owner or occupant.

**802.07. Termination Required by Modification.** A development site that is nonconforming by physical design (i.e., insufficient parking, landscaping, setbacks, etc.), may be utilized for any land use which is permitted at that location. However, any permits for additional floor area, or the replacement of any structure on the development site, shall be contingent upon bringing the entire site into conformity with all requirements of this Ordinance.

### **Section 803. Nonconforming Vacant Lots of Record.**

When a lot exists that does not consist of sufficient land to comply with the lot, yard and setback requirements at the time of adoption of this Ordinance or any subsequent amendment, it shall be considered a nonconforming vacant lot of record.

Subject to the provisions of this Section, a nonconforming lot of record may be used for any principal use permitted in the zone in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the nonconforming lot shall be of a size and design to meet the minimum requirements of the Marshall County Health Department regulations for such wells and septic systems.

**803.02. Effect of Single Owner.** If two or more contiguous vacant lots of record are in single ownership at the time of adoption of this Ordinance, or any subsequent amendment, and one or more of the lots is a nonconforming lot of record, then the land involved shall be considered an undivided tract of land. No portion of the tract of land shall be divided, sold or developed in a manner that diminishes the ability of all lots to comply with the requirements of this Ordinance or any subsequent amendment.

**803.03. Appeal to Build on Nonconforming Vacant Lot of Record.** A nonconforming vacant lot may be used as a building site for any use permitted in the zoning district in which the lot is located provided:

- A. Other requirements of this Ordinance are complied with; or
- B. Application is made to the Zoning Board of Adjustment for a variance from applicable requirements that cannot be met.
- C. A variance for a nonconforming vacant lot of record shall conform, as closely as possible to the lot area, yard and building setback and other requirements and:
  - 1. The front yard setback shall not be less than the average of the setbacks of existing buildings within two hundred (200) feet on each side of the lot; except, no front yard shall be less than twenty (20) feet;
  - 2. At least one side yard shall not be reduced to less than ten (10) feet in width and the other side yard not less than five (5) feet in width;
  - 3. The rear yard setback shall not be less than twenty (20) feet, and

4. No more than one principal use and building shall be allowed on a nonconforming vacant lot of record.

#### **Section 804. Nonconforming Developed Lot of Record.**

**804.01. Nonconforming Developed Lot of Record.** When the use complies with the requirements of the district in which the use is located, but the lot has been developed in a manner that does not comply with the lot, yard and setback requirements at the time of adoption of this Ordinance, or any subsequent amendment, it shall be considered a nonconforming developed lot of record.

**804.02. Expansion of Conforming Use.** Provided a proposed use is permitted in the zoning district in which the lot is located, the use, building or structure may be expanded, in accordance with all other requirements, within the buildable area defined by this Ordinance.

#### **Section 805. Nonconforming Uses of Buildings and Structures.**

When a building or structure and related uses exist at the time of adoption of this Ordinance, or any subsequent amendment, that does not comply with these regulations, that building or structure and related use shall be allowed to continue subject to the following conditions.

**805.01. Expansion of Nonconforming Use within an Existing Building or Structure.** The expansion of nonconforming use within an existing building or structure shall be allowed provided the use will be expanded in a space contiguous with the existing use. The expansion shall be limited to within the existing building or structure. A nonconforming use shall not be expanded or relocated, in whole or part, to a non-contiguous part of a building or structure. All required on-site improvements, such as parking, loading and buffer areas shall be provided before the use is expanded within the building.

**805.02. Enlarging Nonconforming Principle Buildings and Structures Prohibited.** A nonconforming building or structure and related use shall not be enlarged, intensified, or altered in a manner that increases the nonconformity, but may be altered to decrease the nonconformity.

**805.03. Effect of Relocation.** If a use, building or structure is relocated on the existing site or moved to another location, the lot, use, building or structure shall comply with all zoning and applicable development regulations after it is moved.

#### **Section 806. Construction Prior to Adoption or Amendment of Zoning Ordinance.**

Nothing in this Ordinance shall be interpreted as requiring a change in plans, construction, use or occupancy of land, buildings or structures on which construction was lawfully begun and has been diligently continued prior to the adoption this Ordinance or any subsequent amendment that would make a use, building, structure or occupancy nonconforming.

- A. Construction shall mean the erection and fastening of building materials in a permanent manner in accordance with approved plans.
- B. Where demolition and removal of an existing building has begun in preparation for rebuilding, or where excavation has begun for building, construction shall be deemed to have begun provided the work is diligently continued.
- C. The storage of building materials or location of a temporary office on a lot shall not be deemed as having begun construction.

### **Section 807. Repair and Restoration of Nonconforming Buildings and Structures.**

#### **807.01.** Nothing in this Ordinance shall:

- A. Prevent the continuous maintenance, internal renovations, strengthening, or restoration of any building or structure to a safe and sanitary condition; or
- B. Prevent repairs ordered by a proper authority charged with the duty of protection of health and safety.

**807.02.** A nonconforming building, structure or use shall not be rebuilt or restored except in conformance with the provisions of this Ordinance after being damaged by natural acts (e.g. fire, wind, flood, etc.) to the extent of fifty (50) percent or more of the appraised value at the time the damage occurred as determined by the Administrative Officer. If a nonconforming building is damaged less than fifty (50) percent of its appraised value at the time of damage it may be rebuilt or restored and used provided the rebuilding or restoration is started within six (6) months following the date of such damage and that restoration work is diligently continued. A request for extension of the start of rebuilding or restoration may be requested of the Planning Commission, provided said request is made within the initial six (6) month period.

### **Section 808. Changes and Reversions to Nonconforming Uses Prohibited.**

A nonconforming use of land, buildings or structures shall not be changed to another nonconforming use. A nonconforming use of land, buildings or structures that is changed to a conforming use shall not be permitted to revert to a nonconforming use.

### **Section 809. Termination of Use of Nonconforming Buildings and Structures.**

Any nonconforming use of buildings and structures that has been discontinued for any reason for a period of one hundred eight (180) days shall not be reestablished. The future use of the building or structure shall comply with all applicable regulations.

## **ARTICLE IX. DEVELOPMENT APPROVAL PROCESS**

### **Section 900. Purpose.**

This Article sets forth the procedures required for obtaining development approval within the City of Arab. Site plans, subdivisions, conditional uses, and certificates of occupancy are addressed herein. However, the approval of a development under the provisions of this Article does not imply any variation or waiver of any provisions of the building code, housing code, fire code, or any other applicable code, standard, or regulation adopted by the City of Arab, the State of Alabama, or the United States Government.

### **Section 901. Subdivisions.**

Any subdivision or resubdivision of land, or combining of lots within the City of Arab, and within unincorporated areas lying within three (3) miles of the Arab city limits, shall be carried out in accordance with the Arab Subdivision Regulations which are hereby incorporated by reference into this Ordinance. All development within subdivisions shall be consistent with applicable sections of this Ordinance.

### **Section 902. Site Plans.**

**902.01. Intent and Purpose.** This Section shall apply to all site plans as defined in Article II. The site plan procedures shall be required in order to ensure that site-specific development projects meet the requirements of this Ordinance prior to the issuance of a building permit. It is the intent of this Section that the site plan review process be a part of the building permit application process, and that the site plan shall be the instrument by which improvements to the site will be constructed and inspected prior to occupancy of the development.

**902.02. Development Requiring Site Plan Approval.** Prior to issuance of a building permit, all proposed non-residential construction, as well as all residential development types, other than single family detached structures, shall be subject to site plan review by the Planning Commission. This shall include clubhouses or other ancillary facilities within a residential subdivision.

Site plan approval shall also be required for the subdivision of an existing development site of a type subject to site plan requirements, and/or an expansion, reduction or reconfiguration of any such development type. For any proposal in which these requirements are unclear, the Planning Commission shall determine whether site plan approval is necessary.

**902.03. Site Plan Review Follows Other Reviews.** Any development proposal requiring a review by another board, commission or department, such as request for variance from the Board of Zoning Adjustment, shall be reviewed by the other entity and the findings made available to the Planning Commission prior to conducting the site plan review.

#### **902.04. Review of Site Plans.**

Except as set out in Section 903 “Conditional Uses”, no public notice or hearing is required for site plan consideration in connection with an application for a building permit or certificate of occupancy by the Planning Commission. However, such matters shall be handled in a public session, as part of a previously prepared agenda. All matters relating to Planning Commission consideration of site plans shall be a public record and approval shall require formal action of the Planning Commission.

Site plans submitted for review shall be approved or disapproved by the Planning Commission. When a site plan is disapproved, the reason(s) for the disapproval shall be provided in writing to the applicant within ten (10) days of the hearing at which the decision to disapprove was made.

The following criteria shall be used in determining whether to approve a site plan:

- A.** Completeness of application information as required under Section 902.13;
- B.** Consistency with adopted policies and standards of Comprehensive Plan and other adopted policies and standards;
- C.** Uses are permitted on the development site under the provisions of this Ordinance;
- D.** Whether the site plan meets applicable design standards established by this Ordinance;
- E.** Availability and adequate capacity of public facilities to serve the development, such as roads, sewer, water, schools, solid waste disposal, and fire protection (including access to the site for emergency vehicles); and
- F.** Compatibility with surrounding land uses (this criterion shall apply only where a site plan proposes a conditional use pursuant to Section 903).

Upon receipt of an application for Site Plan Review, the Planning Commission shall undertake a study of the proposed development. The site plan review process may, at the discretion of the Planning Commission, include review and comment by other departments or agencies. The Planning Commission may approve, approve with conditions or disapprove the site plan. The Planning Commission shall provide written notification to the applicant of the Planning Commission's review determination.

If the site plan is disapproved, the applicant shall be notified of any changes or modifications that are required to the proposed site plan to achieve conformity with the requirements of this Ordinance. The Building Official shall not issue a building permit until the site plan is modified, resubmitted and approved.

If the site plan is approved with conditions, the applicant shall be notified of the conditions. The owner / developer shall have the option to revise the site plan to eliminate the cause of the conditions or to amend the plan to comply with the mitigation conditions required by the Planning

Commission. If the site plan is modified in either manner, it shall be resubmitted to the Administrative Officer for review to determine that the plan is in compliance with the required conditions prior to issuing a building permit.

If the Planning Commission approves the site plan, then the Administrative Officer shall stamp the plans "Approved" and provide the Building Official with an approved set of plans from which he shall issue a building permit for the approved site plan.

#### **902.06. Review Procedures.**

Five (5) full size (24" x 36") prints and ten (10) 11" x 17" copies of the site plan, a completed application form and all other necessary attachments and the requisite application fee shall be submitted to the Administrative Officer to initiate processing of the site plan. Additional plans shall be provided for review by appropriate state, regional and county agencies upon staff request.

**A. Site Plan Preparation Requirements.** Where the proposed development site is three (3) acres in size or larger, the site plan shall be prepared and sealed by an architect, professional engineer or surveyor. At the Planning Commission's discretion, the same requirement may be applied to sites of less than three (3) acres where the plan proposes high-intensity uses or activities that may have a substantial impact on surrounding properties.

Sketch plans and drawings submitted with variance or other zoning-related applications shall not be accepted for review as a site plan unless they are prepared in accordance with the guidelines of this Section and contain all required information. In all cases, engineering plans addressing drainage, road construction and other technical aspects of development design shall be sealed by a civil engineer registered in the State of Alabama.

**B. Development Site Requirements.** For development sites of one (1) acre or more, full engineering drawings or a Project Engineer's Statement must be submitted by an engineer registered in the State of Alabama. The City Engineer, or other duly authorized official, may choose to require additional information as necessary.

**C. Completeness of Plans.** Site plans submitted without complete information in accordance with Section 902.13 shall not be reviewed by, or placed on the Planning Commission Agenda.

**D. Staff Review.** The Administrative Officer or other duly authorized official(s) shall review the site plan with specific regard to this Ordinance and other regulations of the City of Arab. The staff review shall identify matters of development policy concern to which the applicant shall address particular attention.

**E. Revised Plans.** Following submission of a complete application package for site plan review, and at such time as the Planning Commission determines that all staff comments

have been adequately addressed, and that the requirements of all applicable City, State and Federal regulations have been met, it shall approve the site plan.

**902.07. Approval of Site Plans.** No site plan shall be approved which is inconsistent with any term contained in this Ordinance unless a variance has been authorized in accordance with Section 1007 of this Ordinance.

Upon approval of a site plan, a minimum of five (5) copies of the approved site plan shall be submitted to the Administrative Officer prior to issuance of a building permit. Any additional copies as may be required by the City shall also be submitted as outlined above. The Administrative Officer shall stamp approved, date and have the Chairman of the Planning Commission sign the site plan copies. The copies of the site plan shall then be forwarded to the appropriate officials as determined by the Planning Commission. A minimum of two (2) copies of the site plan shall be reserved for the use of the Planning Commission or other duly authorized officials.

**902.08. Effect of Site Plan Approval.** Upon final approval of a site plan, no structures, uses, or development of any kind shall be permitted on a development site except in accordance with the site plan and related approved plans for development phasing, building construction, grading drainage, and other site design elements.

**902.09. Expiration of Site plan Certificate of Approval.** Approved site plans shall remain valid for 12 months after final approval, and a building permit for the development may be obtained at any time during that period.

The Planning Commission may make an extension of site plan approval for a single period up to six (6) months from the date when a site plan would otherwise expire. An extension may be granted only if the Planning Commission concludes that the applicant or developer has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application. All such requests for extensions must be submitted in writing not less than 30 days prior to the expiration of the approved site plan stating the reason for the time extension request.

Requests for extensions in excess of six (6) months shall not be granted. Instead, the applicant shall submit a new application for review according to the requirements of this Section.

Upon approval of the site plan, the applicant may proceed to submit detailed construction drawings to the Building Official or other duly authorized official for permitting. These shall include, but are not limited to, detailed building plans, grading plans, drainage and stormwater management facilities, erosion control plans, road and driveway construction specifications, and tree removal plans.

Nothing contained herein shall preclude the Building Official from accepting for review and processing building construction plans related to the structural, mechanical, electrical, and plumbing systems prior to final approval of a site plan, subject to such conditions as may be established by that department relative to processing of site plans prior to final approval.

In such instances, no building permit will be issued until the Planning Commission has acted upon the site plan, the Administrative Officer has stamped it approved and it is on file in the office of the Building Official.

All building and construction permits issued for any project requiring site plan review shall be consistent with the stamped approved site plan. The approval of a site plan shall not under any circumstances be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials. Whenever a conflict between the site plan and such construction details occurs, the more restrictive or that requiring the higher standard shall prevail.

**902.10. Amendment or Withdrawal of Site Plan.** A site plan may be amended upon the request of the applicant as follows:

- A. A revised site plan shall be submitted to the Administrative Officer for review by the Planning Commission in the same manner as the original application.
- B. The amendment shall be reviewed using the same process and subject to approval, disapproval, or approval with conditions in the same manner as the original site plan submission.
- C. The Planning Commission will review the revised plan in the same manner as the original submission and render a written decision to the owner/developer.
- D. A site plan, under which no work has occurred, may be withdrawn upon request of the applicant by written notice to the Building Official.

**902.11. Non-Compliance.** Failure to comply with a stamped approved site plan or any of the conditions upon which such approval was contingent, including time limits for performance, shall be cause to deny issuance of a building permit or, where a building permit has been issued pursuant to a stamped approved site plan, to render such permit invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Section for a site plan shall constitute a violation of this Ordinance and may be subject to a stop-work order.

**902.12. Development Site To Be Unified.** The development site shall be designed to provide all required amenities and facilities. No such required features shall be located off-site or on adjacent properties which are leased, rented, or otherwise proposed for use on an informal basis, except as provided in Section "Shared Parking" 614.07. The entire site shall have the zoning designation required to accommodate the principal use.

No development site, once granted site plan approval, shall be divided except through the site plan amendment process established in Section 902.10.

**902.13. Site Plan Preparation Requirements.** A site plan must accurately show all relevant information about a proposed development to permit it to be reviewed against the requirements of this Ordinance, and to provide a permanent record as to the type and characteristics of development

approved on the site. Site plans shall be drawn, on an overall sheet size not to exceed 24 by 36 inches, to one of the following scales:

1:10, 1:20, 1:30, 1:40, 1:50, 1:60, 1:100

When more than one (1) sheet is needed, a series of drawings showing different elements of the site design, such as landscaping, utilities, or topography may be submitted. Where such a series is submitted, the top sheet shall include an index of all other sheets in the series. These shall be bound in a single package, with each sheet labeled as to what it shows and its number in the series (e.g., Landscaping Plan, Sheet 2 of 3)

Unless specifically waived by the Planning Commission, the following information shall be shown on all site plans:

**A. Written Information:**

1. Site plan name.
2. General statement indicating the character of the use(s) proposed for the site.  
*This shall include information describing the size and/or intensity of the use, such as the number of employees at largest shift, seating capacity, number of students, number of hospital beds or motel rooms, etc. All other relevant information not otherwise specified in this checklist shall be provided in the General Statement, such as variances on the property, nonconforming status, etc.*
3. Property owner's name, address and Telephone number; and the designated project applicant or representative if other than the property owner.
4. Name address, and telephone number of any professional involved in design of the project, (i.e. engineer, surveyor, architect, landscape architect, etc.)
5. Total size of the tract expressed in square feet and acres (to nearest tenth).
6. Zoning district assigned to the subject property and all adjoining properties.
7. Number of units proposed (residential only).
8. Impervious surface area in square feet, impervious surface ratio (ISR), maximum and proposed.
10. Floor area in square feet and floor area ratio (FAR).
11. Details of all bufferyards and landscaping required, if any.
12. Number of parking spaces required and proposed (must show calculations based on requirements of Article VI).

13. Building height.

14. Applicable endorsement, dedications, and/or certifications from the following:

- a. Arab Electric Co-op
- b. City of Arab Water Board
- c. City of Arab Sewer Board
- d. Marshal County Gas District
- e. City Engineer of the City of Arab
- f. Marshall County Health Department

**B. Graphic Information.**

1. Vicinity map showing the site in relation to adjoining properties, streets, and other landmarks such that its location within the City can easily be determined.
2. North arrow, scale and date prepared.
3. Certified boundary survey of the tract prepared by a surveyor registered with the State of Alabama, indicating an existing lot of record.
4. Location, number of floors or stories, height and dimensions of all structures.
5. Location of all impervious surfaces
6. All flood-prone areas as delineated by the Flood Insurance Rate Maps published by FEMA, including a notation of the 100 year flood elevation.
7. All wetlands and watercourses, including lakes, streams, etc.
8. Steep slopes greater than 30 percent.
9. Areas and dimensions of general required landscaping and bufferyards pursuant to Article V “Landscape and Bufferyard Requirements”.
10. Areas and dimensions of landscaping for off-street parking areas pursuant to Article V “Landscape and Bufferyard Requirements”.
11. Location, dimensions and directional flow of all parking spaces, loading berths and driveway aisles. One-way aisle must be appropriately labeled.
12. Location of all curb cuts and their distances from nearest adjacent curb cuts or street intersections.
13. Phase lines, if the development is to be constructed in phases.

14. Existing and proposed utility easements
15. All existing and proposed street right-of-way reservations and easements.
16. Finished floor elevations of all structures.
17. All existing and proposed utility lines, including sewer, water, gas and electricity.
18. Location and screening of solid waste receptacles.

**C. Items to be Submitted to the Engineer.**

1. Runoff calculations and stormwater management facilities.
2. Routing of stormwater on the site, both by pipe system and surface flow.
3. Details for on-site stormwater detention or retention facilities.
4. Road and parking area design and construction information.
5. Information on existing and proposed utility facilities including, but not limited to:
  - a. Water and sewer lines with sizes noted, including cutoff valves, manholes, cleanouts, meter boxes, drains, etc.
  - b. Fire hydrants
  - c. Electric power poles, lines and transformer vaults
  - d. Storm sewer locations and capacities
  - e. Erosion control and grading plan
6. Information on on-site fire protection systems.
7. Any other information required by the City Engineer.

**Section 903. Conditional Uses.**

Conditional uses are those uses that have some special impact which differs from the potential impacts of permitted uses or exceeds them in intensity, or have uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed in a particular location.

Upon submission of a request for conditional use approval, a review of the location, design, configuration, and impact shall be conducted to determine whether the proposed use would have a detrimental impact on neighboring properties.

The review considers the proposal in terms of existing zoning and land use in the vicinity of the use; planned and proposed public and private developments that may be adversely affected by the proposed use; whether and to what extent the use at the particular location for which it is proposed is consistent with the intent of the Zoning Ordinance, Comprehensive Plan, and any other development policies and/or regulations of the City of Arab; and whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety, and welfare in general.

**Section 903.01. Applicability.** Any use designated as a conditional use by this Ordinance shall comply with this Section.

In addition, any use that involves filling of a floodplain shall be approved only as a conditional use.

**Section 903.02. Procedures.** Applications for a conditional use permit shall be submitted and approved prior to application for a building permit. A subdivision plat, or a site plan meeting the requirements of Section 902, shall support applications for conditional uses in all districts. Site plan or subdivision approval shall not be granted prior to or contingent upon conditional use approval.

The Administrative Officer shall process applications for a conditional use permit as follows:

- A. Applications for a conditional use permit must be submitted to the Planning Commission on the second Tuesday of the month proceeding the month in which the case is to be heard. Copies of the application shall be distributed to the appropriate departments/personnel.
- B. A public hearing shall be held by the Planning Commission after adjoining property owners have been notified of the public hearing by certified mail.
- C. The application shall be denied if the Planning Commission finds that the application and record fail to establish compliance with the standards of this Ordinance. Further, the application shall be denied if the adverse impacts of the development, despite any mitigating conditions that might be imposed by the Planning Commission, outweigh any public or private benefits of the proposal and require denial in the interest of the overall public health, safety, and welfare.
- D. In order to prevent or minimize adverse effects on other properties in the neighborhood and on the general health, safety, and welfare of the City of Arab, the Planning Commission may impose such restrictions and conditions on approval of the proposed use as it determines are required by the general purposes, goals, and objectives of this Ordinance. All conditions imposed upon any conditional use permit approval, except those which are otherwise stated in this Ordinance, shall be expressly set forth in the planning commission resolution granting such conditional use permits.
- E. The Planning Commission shall render to the City Council its recommendation to grant the application for a conditional use permit, grant it subject to conditions, or deny it. Following a public hearing at the City Council upon an Ordinance for Conditional Use

Approval, the City Council shall either approve, or disapprove, the application and shall establish the specific conditions under which the application is approved.

- F. In the event an application for conditional use is approved or approved subject to conditions, the applicant shall submit a site plan meeting all conditions of approval. The Planning Commission shall then take action to process the application on the site plan for the development to which the conditional use permit applies. In the event such permit is not approved or is approved subject to conditions that are not acceptable to the applicant, the applicant may, either appeal such decision in accordance with procedures for appeal setout elsewhere in this Ordinance, or abandon the application.

**Section 903.03. Conditions on Conditional Use Approvals.** Every conditional use permit shall be contingent upon the proposed development fully complying with all requirements of this Ordinance and, where applicable, with the Subdivision Regulations. The violation of any condition contained in a conditional use permit shall be a violation of this Ordinance.

**Section 903.04. General Use Standards.** No application for a conditional use permit shall be approved unless the City Council shall specifically find the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- A. The proposed use shall be in harmony with the general purpose, goals, objectives, and standards of this Ordinance, the City of Arab Comprehensive Plan, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
- B. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare; either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- C. The proposed use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this subsection. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval of the proposed conditional use permit, be responsible for establishing ability, willingness, and binding commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this Ordinance, and other plans, programs, maps, and ordinances adopted by the City to guide its growth and development. The approval of the conditional use permit shall be conditioned upon such improvements, facilities, utilities, and services being provided and guaranteed by the applicant.

- D. The Planning Commission may attach to any recommendation for conditional use approval, additional criteria dealing with bufferyards, parking, lighting, building materials, or any other aspect of site plan approval they deem necessary to mitigate the impact of the proposed conditional use on the surrounding property.

#### **Section 904. Building permits.**

No development permitted by this Ordinance, including accessory and temporary uses, may be established and no existing building may be altered with respect to its use after the effective date of this Ordinance until a building permit has been secured from the Planning Commission or other duly authorized official.

Nothing herein shall relieve any applicant of the additional responsibility of seeking any permit required by any applicable statute, ordinance, or regulations in compliance with all of the terms of this Ordinance.

The violation of any condition contained in a conditional use permit shall be a violation of this Ordinance.

#### **Section 905. Certificate of Occupancy.**

No land or building for which a building permit has been issued shall be occupied or used in whole or in part for any use whatsoever after the effective date of this Ordinance until the owner, tenants, contract purchaser, or authorized agent thereof has been issued a certificate of occupancy by the Building Official or other duly authorized official, indicating that the building or use complies with all zoning requirements of this Ordinance, the building code, and other applicable codes and regulations.

No certificate of occupancy shall be issued until the premises in question have been inspected and found by the Building Official or other duly authorized official to comply with the requirements of this Ordinance.

No permit for any new use or construction that will involve the on-site disposal of sewage or waste, and no permit for a change in use or an alteration that will result in an increased volume of sewage or waste to be disposed of on the site, or which requires the County Health Department's approval shall be issued until said approval has been issued by said Health Department.

The issuance of a certificate of occupancy in no way relieves any recipient thereof from compliance with all of the terms of this Ordinance and all other applicable regulations.

No certificate of occupancy shall be issued unless required landscaping and bufferyards have been installed or appropriately bonded.

**Section 906. Access.**

As a precondition to approval of any site plan, subdivision plat, building permit, or any other type of development permit, any development site shall have legal access to a publicly owned and maintained road.

**Section 907. Fees.**

A schedule of application fees for site plan and subdivision approval, and other permits and public hearings required under this Ordinance shall be established by separate resolution or ordinance. This fee schedule shall be computed so as to recover all costs incurred by the City in reviewing and processing zoning-related requests, and shall be revised as necessary by the City Council.

## **ARTICLE X. ADMINISTRATION AND ENFORCEMENT**

### **Section 1000. Purpose.**

The powers and duties of the following officers and boards are specified herein insofar as administration of this Ordinance is concerned: the Planning Commission, Zoning Board of Adjustment, Administrative Officer and Codes Enforcement Officers. This Article also specifies the requirements for amendments, variances, administrative appeals, and interpretations of this Ordinance.

### **Section 1001. Administrative Officer: Duties and Powers.**

The Administrative Officer shall perform duties prescribed by this Ordinance, as well as any other assigned by the Planning Commission or the City Council. Appeals of administrative decisions of the Administrative Officer and/or the Planning Commission may be made to the Zoning Board of Adjustment.

The Administrative Officer shall have the following powers and responsibilities:

#### *Planning Commission:*

- A.** Advise and cooperate with the Planning Commission in the implementation, amendment and enforcement of this Ordinance.
- B.** Attend all public hearings at which zoning matters are discussed, including meetings of the Planning Commission, Zoning Board of Adjustment and City Council.
- C.** Process and account for all departmental permits, applications, certificates and fees.
- D.** Evaluate, in coordination with the Codes Enforcement Officer and appropriate Planning Commission Committee, each proposed site plan and subdivision plat for consistency with this Ordinance.
- E.** Ensure that all time limits prescribed by this Ordinance are met.
- F.** Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons.
- G.** Record and file all applications for zoning certificates with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- H.** Promptly indicate any zone boundary or other change to the Official Zoning Map, and make available for public inspection an up-to-date copy of the Official Zoning Map, as amended, in the office of the Planning & Zoning Department during its regular business hours.

I. Other duties assigned.

Zoning Board of Adjustment:

- A. Receive applications for variances and forward them to the Zoning Board of Adjustment for action.
- B. Following refusal of a permit, receive applications for variances and appeals and forward them to the Zoning Board of Adjustment for action.
- C. Advise and cooperate with the Zoning Board of Adjustment in carrying out their duties as they related to this Ordinance.
- D. Attend all Zoning Board of Adjustment meetings.
- E. Collect and account for all application fees required for variance and appeals actions.
- F. Evaluate each proposed request for variance and appeals compliance with the standards of this Ordinance.
- G. Ensure that all time limits prescribed by this Ordinance are met.
- H. Monitor the progress of all applications through the review process and be available to respond to inquiries from interested persons.
- I. Record and file all ZBA applications with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- J. Notifies the ZBA and applicants of scheduled meeting dates and times.
- K. Coordinates Board of Adjustment meetings.
- L. Maintains files of Zoning Board of Adjustment.
- M. Insures that meetings of the Zoning Board of Adjustment are properly recorded and transcribed.
- N. Issue a report on all ZBA approvals to the Planning Commission.

**Section 1002. Codes Enforcement Officer: Duties and Powers.**

The Codes Enforcement Officer shall have the following powers and responsibilities:

- A. Receive and examine all applications for building permits and certificates of occupancy.

- B.** Process all building permit applications and applications for certificates of occupancy.
- C.** Issues permits only after receipt of documentation from the Planning Commission and Administrative Officer indicating all requirements of approval have been met.
- D.** Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- E.** Evaluate, in coordination with Administrative Officer, each proposed request for variance and appeals compliance with the standards of this Ordinance.
- F.** Revoke, by writing, a permit or approval issued contrary to this Ordinance or based on a false statement or misrepresentation in the application.
- G.** Revoke any permit issued under a mistake of fact or contrary to the law or provision of this Ordinance.
- H.** Stop, by written order, work being done contrary to the building permit or to this Ordinance. Such written order, posted on the premises involved, shall not be removed except by written order of the Codes Enforcement Officer. Removal without such order shall constitute a violation of this Ordinance.
- I.** Institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure, or land; or prevent any illegal act, conduct, business, or use in or about such premises.
- J.** Insures that all applications for permits with accompanying plans and documents are properly recorded and filed.

**Section 1003. Duties of the Planning Commission and/or Their Subcommittees.**

- A.** General Duties:
  - 1.** The Planning Commission shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance.
  - 2.** The Planning Commission, in cooperation with the staff and other that may be consulted, as part of a comprehensive planning process shall study land use and development trends, collect data and analyze such information with regard to future development of the City of Arab.
  - 3.** The Planning Commission shall study and report on all proposed amendments to the text of this Ordinance. When reviewing any such proposed amendments, the Planning Commission

shall, within 45 days of receipt of same from the staff or the appropriate committee, submit its recommendations and findings to the City Council.

4. The Planning Commission shall study and report on all proposed amendments to the Official Zoning Map, the procedure for which is contained in Section 1006 of this Article.
5. The Planning Commission shall refer each proposed site plan, zoning request or subdivision plat to the appropriate committee, if any, for evaluation for consistency with this Ordinance and other planning documents that may apply.
6. The Planning Commission shall review and act upon, all site plans submitted to it by the Site Plan Committee in accordance with Section 902.
7. The Planning Commission shall hear all applications for conditional use permits submitted to it by the Site Plan or Zoning Committee and shall make a report and recommendation to the City Council in accordance with Section 903.
8. The Planning Commission shall review and act on all proposed zoning amendments submitted to it by the Zoning Committee and prepare a report on said zoning amendments for the City Council in accordance with Section 1006.
9. The Planning Commission shall review the character, location, and extent of any street, square, park or other public way, ground or open space or public building or structure or major utility project whether publicly or privately owned, in accordance with Section 11-52-11 of the Code of Alabama of 1975, as amended.

**B. Review Duties:**

The Planning Commission shall regularly review the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Regulations and report on them to the City Council at least once every 3 to 5 years. Specifically, the Planning Commission shall:

1. Analyze the extent to which development has occurred in Arab as compared to the projected growth at the time of adoption of the Comprehensive Plan and the last mapping of zoning districts created by this Ordinance.
2. Recommend any changes in the mapping of Arab which would be required in order to accommodate the expected 20-year growth projections of the Comprehensive Plan for residential, industrial, commercial, and other land uses.
3. Analyze the continued validity of any other regulations imposed by this Ordinance in terms of changed conditions since the last review.

#### **Section 1004. Zoning Board of Adjustment: Duties and Powers.**

The Zoning Board of Adjustment heretofore established is continued, and shall be appointed as provided in Section 11-52-80 of The Code of Alabama, 1975, as amended. No member of the Board shall vote upon any matter in which he or she, a spouse or a dependent has a direct interest. No member of the Board shall vote upon any matter involving a business with which he or she, a spouse or dependent has any interest or ownership. The Board shall have the following powers and duties:

- A.** The Zoning Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. (*Bylaws*)
- B.** The Zoning Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the Planning & Zoning Department.
- C.** The Zoning Board of Adjustment shall hear and decide appeals from a decision of the staff, made in the performance of their duties.
- D.** The Zoning Board of Adjustment shall hear and decide all petitions for variances, as provided for in Section 1007.
- E.** The Zoning Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning Commission, Administrative Officer, Codes Enforcement Officer or any other City official in the enforcement of this Ordinance.

#### **Section 1005. Interpretations.**

**1005.01. Purpose.** The provisions of this section are intended to provide a simple and expeditious method for clarifying ambiguities in the text of this Ordinance, the zoning map which it incorporates, and the rules and regulations adopted pursuant to it. It is also intended to provide a simple procedure for overcoming rigidities and limitations of finite use lists.

**1005.02. Authority.** The Planning Commission may, subject to the procedures, standards, and limitations set forth in this Section, render interpretations of any provision of this Ordinance or any rule or regulation issued pursuant to it, including interpretations of the various uses in any district not expressly mentioned in this Ordinance.

#### **1005.03. Procedure.**

- A. Written Request for Non-Use Interpretation.** Except as provided below, a request for interpretation of any provision of this Ordinance, the zoning map, or any rule or regulation adopted pursuant to this Ordinance shall be submitted in writing to the Planning Commission.

No fee shall be required in connection with any such request. Each such request shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation giving rise to the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Before rendering any interpretation, the Planning Commission shall receive such further facts and information as are in their judgment necessary to a meaningful interpretation of the provision in question.

**B. Application for Use Interpretation.** Applications for a use interpretation shall be submitted to the Planning Commission and shall, in all instances, contain at least the following information and documentation:

1. The applicant's names, address, and interest in the subject property.
2. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application.
3. The names and addresses of all professional consultants advising the applicant with respect to the interpretation.
4. The street address and/or legal description of the subject property.
5. The zoning classification and present use of the subject property.
6. A complete description of the proposed use.
7. The uses permitted by the present zoning classification, which are most similar to the proposed use.
8. Documents, statements, and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.
9. Such other and further information or documentation as the Planning Commission may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

**C. Planning Commission.** Within 30 days following the receipt of a completed request or application for interpretation, a written interpretation shall be mailed to the applicant. The specific precedent, reasons, and analysis on which such interpretation is based shall be stated.

Failure to render an interpretation within the aforementioned time, or such longer period of time as may be agreed to by the applicant, shall be deemed to be a rejection of the applicant's proposed interpretation. A copy of each such interpretation shall be kept on file and a copy of each such file interpretation shall be made available for public inspection during normal business hours.

**D. Appeal.** Appeals on interpretations rendered by the Planning Commission, or other responsible staff, pursuant to this Section may be taken to the Zoning Board of Adjustment as provided in this Article.

**1005.04. Conditions on Use Interpretations.** The following conditions shall govern the Zoning Board of Adjustment on appeals from the Planning Commission, in issuing use interpretations:

**A.** No use interpretation shall allow the establishment of any use that was previously considered and rejected by the Zoning Board of Adjustment on an application for amendment.

**B.** No use interpretation shall permit a use in any district in which such use is not listed either as permitted or conditional in Table 4-1.

**C.** No use interpretation shall permit any use in any district unless evidence shall be presented which demonstrates that it will comply with each use limitation established for the particular district.

**D.** No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or conditionally permitted in a more restrictive district.

**E.** If the proposed use is more similar to a conditional use than a permitted use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a conditional use permit.

**F.** Any use permitted pursuant to this Section shall fully comply with all requirements and standards imposed by this Ordinance.

**1005.05. Effect of Favorable Use Interpretation.** No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes and ordinances of the City of Arab, or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, site plan, conditional use, building permits, and certificates of occupancy.

**1005.06. Limitations on Favorable Use Interpretations.** No use interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall supersede subsequent amendment to this Ordinance.

**Section 1006. Amendments.**

This Ordinance may be amended from time to time as conditions warrant in the following manner. As used herein, the term “application” includes City Council resolution/ordinance.

**A.** Application for an amendment to the zoning ordinance or zoning map of the City of Arab shall be made on forms furnished by the Planning & Zoning Department, and shall include a proper legal description of the subject lot or tract of land. Additionally, all required fees and any other graphic information requested by the Planning Commission shall be submitted along with the completed application.

**B. *Initiation Procedures.*** A proposed change to the zoning district boundaries or of the regulations may be initiated by the City Council, the Arab Planning Commission, or by petition of one or more owners, or authorized agents of such owners, of property within the area proposed to be changed.

**C. *Text Amendments.*** The application for an amendment to the text of this Ordinance shall state in particular the article, section, subsection, and paragraph sought to be amended. The application shall contain the language of the proposed amendment and shall recite the reasons for such proposed change in the text.

**D. *Map Amendments (Rezoning).***

1. Applications to rezone any property, or any application which seeks to change or modify the standards and requirements imposed on a particular piece of property by the text and maps of this Ordinance, including applications for variances and conditional use permits, may be instituted by the City of Arab or all the owners of the property sought to be affected, or their assigns.
2. In the case where the applicant is not the owner of the subject property, said applicant shall secure a notarized authorization to act as applicant from the property owner, along with the regularly required copy of the deed for the property.
3. When a development proposal involves approval of a site plan or subdivision plat in addition to a zoning map amendment, no site plan or subdivision plat approval shall be granted prior to approval of the map amendment. If a development plan and the corresponding request for zoning change are to be addressed at the same public hearing, the Planning Commission shall render a recommendation to the City Council on the zoning application before considering any related site plan or subdivision plat. Such decision shall be based on the requirements of the Comprehensive Plan, this Ordinance and the full range of uses permitted in the requested district, and not on the specific development concept proposed by the applicant. No permit shall be issued for site plan or subdivision development until the City Council has taken final action on the recommendation for zoning change.

4. All properties annexed into the City of Arab shall receive the Agricultural (AG) District zoning designation. If another zoning designation is desired, the owner or authorized representative shall make separate application for rezoning in accordance with these regulations. Application for rezoning may be made simultaneously with a request for annexation.

**D. Public Hearing.** Upon application, the Planning Commission shall, after giving seven (7) days notice, conduct a public hearing on the proposed amendment. The Planning Commission shall consider and make recommendations on all proposed amendments, taking into account: (1) the testimony at the hearing; (2) a site inspection of the property in question; (3) the recommendations from interested official bodies; (4) compliance with the Comprehensive Plan and (5) the standards provided below.

#### **1006.01. Standards for Map Amendments.**

**A.** No request, other than those made by the City Council, Planning Commission, the Planning & Zoning Department, or any department or agency of the city, for a change in zoning classification or creation of a separate district shall be considered which involves an area of less than two (2) acres, except in the following cases:

1. The extension of existing district boundaries;
2. The addition of Office & Institutional (O-I) or Residential (R) zoning contiguous to existing commercial or residential zones.
3. The zoning of an existing lot of record, surrounded by unzoned property, which was outside the municipal limits and is requesting annexation.

**B.** No rezoning of land to the Manufacturing (M) Districts shall be permitted except on a specific and documented finding that:

1. There is an inadequate supply of land zoned for these uses or the proposed use cannot be accommodated by those sites due to lack of transportation, water, or sewer, or that the market area to be served by the proposed use cannot be efficiently served by the geographical location of the existing Industrial District.
2. Roads, floodplains, or other existing or planned features will insure sufficient buffering to protect surrounding land and uses from the negative impacts of the proposed industrial use.

**C.** There shall be no rezoning of land from Agricultural (AG) District to any other district until such time as adequate public utilities are available.

#### **1006.02. Annexation**

The following requirements must be fulfilled for a petition to be considered by the Planning Commission.

**A. Ownership.** The petitioner must be the owner of the property, and must submit an accurate description of the property proposed for annexation. This requirement can be met by submitting a survey and a legal description prepared and signed by a surveyor registered in the State of Alabama; or a legally recorded subdivision plat showing the property in question.

**B. Contiguity.** The property to be annexed must be contiguous to the existing corporate boundary of the City of Arab. For this purpose the term "contiguous" means either:

1. A boundary of the property proposed for annexation adjoins the existing corporate boundary of the City of Arab for a distance of at least one (1) foot; or,
2. At least one (1) foot of the boundary of the property proposed for annexation is directly across the right-of-way of a publicly dedicated street, a railroad right-of-way; or across from a creek or river, a utility right-of-way, or similar natural boundary from the existing corporate boundary of the City of Arab.

**C. Review of Petitions.** Each annexation petition will be submitted to all City department heads, as determined by the Mayor, for review and comment. All such comments will be presented to the Planning Commission and City Council for consideration in making a decision.

**D. Property Located in a Fire District.** If the property requested to be annexed lies within the territory of a fire district, other than the Arab Fire District, the property owner must provide proof that they have been released from said fire district prior to a petition for annexation being processed. Proof may be provided in the form of written documentation from the Board of Commissions of the Fire District certifying that such a release has been granted and that all fees associated with said release have been paid in full. In the event the applicant fails to remove the property from any fire district prior to annexation, applicant shall reimburse the City for all costs, including all attorneys' fees, for the removal by the City of this property from any fire district after annexation.

**E. Guidelines for Review.** The following guidelines will be used by the Planning Commission in reviewing petitions for annexation.

1. *Zoning Classification.* Any area annexed into the City of Arab shall be given a zoning classification of Agricultural (AG) District, unless changed as stated herein.

In the event a petition for annexation seeks a zoning classification other than AG, a separate zoning request shall be submitted for recommendation to the City Council by the Planning Commission under

the standards for rezoning set out in the City of Arab Zoning Ordinance. The Council, upon receiving such recommendation shall take into consideration the recommendations of the City’s Comprehensive Plan for the area in question.

2. *Subdivision Annexation.* If the property for which annexation is being requested is part of a subdivision, consideration should only be given to annexation of the entire subdivision.

If less than the full subdivision desires annexation the annexation of such portion should not make it unduly difficult for other property owners in the vicinity to achieve the degree of contiguity necessary to make their property eligible for annexation.

3. *Public Access.* The property for which annexation is being requested should have direct access to a public right-of-way. For this purpose the term "direct access" means fronting on a dedicated public right-of-way; or having an unrestricted connection to a public right-of-way, capable of providing safe and ready access for public service vehicles, and approved by the Planning Commission.
4. *Whole Parcels.* The property or properties for which annexation is being requested should be wholly contained within one or more parcel identification numbers assigned through the County Revenue Commissioners Office (i.e. no “self-dividing” of parcels causing only a portion of the tax parcel to be annexed).
5. *Nonconforming Use.* If the property to be annexed has any structure or use which is nonconforming to this Ordinance, but which was in existence when this Ordinance was adopted, said structure or use shall be considered nonconforming and allowed to continue subject to abandonment and compliance with Article VIII as long as any such use is indicated on the petition for annexation.

**1006.03. Report of the Planning Commission.**

- A. The Planning Commission shall make a report to the City Council outlining the proposed amendment. No amendment shall be passed except by a majority vote of the members of the City Council present.
- B. The Planning Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.
- C. For each disapproved map amendment, the Planning Commission shall make findings on each of the following matters based on the evidence presented to it:

1. The proposed amendment's ability to uphold the policies of the Comprehensive Plan.
2. The suitability of the property in question for the uses permitted under the proposed zoning.
3. The adequacy of public facilities, such as sewer and water, and other required public services.

### **Section 1007. Variances.**

**1007.01. Purpose.** The purpose of this Section is to empower the Zoning Board of Adjustment to vary or adapt the strict application of any of the requirements of this Ordinance. It is expected that the granting of variances will be *rare*. However, a variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape; or by reason of other exceptional topographic conditions or other extraordinary and exceptional situations or conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the use of such property.

Those developments requiring a variance from any regulation of this Ordinance in conjunction with site plan review shall have the appropriate request acted upon by the Zoning Board of Adjustment prior to approval of any such site plan. This shall include existing development sites, proposed for expansion or reconfiguration, which are nonconforming to any requirement of this Ordinance. The site plan may be reviewed concurrently with review and action on the variance request, but the site plan shall not be approved until the variance has been approved.

**1007.02. Application.** Any property owner may apply to the Zoning Board of Adjustment for a variance using forms to be obtained from the Planning & Zoning Department. Applications must be submitted by noon on the date of the applicable deadline for the meeting at which it is to be heard. All required fees and any other information requested by the Board shall be submitted along with the completed application.

**1007.03. Standards for Variances.** The Zoning Board of Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its being used as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to all of the requirements and standards listed below:

- A.** The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- B.** There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought. Said circumstances or conditions shall be peculiar to such land or buildings and do not apply generally to land or buildings in the district; and said circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
- C.** There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.
- D.** That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Board of Adjustment is the minimum variance that will accomplish this purpose.
- E.** That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
- F.** That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- G.** The granting of the variance will *not* permit the establishment of any use, which is not permitted in the district.

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

**1007.04. Public Hearing.** Upon application, the Zoning Board of Adjustment shall schedule a public hearing on the proposed variance to be held at least ten (10) days after a public notice has been posted, and after the adjacent property owners most affected by the variance request have been notified by certified mail. The Zoning Board of Adjustment shall consider and decide all proposed variances taking into account the standards enumerated above. After the close of a public hearing and within ten (10) days the Zoning Board of Adjustment shall render a written decision, setting forth the reasons for such decision, which shall be accompanied by finding of fact(s) specifying the reason(s) for such decision. All such decisions are final and binding on all parties.

**Section 1008. Appeal of an Administrative Interpretation or Action.**

Appeals to the Zoning Board of Adjustment may be made by any person aggrieved or affected by any provision of this Ordinance or by any decision, or any order to stop, cease, and desist, issued by the Planning Commission, Codes Enforcement Officer, or their designated representative, in enforcing the provisions of this Ordinance.

**1008.01. General Rules and Procedures for Appeals.**

- A.** Any appeals from the rulings concerning the enforcement and interpretation of any provision of this Ordinance shall be filed with the Planning & Zoning Department within 15 days after the date of said ruling. All required fees shall be submitted along with a completed application and any additional information requested by the staff.
- B.** All appeals and applications made to the Board shall be in writing on forms prescribed by the Board and accompanied by fees prescribed by resolution of the City Council.
- C.** All appeals and applications shall refer to the specific provisions of this Ordinance involved; and the grounds for the appeal.
- D.** The Board shall select a reasonable time and place for hearing the appeal and give due notice thereof to the parties and shall render a written decision on the appeal without unreasonable delay. The Board may affirm, reverse, wholly or in part, or modify the order, requirement, decision, or determination, as in its opinion it determines ought to be done, and to that end shall have all the powers of the officer from whom the appeal is taken. Complete records of all appeal actions of the Board shall be maintained in the Planning & Zoning Department.
- E.** Within ten (10) days after the close of a public hearing the Board shall render a written decision giving the reason(s) for its decision.
- F.** In rendering a decision with respect to an appeal from any order, decision, or determination the Board shall strictly interpret the language of the Ordinance and shall find that the city official was correct in his/her decision or in error. Should the Board find that the interpretation, decision or actions was in error they must provide what is in their opinion the correct interpretation, decision or action. However, the Board shall not render any decision which shall modify an order, decision, or determination which confers rights or privileges on the appellant that are not otherwise permissible under the strict interpretation of the language of this Ordinance.
- G.** Such decision shall be submitted to the appellant and the Planning & Zoning Department.

**1008.02.** All decisions rendered by the Board shall be final and binding on all parties. No request for a variance or appeal of an administrative decision shall be reheard, and no further application shall be accepted, once a decision has been given, except under one or more of the following conditions:

- A. New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.
- B. The decision resulted from an error, made by the Board, or any other City official, in procedures required by this Ordinance or State law.
- C. The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama.

Where no error is alleged and no new evidence is available a new or more effective presentation by the applicant shall not constitute grounds for rehearing a decision of the Zoning Board of Adjustment. Any applicant wishing a rehearing shall appear before the Board to present one or more of the qualifying conditions listed in this Section.

If the Board finds that one or more of these conditions exists, the applicant shall be permitted to submit a new application, together with the required fees. The new application shall be heard at a subsequent meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the Board to grant the request.

Any person aggrieved by any decision of the Board may within 15 days after such decision appeal to the Circuit Court having jurisdiction.

### **Section 1009. Penalties.**

Any violation of any provision of this Ordinance, shall constitute a Class C 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. Any and all parties who commit, participate in, assist in, or maintain such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

Any person, owner, agent, lessee, tenant, contractor, firm, corporation, or other entity found in violation of any provision of this Ordinance shall be fined not less than twenty-five dollars (\$25) and not more than one hundred dollars (\$100) plus court costs for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**1009.01.** Any person who fails to obtain appropriate permit(s) prior to beginning construction or erecting any structure or sign shall be subject to doubling of all applicable fees.

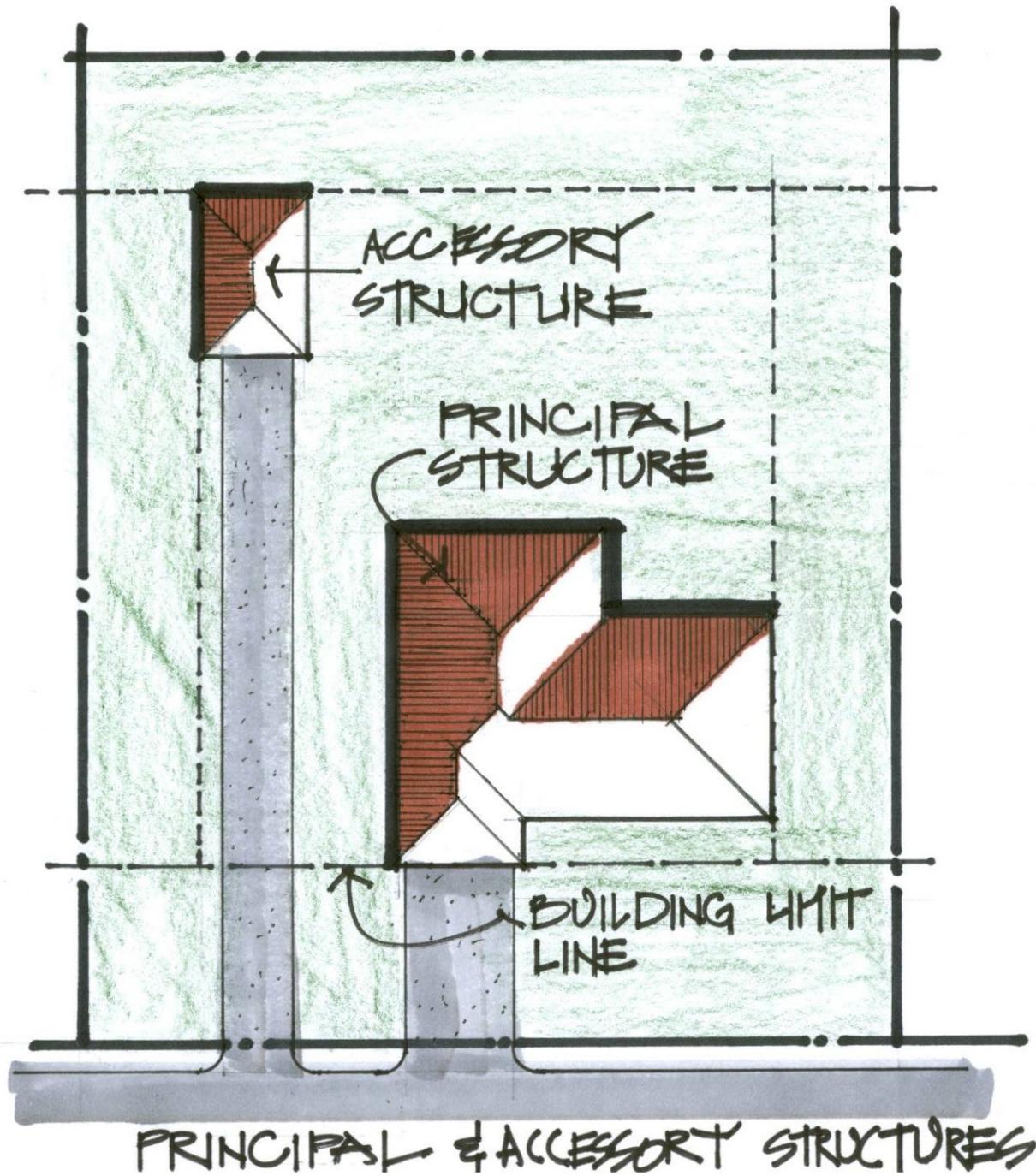
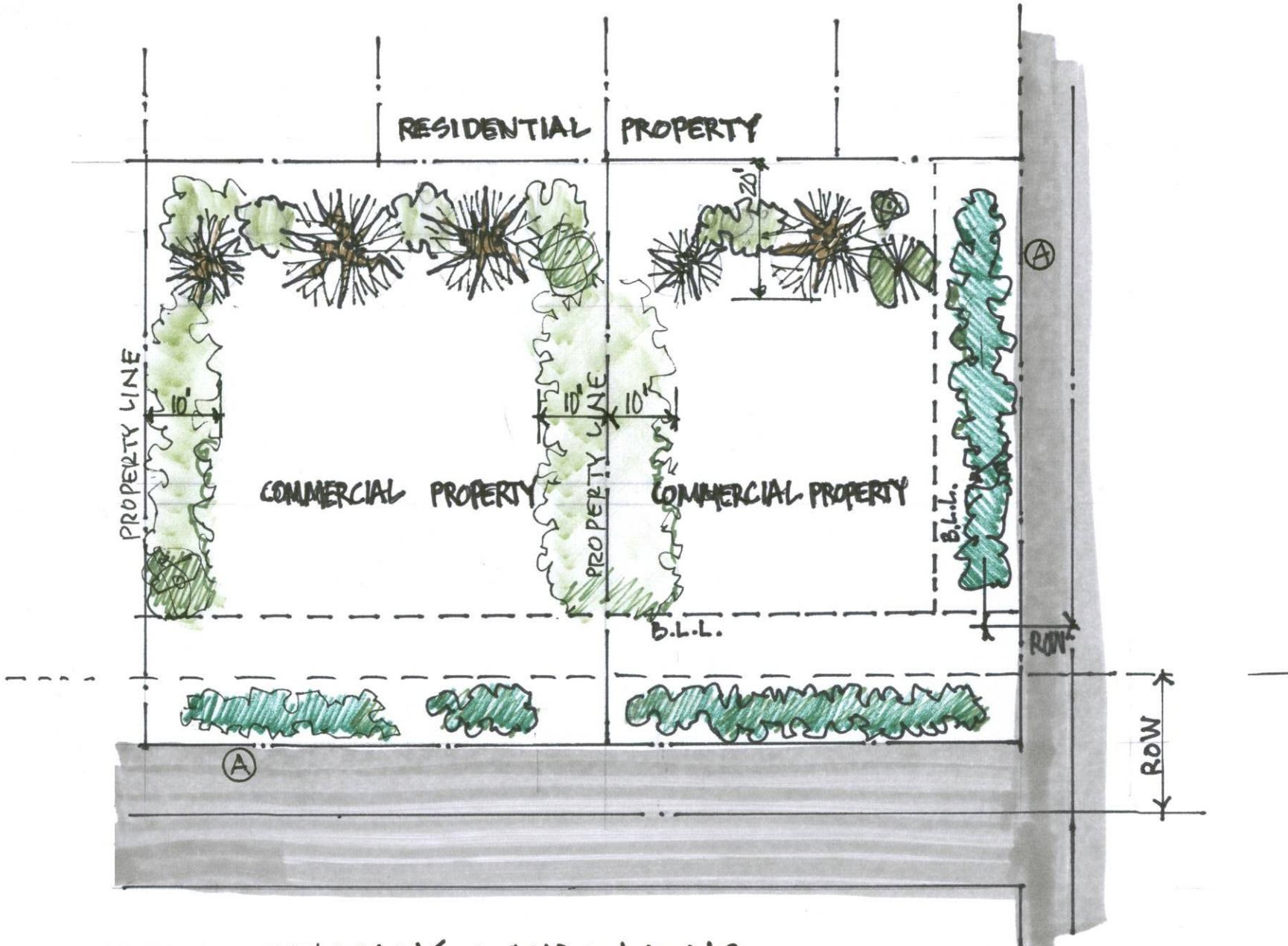


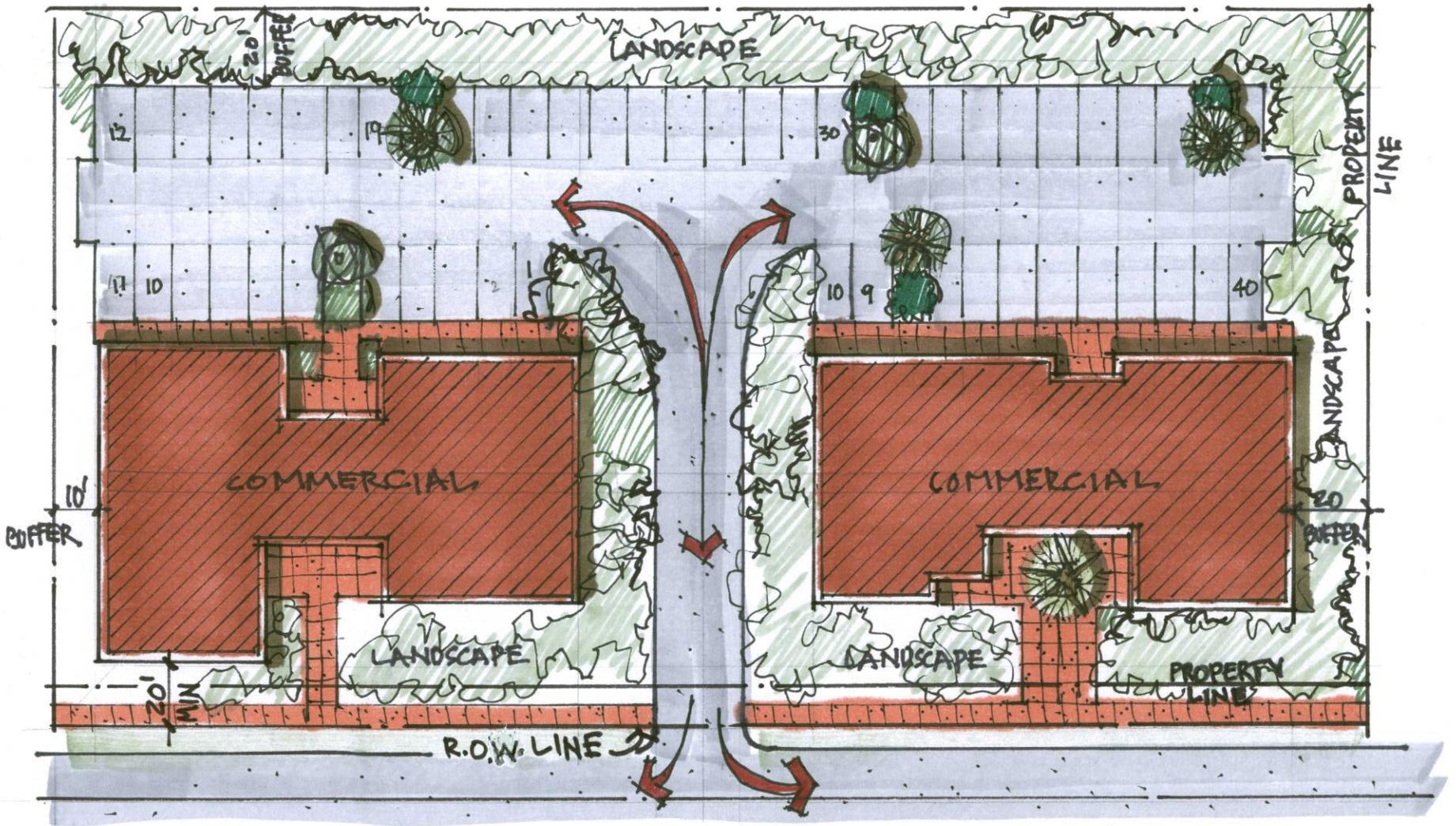
FIGURE 1

Ⓐ CANNOT COUNT TOWARD  
LANDSCAPE PERIMETER  
REQUIREMENT.



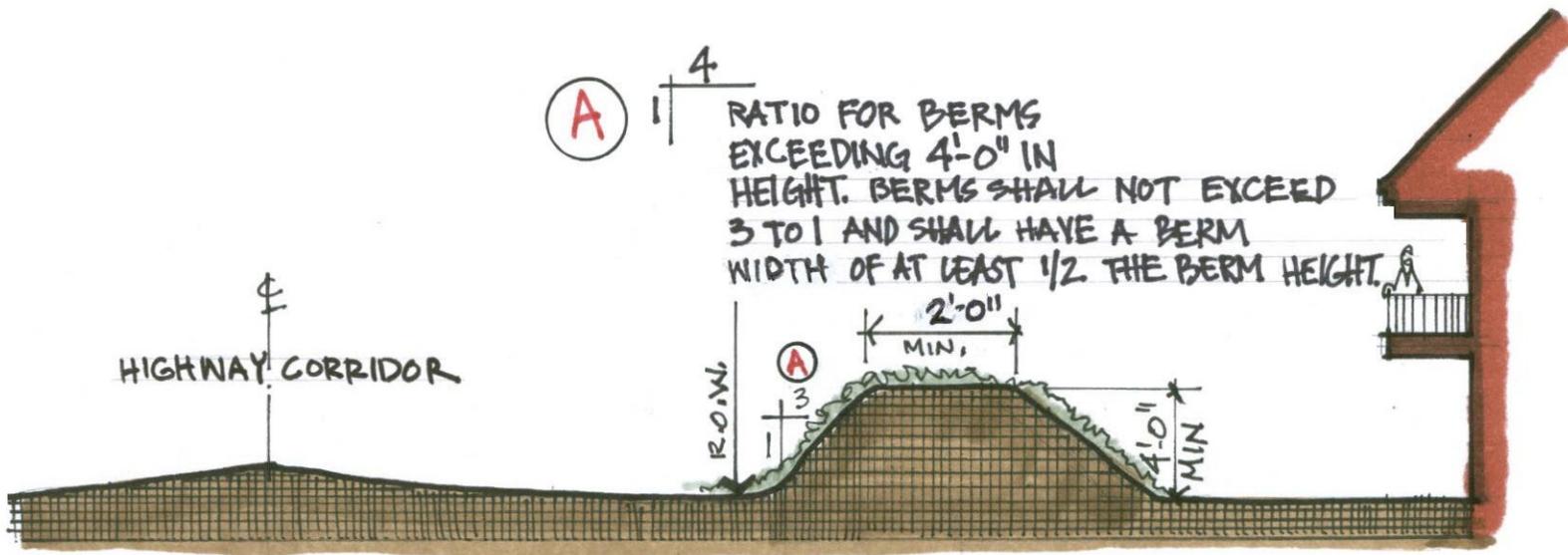
ADJACENCY LANDSCAPING

FIGURE 10



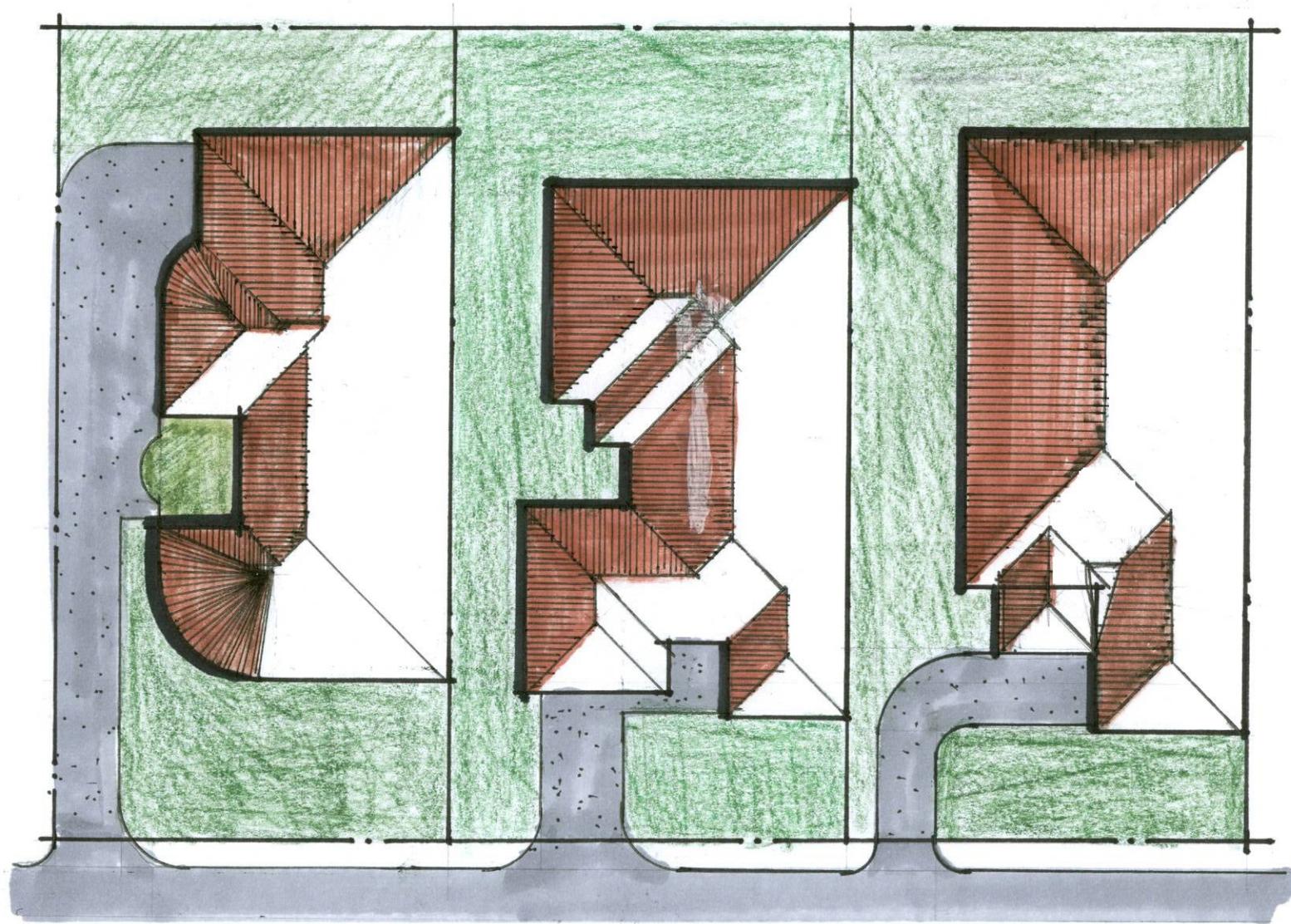
INTERIOR PARKING LANDSCAPING

FIGURE 11



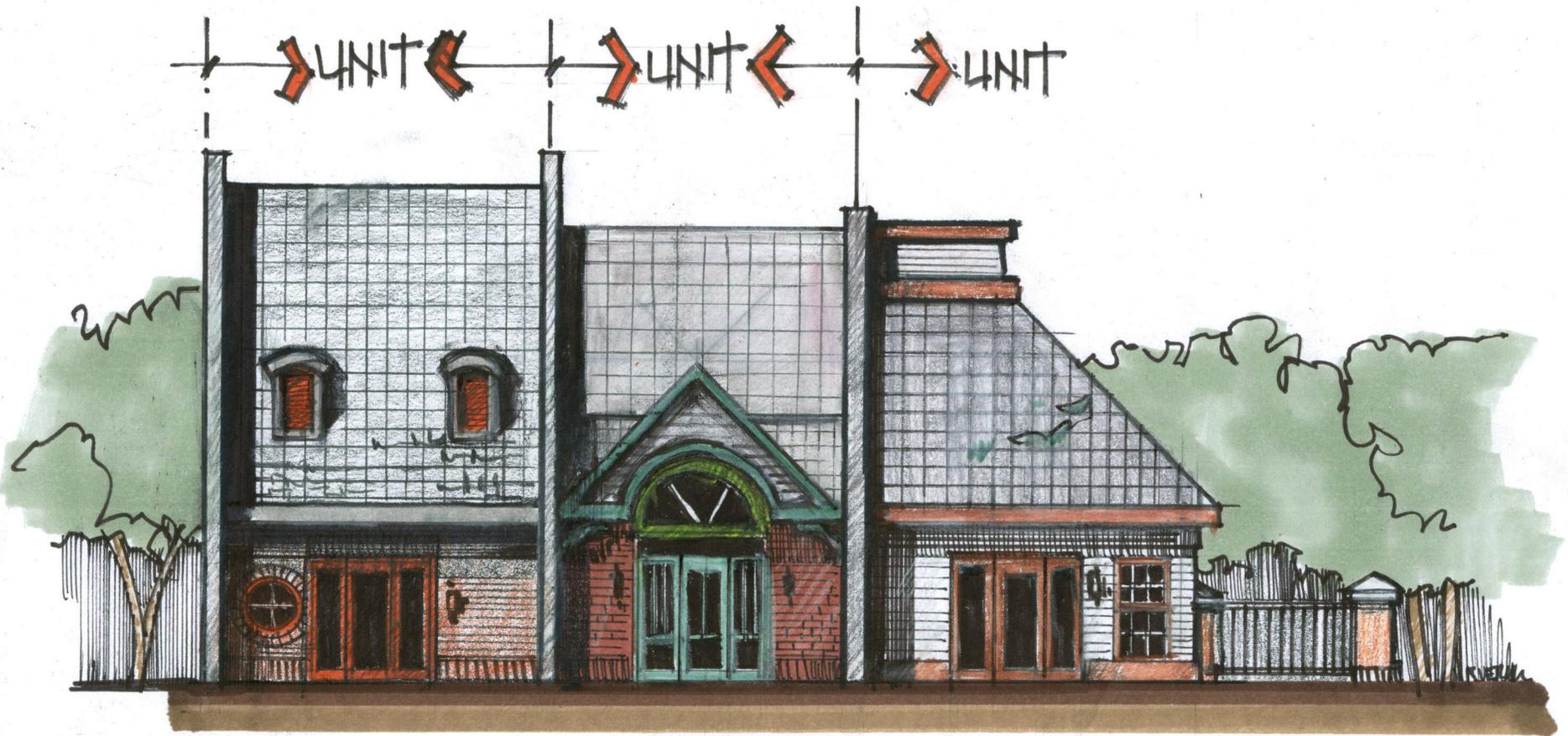
BERM @ HIGHWAY CORRIDOR

FIGURE 12



ZERO LOT LINE

FIGURE 13

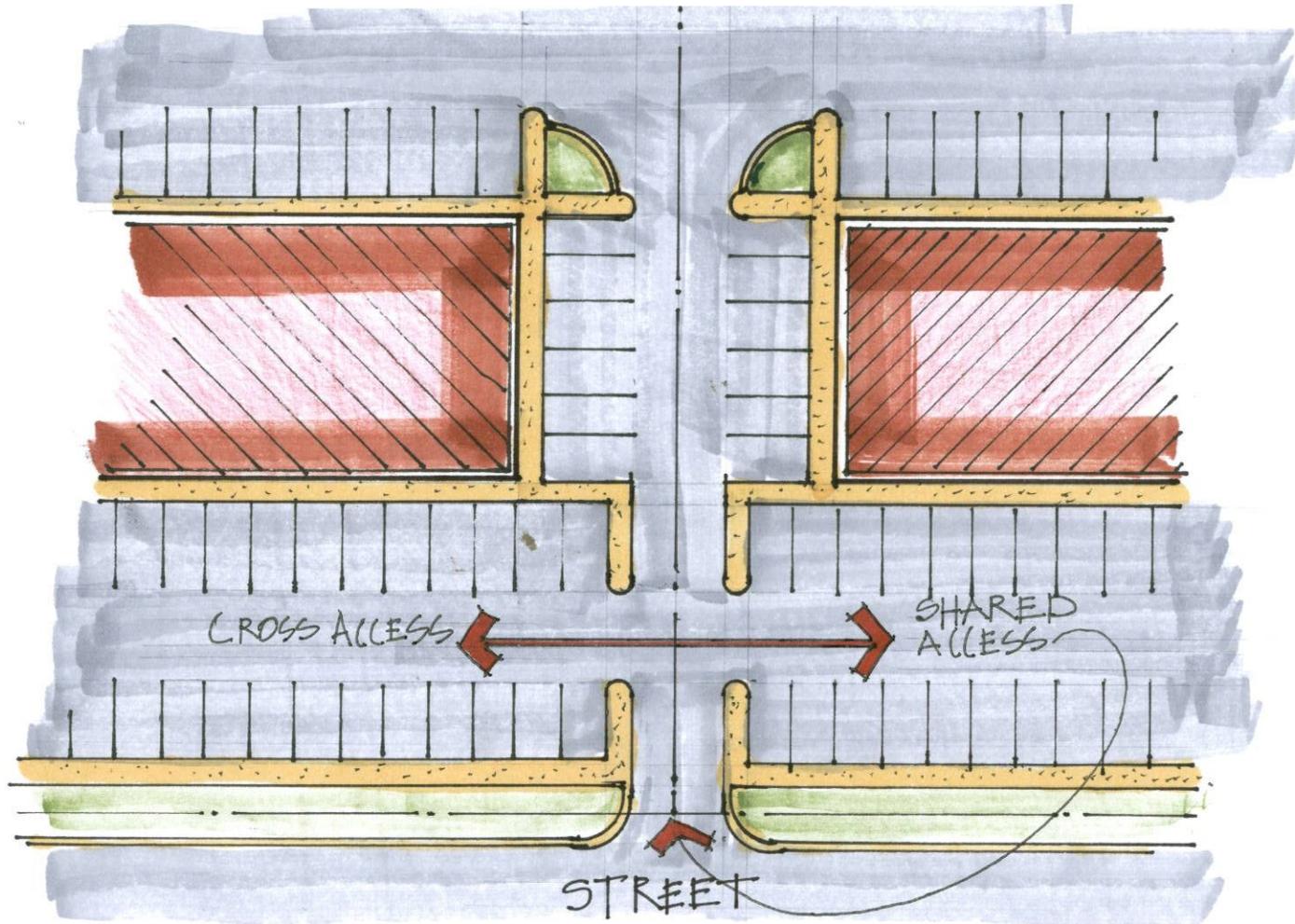


TOWN HOUSE UNITS

**FIGURE 14**

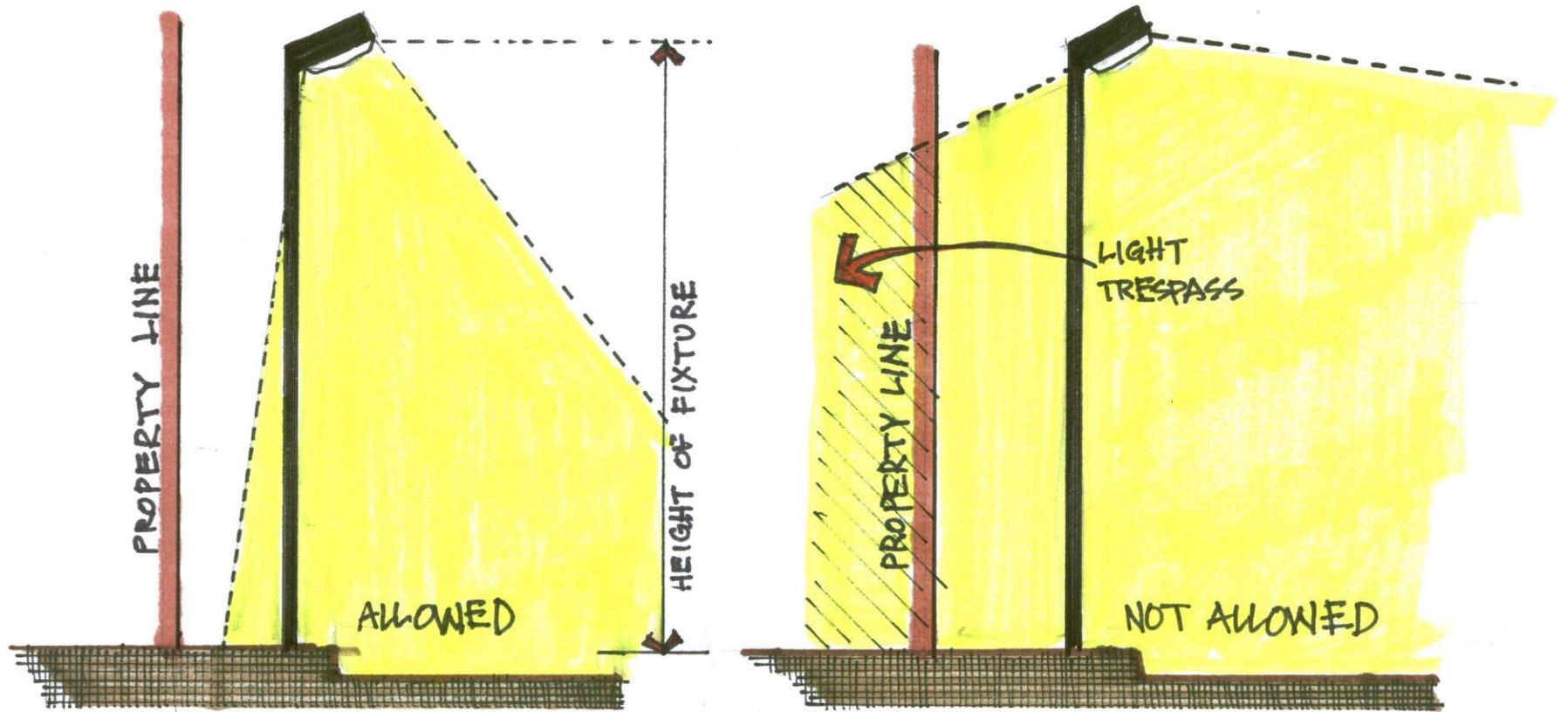


**FIGURE 15**



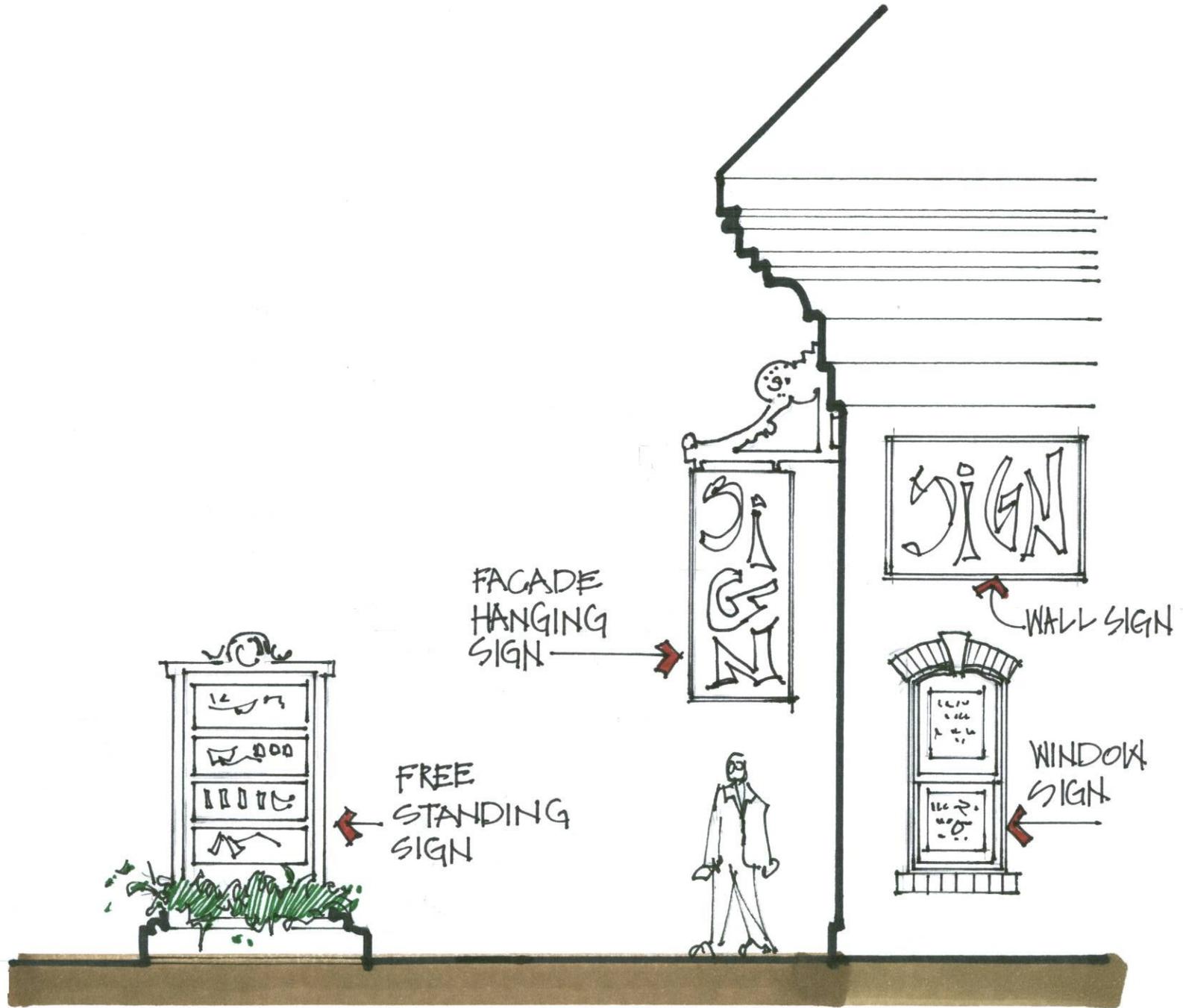
SHARED AND CROSS ACCESS

FIGURE 16



SITE LIGHTING

FIGURE 17

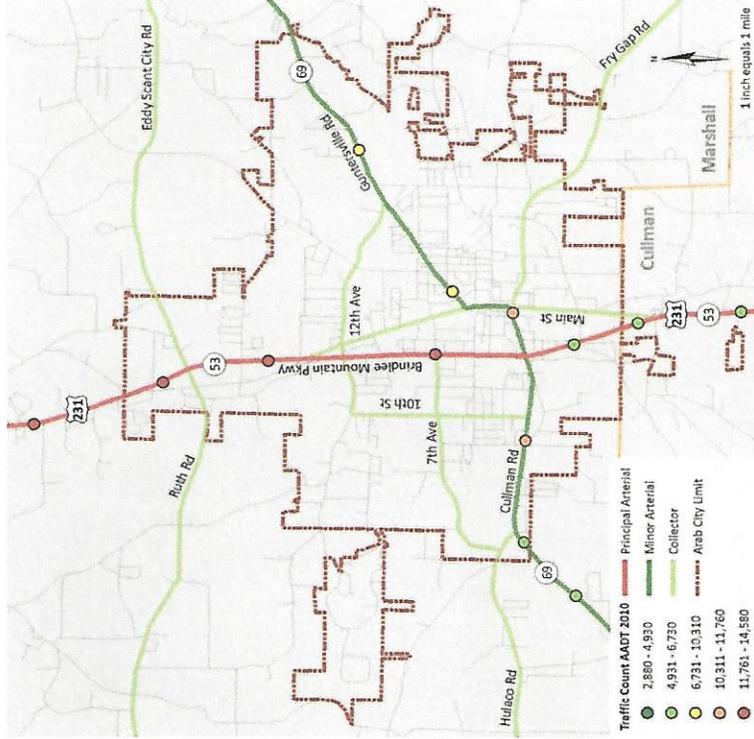


**FIGURE 18**

# Arterial and Collector Network

<b>ALDOT Class</b>	<b>Subdivision Class</b>
Principal Arterials	Arterials
Minor Arterials	Major Thoroughfares
Major Collectors	Minor Thoroughfares/Collectors
Minor Collectors	Collectors
Local Streets	Minor Streets
<b>Intended Growth Centers</b>	
Downtown	Downtown
Ruth Road North Gateway	Ruth-Eddy Scant Road at US 231
Walmart Vicinity	US 231 at Main Street North
South Gateway	US 231 at Main Street South
Cullman Road Gateway	AL 69 at Hulaco Road
Guntersville Road Gateway	AL 69 at Tower Drive
<b>Arterials</b>	
US Highway 231	Principal Arterial
AL Highway 69	Minor Arterial
AL Highway 69 Bypass	Minor Arterial
CR 418 (Ruth-Eddy Scant Road)	Minor Arterial
CR 44 (Fry Gap Road)	Minor Arterial
<b>Collectors</b>	
10 <sup>th</sup> Street Extension North	Major Collector
10 <sup>th</sup> Street Extension South	Major Collector
Arad Thompson Extension	Major Collector
Lexington-Tower Extension	Major Collector
Sundown Drive Connector	Minor Collector
	Existing Highway
	Existing Highway
	Proposed New Highway
	Near Term Potential Redesignation
	Long Term Potential Redesignation
	Proposed New Road

# Street Network



## Highway Classification and Traffic Counts

For the purposes of this study, there are four classifications of thoroughfares in the City of Arab. These classifications are as follows in accordance with classifications by ALDOT and within the City's subdivision regulations:

- Principal Arterial
- Minor Arterial
- Collector
- Local

## The Arterial Network

There are two major highways connecting the City of Arab with other communities in North Alabama. These are **US Highway 231** which is classified as a principal arterial and **AL Highway 69** which is classified as a minor arterial. The heaviest traffic is on US Highway 231 from the center of the City going north to Huntsville with average annual daily traffic (AADT) ranging in the 13,000 to 15,000 range with about 2 to 3 percent truck traffic. Somewhat less is AL Highway 69 going east to Guntersville with AADT in the 9,000 to 11,000 range with 5 to 6 percent trucks. US Highway 231 South and AL Highway 69 West both have AADT in the 6,000 to 7,000 range with about 6 percent and 3 percent trucks respectively. The truck traffic going east and west is significant, particularly with the industrial concentrations on either end of the City. Improvements (4-laning) are needed for AL Highway 69 to Cullman to provide a better link to I-65 and US Highway 231 to Birmingham.

**AL Highway 69 Bypass.** The Alabama Department of Transportation has plans under design for a bypass of AL Highway 69 around the traditional Downtown to accommodate traffic needs, particularly truck traffic. When this bypass is completed, it will become the minor arterial through downtown and Main Street will become a major collector.

**CR 418 (Ruth-Eddy Scant City Road).** CR 418 connects Guntersville to Decatur by providing a link between AL 69 and AL 67 through the Northern portion of Arab. This road is currently designated by ALDOT as a collector. With additional regional growth, this road is likely to become more and more important as a minor arterial as well as serving the designated growth center at the intersection of US 231 and CR 418.

**CR 44 (Fry Gap Road).** CR 44 is currently designated as a collector by ALDOT and serves as such connecting the rural areas to the Southeast of Arab to the City. With additional regional growth over the long term, there is potential for this road to eventually connect to CR 166 and provide a more direct route between Arab and Albertville. If this happens, this road would serve as a minor arterial. However, there are severe topographic constraints that would need to be overcome to make this connection possible. In the meantime, this road continues to serve as a major collector.

## The Collector Network

Roads and streets currently classified as collectors include: Main Street which goes through Downtown; Fry Gap Road to the southeast; 7th Avenue; 12th Avenue / Mt Oak Drive; 10th Street; Hulaco Road to the west; and Ruth Road / Eddy Scant City Road running east and west across the Northern portion of the area.

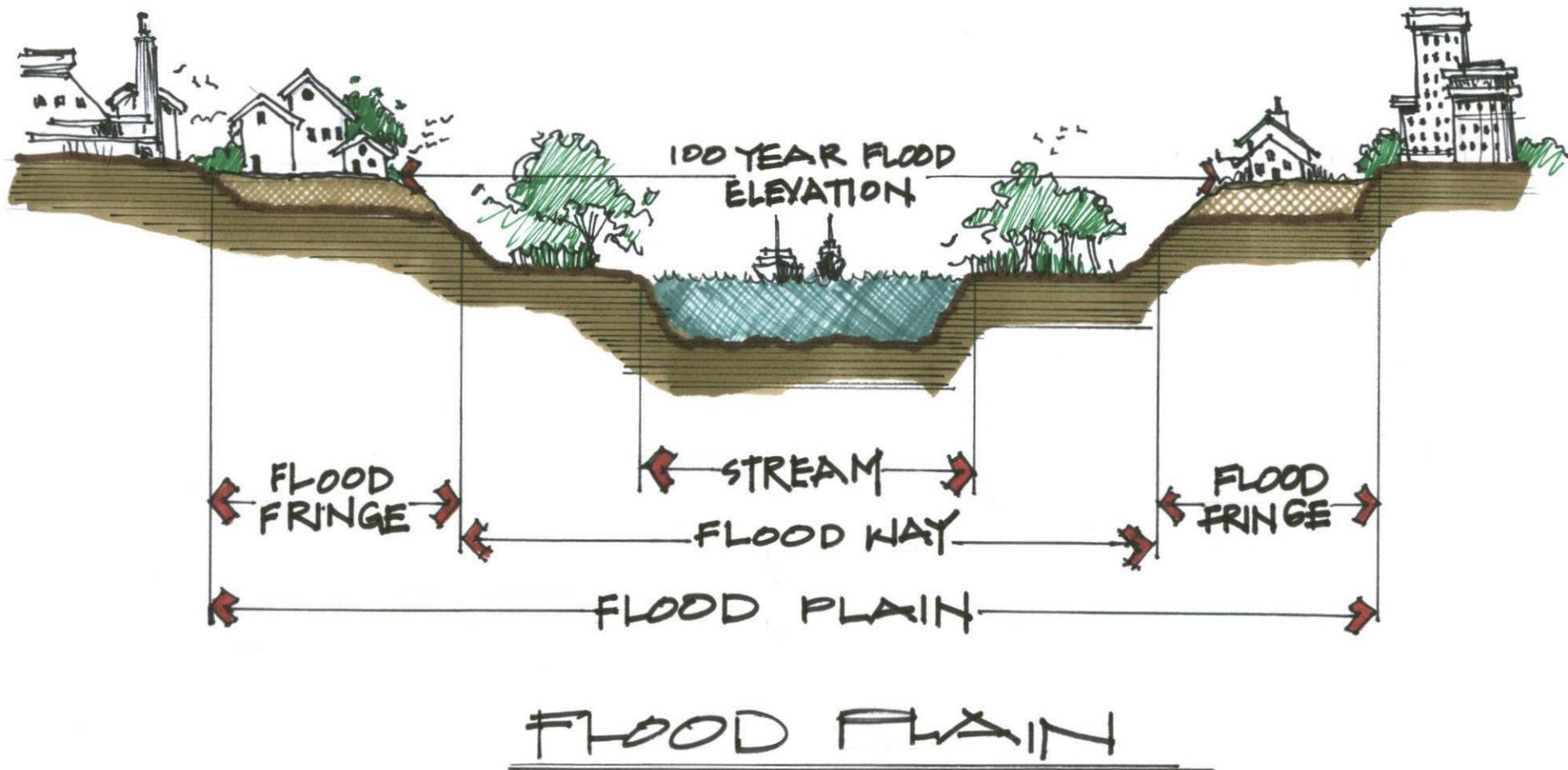
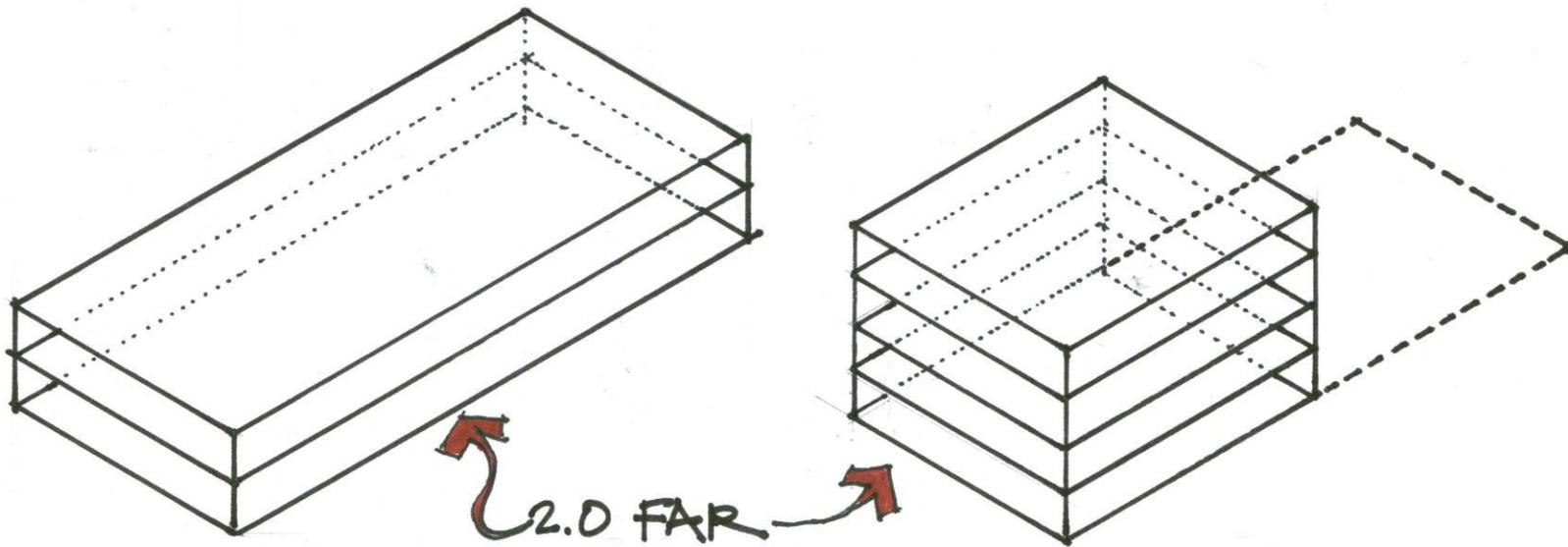
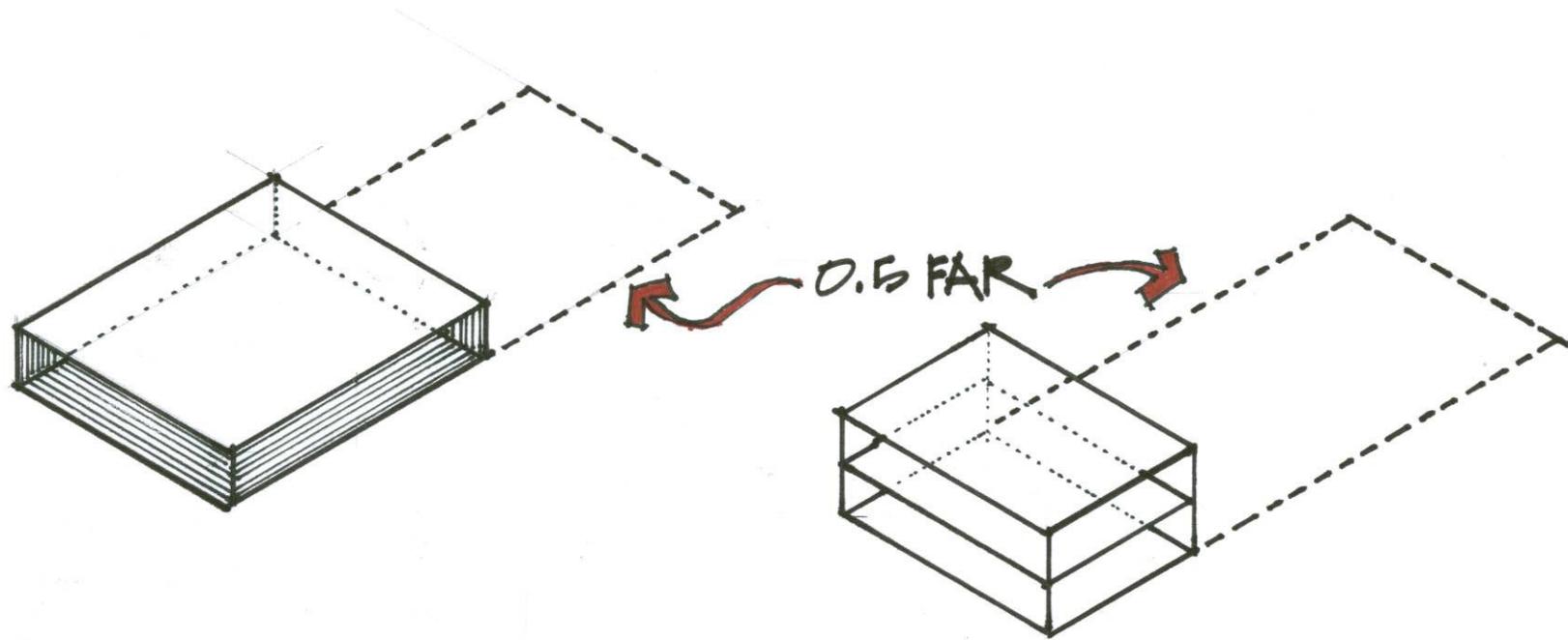


FIGURE 2



FLOOR AREA RATIO

FIGURE 3

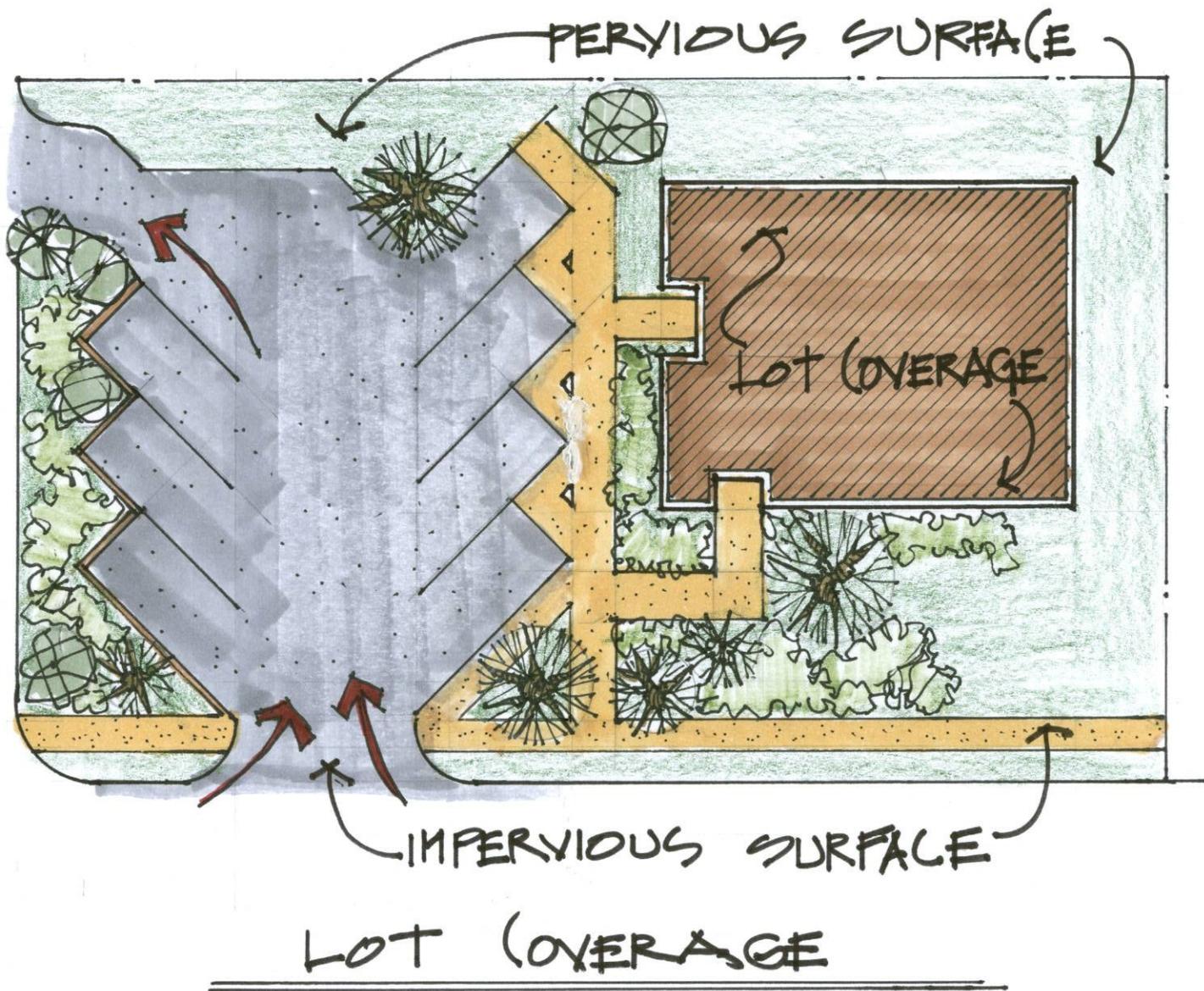


FIGURE 4

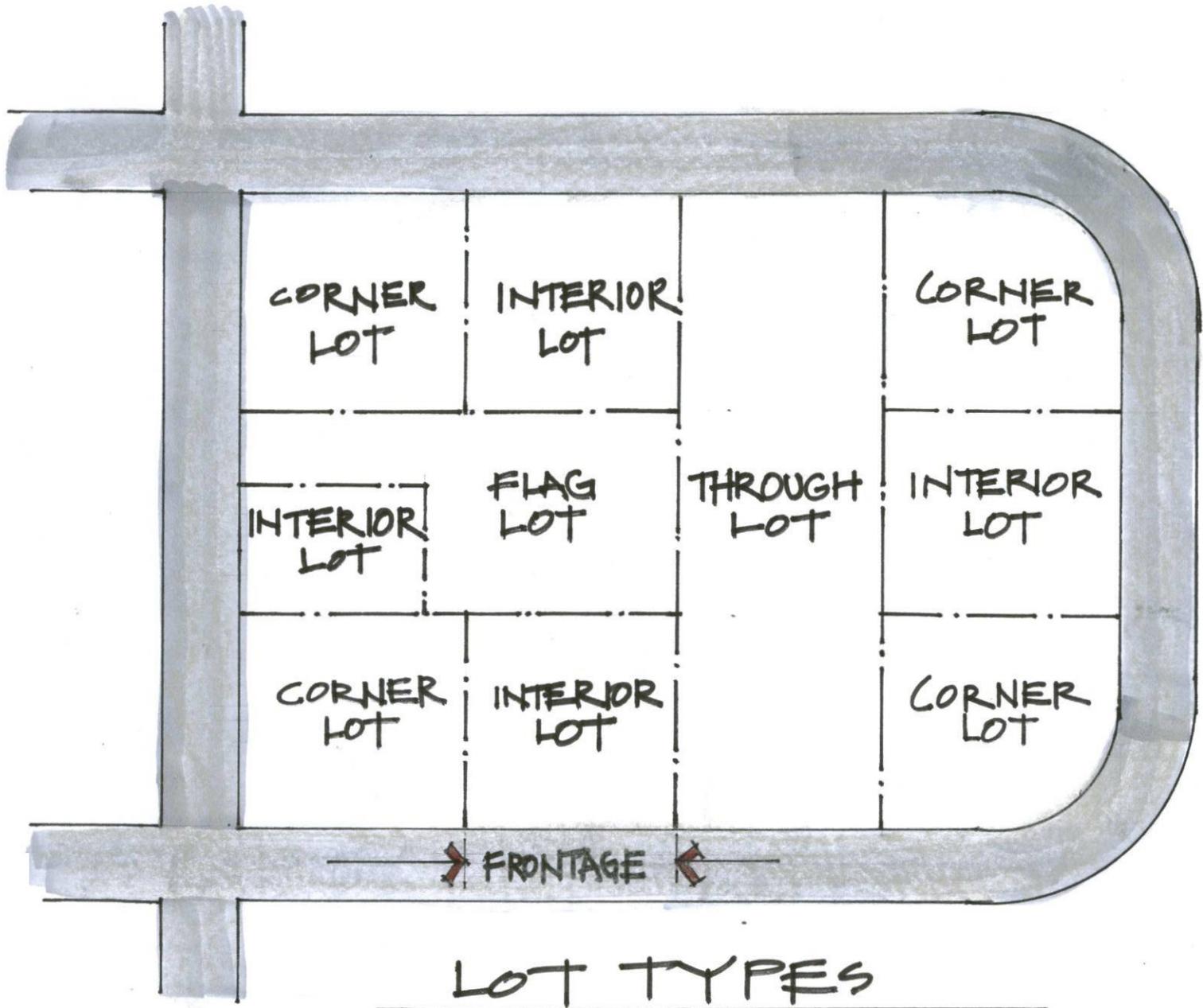
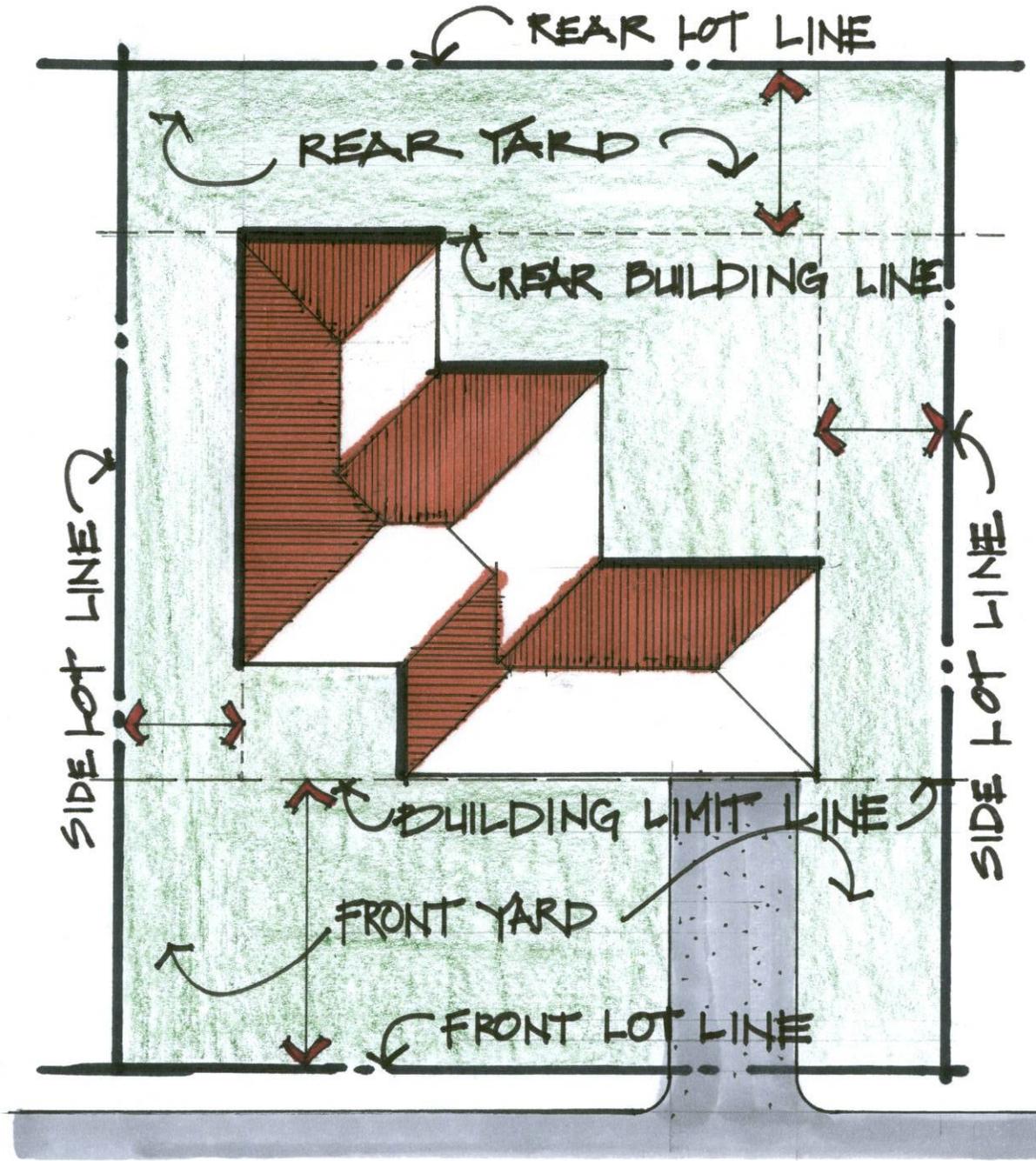
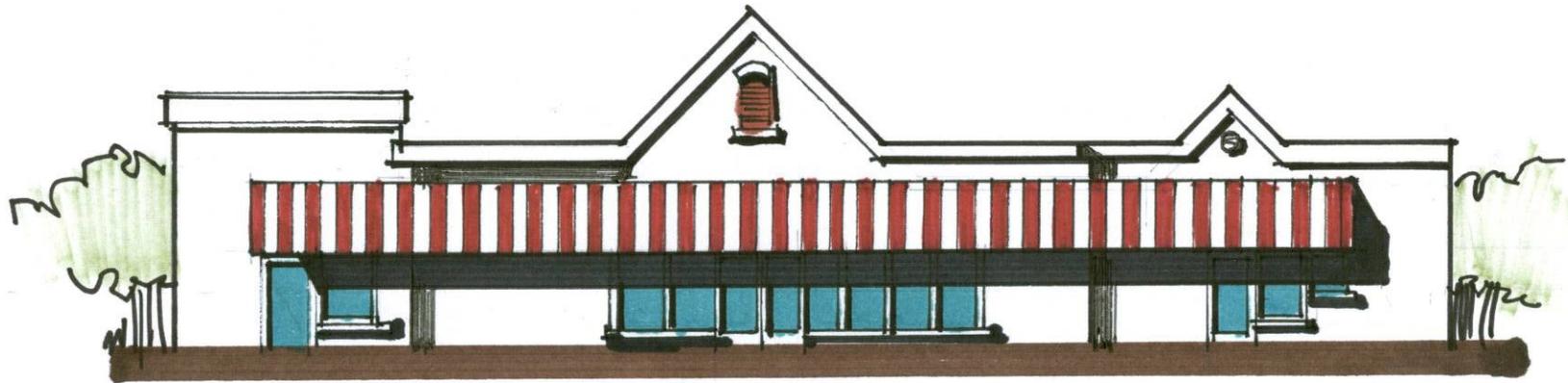


FIGURE 5

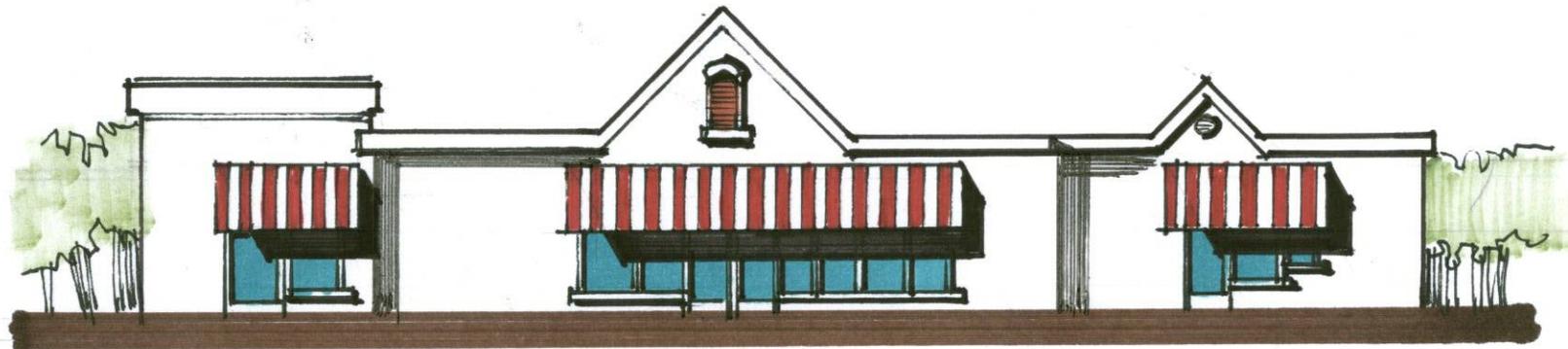


PROPERTY & BUILDING LINES

FIGURE 6



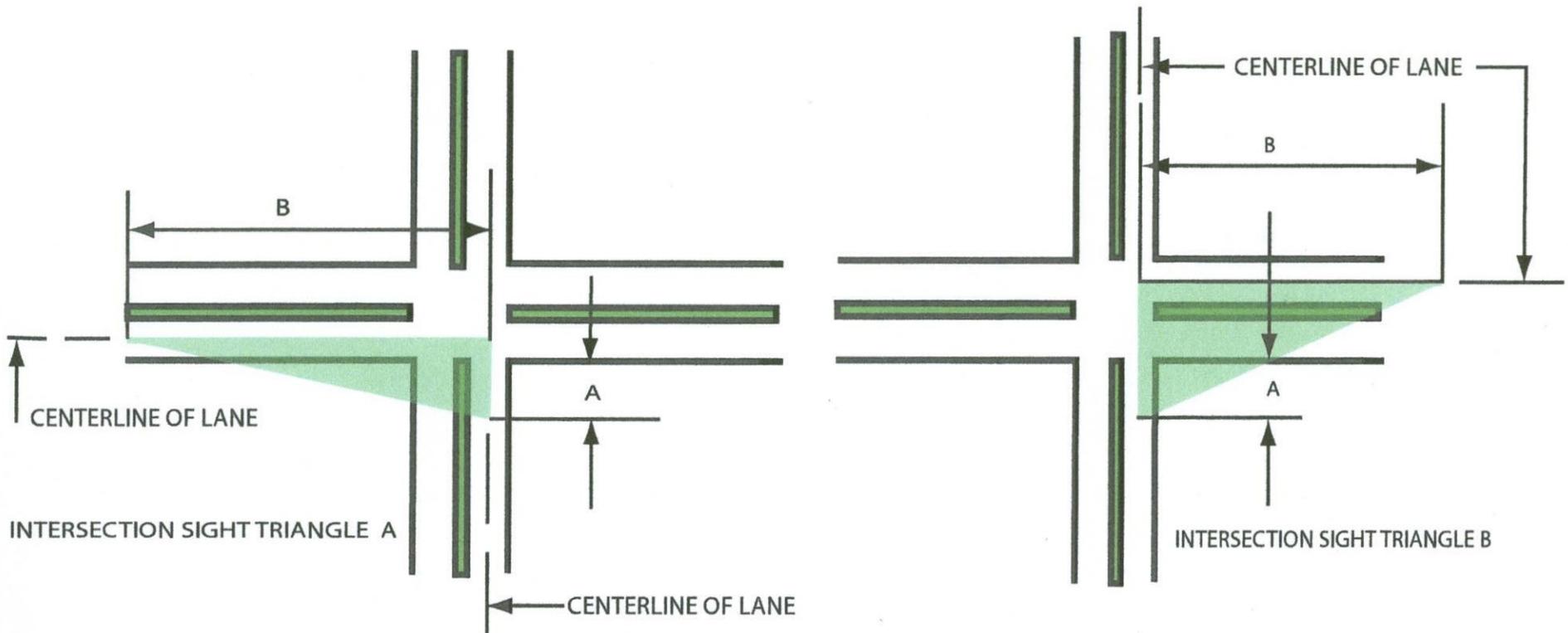
UNACCEPTABLE AWNING LAYOUT



ACCEPTABLE AWNING LAYOUT

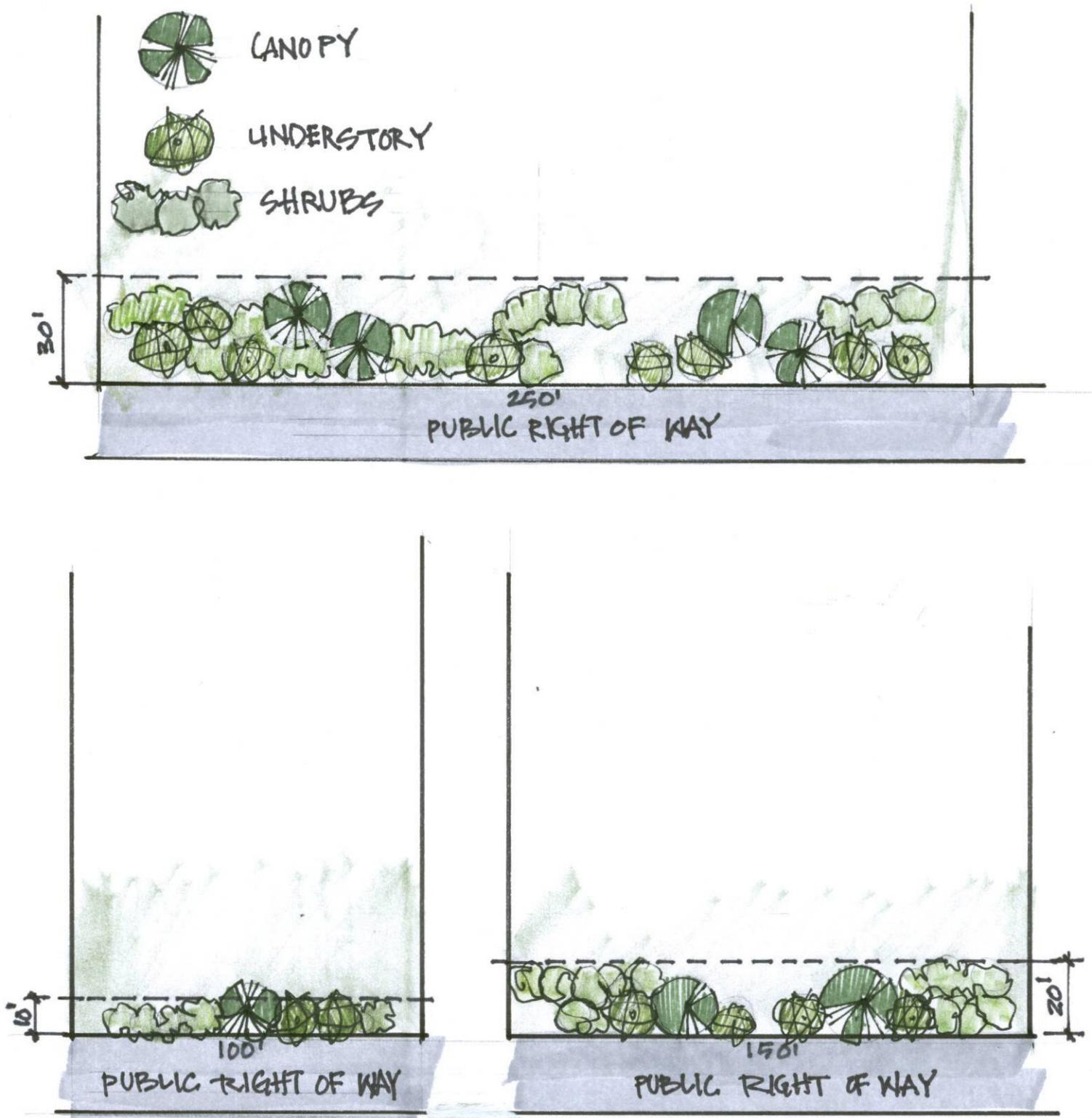


OFF SET BUILDING FACADE



UNITED STATES CUSTOMERY		
DESIGN SPEED IN MPH	DISTANCE IN FEET "A" FROM EDGE OF PAVEMENT	DISTANCE IN FEET "B"
15	14'6"	170
20	14'6"	225
25	14'6"	280
30	14'6"	335
35	14'6"	390
40	14'6"	445
45	14'6"	500
50	14'6"	555
55	14'6"	610
60	14'6"	665
65	14'6"	720
70	14'6"	775
75	14'6"	830
80	14'6"	885

**FIGURE 8**



FRONTAGE LANDSCAPE

FIGURE 9