

# **ZONING ORDINANCE**

**OF THE CITY  
OF  
CLAY, ALABAMA**

## **A Comprehensive Revision and Update**

**Approved December 21, 2017**

in public hearing by the  
**Clay Planning Commission**

**Adopted January 9, 2018**

as amended in public hearing by the  
**Clay City Council**

**ZONING ORDINANCE  
FOR THE  
CITY OF CLAY, ALABAMA**

**TITLE**

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY TITLE 11, CHAPTER 52, ARTICLE 4, SECTIONS 70 THROUGH 84 (INCLUSIVE), CODE OF ALABAMA, 1975 AS AMENDED, TO PROVIDE FOR THE ESTABLISHMENT AND DELINEATION OF DISTRICTS WITHIN THE CORPORATE LIMITS OF CLAY, ALABAMA, AND TO REGULATE WITHIN SUCH DISTRICTS THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE KIND, CHARACTER AND USE OF STRUCTURES AND IMPROVEMENTS; THE SIZE OF YARDS AND OTHER OPEN SPACES; THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED; THE DENSITY OF POPULATION; THE USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCES AND OTHER PURPOSES; TO PROVIDE THE METHOD FOR ADMINISTRATION, AMENDMENT AND APPEAL, AND TO PROVIDE FOR THE IMPOSITION OF PENAL TIES FOR THE VIOLATION OF, THE PROVISIONS OF THIS ORDINANCE.

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**ARTICLE 1**  
**PREAMBLE AND ENACTMENT CLAUSE**

WHEREAS Chapter 52, Article 4 of Title 11 of the Code of Alabama, 1975, as amended, empowers the City of Clay to establish districts within its corporate limits for the purpose of regulating the kind, character and use of structures and improvements within those zones, and to provide for the administration, enforcement and amendment thereof; and,

WHEREAS the City Council of Clay deemed it necessary, for the purpose of promoting the public health, safety, convenience, order, prosperity and general welfare of the City to enact such an ordinance, and appointed the Clay Planning Commission as the "zoning commission" to recommend the boundaries of the various districts and the appropriate regulations to be enforced therein; and,

WHEREAS the City Council had accordingly adopted such regulations and districts, as recommended by the Planning Commission in December 2002, followed by a substantially revised Ordinance and new districts recommended by the Planning Commission in March 2006; and,

WHEREAS after ten years, during which there had been an unusually high number of amendments to the 2006 Ordinance, the Clay City Council had determined that the revised Ordinance contained too many errors, omissions, contradictions and redundancies; was too cumbersome upon the City and its citizens; and, in fact, had proved counterproductive to the City's development goals and objectives; and,

WHEREAS the City Council directed that the Ordinance be revised again so as to be easier to both understand and administer; to have a more practical overall application within the City; to better reflect and address the specific character, conditions, needs, goals and development objectives that are unique to the City of Clay, Alabama; and to be more compatible with adjoining zoning jurisdictions across Clay's municipal boundaries; and,

WHEREAS the City, with the assistance of a professional Planning Consultant, has prepared such revision on behalf of the Planning Commission, which in turn has ratified the revised Zoning Ordinance as complying with the City's Comprehensive Plan requiring updates to its development documents in order to stay current with what is occurring within City; and,

WHEREAS the Planning Commission, having given due public notice and held a hearing on the revised Ordinance and accompanying zoning districts, and has submitted its final report to the City Council; and,

WHEREAS the City Council has given due public notice of a second hearing related to the adoption of a Zoning Ordinance setting forth the revised districts, regulations and restrictions, and has held said public hearing thereon; and,

WHEREAS all requirements of Sections 77 and 79 of Title 11, Chapter 52, Article 4 of the Code of Alabama, 1975, as amended, with regard to the preparation of the report by the Planning Commission and subsequent action of the City Council have been met;

NOW, THEREFORE, the public welfare requiring it, the City Council of the City of Clay, Alabama, does hereby ordain and enact into law the following articles and sections:

**ARTICLE 2  
SHORT TITLE**

This Ordinance and all subsequent amendments, attachments and supplements thereto shall be known as the "Zoning Ordinance of the City of Clay, Alabama".

**ARTICLE 3  
THE OFFICIAL ZONING MAP**

The boundaries of each zoning district are delineated on the Zoning Map of Clay, Alabama, hereinafter referred to as the "Zoning Map". Said map and all notations, references, revisions, certifications and other information shown thereon shall be considered a part of this Ordinance and shall carry the same force and effect as if fully described therein. Said map shall be retained in the Clay City Hall.

**ARTICLE 4  
PURPOSE**

The zoning regulations and districts as set forth herein are made in accordance with the City of Clay Comprehensive Plan for the purposes of guiding development in accordance with existing and future needs, and in order to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity and general welfare of the City of Clay (hereafter referred to as the City). These regulations are designed to lessen congestion on the streets, to secure safety from fire, flood, and other dangers; to promote the public health and general welfare; to provide adequate light and air; to prevent the undesirable overcrowding of land; to avoid the undue congestion of population; to protect scenic areas; and to facilitate the adequate

provision of transportation, water, sewerage, schools, parks, and other infrastructure necessary to maintaining the quality of life within the community. These regulations are made with reasonable consideration of, among other things, the character of each area and its suitability for particular uses; the promotion of desirable living conditions and the sustainability of neighborhoods; the protection of property against blight and depreciation; securing efficiency in government expenditures; and conserving the value of land, buildings, and structures.

**ARTICLE 5**  
**APPLICATION OF REGULATIONS**

No building, structure or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations of this Ordinance for the district in which it is located except as otherwise provided herein.

**ARTICLE 6**  
**ANNEXATIONS**

Any and all properties annexed into the City of Clay after the effective date of this Ordinance shall immediately and automatically, upon the date of annexation, be rezoned C-U Current Use and shall be subject to the restrictions and requirements contained within said zoning district until such time as an appropriate zoning classification is determined and approved by the Clay Planning Commission and City Council through the planning and rezoning process. Provided, however, that if an appropriate City zoning classification is properly determined by the Clay Planning Commission prior to the date of annexation of such property or properties, said property or properties may be rezoned directly to said zoning classification at the time of annexation.

## ARTICLE 7 DEFINITIONS

For the purposes of this Ordinance, certain words and terms are defined as herein indicated and shall apply to all parts of this Ordinance. Unless specifically defined therein, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. All words used in the present tense shall include the future tense; all words in the singular number shall include the plural number; all words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise; the words "*used for*" shall include the meaning "*designed for*"; the word "*structure*" shall include the word "*building*"; the word "*lot*" shall include the words "*plot*" and "*tract*"; and the word "*shall*" is mandatory. The word *may* is permissive. The word *person* shall include a firm, corporation, association, organization, trust or partnership. The masculine gender shall include the feminine, and the feminine gender the masculine.

**Access Drive:** A private drive providing vehicular access between a public or private street and a parking area within development.

**Accessory Building or Structure:** A detached, subordinate building, the use of which is customarily incidental to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Accessory Dwelling:** A dwelling unit (other than a manufactured home) used in combination with a non-residential use, such as the family residence of a manager, business owner, or security guard, within the same building or on the same lot of a non-residential use. Accessory dwellings also include secondary units permitted on residential lots such as garage apartments and granny flats or mews.

**Accessory Use:** The term "accessory" shall be distinguished from "incidental" in that the former contributes to, aids or acts in support of, or is otherwise a necessary or desirable accompaniment to the principal use of a property. More specifically, an accessory structure or use:

- a. is clearly incidental to and customarily found in connection with a principal building or use;
- b. is subordinate to and serves a principal building or a principle use;
- c. is subordinate in area, extent and purpose to the principal building or principal use served;
- d. contributes to the comfort, convenience or necessity of occupants, a business or industry in the principal building or principal use served; and

e. is located on the same lot as the principal building or use served.

**Age-Restrictive Uses:** Any adult book store, adult mini-motion picture theater, adult motion picture theater, adult cabaret or dancing establishment, adult video establishment, peepshow or adult novelty shop, as defined respectively herein below, or similar businesses or operations, or any combination thereof; or, any establishment, business, operation, or premises, except such as may be specifically addressed in the Use Regulations of any zoning district other than C-S (Special Commercial) District, into which entry is restricted, by the owner or operator thereof, or by rule or by law, to persons of a specified minimum age.

**Agriculture:** Any agricultural use of land, buildings and structures, including but not necessarily limited to the planting, cultivating, harvesting and storage of field crops, hay or plants, and/or the raising and feeding of livestock (as defined in this Section), and including both commercial and non-commercial farms or farming.

**Alley:** A public street or way which affords only a secondary means of access to abutting property.

**Alter:** Any form of the word "alter" shall include any of the following:

- a. any change to the height or depth of a building or structure;
- b. any change in the location of any exterior wall of a structure;
- c. any increase in the interior accommodations of a building or structure;
- d. any repair, renovation, remodeling or reconstruction incurring a cost in excess of fifty percent (50%) of its fair market value prior to the commencement of such repairs, renovation, remodeling or reconstruction.

**Animal:** See **Livestock**.

**Animal Unit:** A numerical measurement set forth and used by this Ordinance for the purposes of counting different kinds of animals and regulating the density and/or population thereof.

**Apartment:** An individual dwelling unit within a building consisting of five or more attached, multi-family dwellings.

**Apartment Building:** A building consisting of five or more attached dwelling units, whether as a part of an apartment complex or an individual lot.

**Assisted Living Facility.** A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need

help with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

**Basement:** A story wholly or partly underground, but having no more than one-half (1/2) of its floor-to-ceiling height above the average ground level at the actual location of the building.

**Billboard:** See **Sign, Outdoor Advertising or Billboard.**

**Buffer Strip:** A landscaped strip of land, established to protect one type of land use from another type of use that is considered incompatible. Such a buffer strip or green belt is intended to separate and at least partially obstruct the view of adjacent land uses or properties from another.

**Buildable Area:** The area of a lot remaining after the minimum yard and open space requirements of the Zoning Ordinance have been met.

**Building:** Any structure having a roof supported by columns or walls designated or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

**Building Height:** The vertical distance from average grade level to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height between eaves and ridge for gable, hip and gambrel roofs.

**Building, Main or Principal:** A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building.

**Building Line:** The extreme overall dimensions of a building as staked on the ground, including all area covered by any vertical projection to the ground of the overhang of walls, roof or any other part of a structure, whichever is nearest to the property line.

**Building, Non-Conforming:** See **Non-Conforming Building.**

**Business Sign:** See **Sign, Business.**

**Caliper:** The diameter of the trunk of a tree measured six inches above grade level.

**Cemetery:** Land used or intended to be used for the burial of the dead.

**Centerline, Street:** A line running parallel with street right-of-way which is half the distance between the extreme edges of the official right-of-way.

**Certificate of Occupancy:** Final certification issued by the duly authorized representative of the City upon a building or premises or part thereof being completed or otherwise made ready for occupancy or use. Such certification indicates conformance with the provisions of this Ordinance as well as with other applicable codes and ordinances, and is considered final approval for said occupancy or use; such certification *must* be issued prior to any occupancy or use may take place or commence.

**City Engineer:** A registered professional engineer, licensed as such by the State of Alabama, employed by the City or engaged as a consultant to the City.

**Clinic:** A building or portion thereof where patients are *not* lodged overnight, but are admitted for examination and/or treatment by physicians, dentists, optometrists or other members of the medical profession.

**Club, Private:** A premises, building or portion thereof owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but *not* primarily for profit or to render a service which is customarily carried on as a business.

**Church:** Building used for non-profit purposes by a recognized and legally established sect solely for purposes of worship.

**Commercial Farm or Farming:** See **Farm, Commercial**.

**Commercial Districts:** Zoning districts established by this Ordinance principally for occupancy by and use for varying degrees of retail sales, offices and other similar commercial businesses. Said districts are differentiated in a hierarchical manner so as to facilitate and promote the compatibility and consistency of development and uses *within* a district, and to facilitate and promote reasonable compatibility and orderly, rational, efficient and effective transitions *between* districts. Such zone or district is further distinguished, and for the purposes of this Ordinance shall be further defined as, any district for which the first letter or prefix of the code assigned such district is a "C" (e.g., C-N, C-G, C-S, etc.).

**Comprehensive Plan:** The official public document prepared and adopted by the Planning Commission in accordance with Section 11-52-8 of the Code of Alabama, as amended,

consisting of maps, charts, and textual material that constitutes a policy guide to decisions about the physical and social development of the City of Clay.

**Conditional Use:** A use that, owing to some special characteristics attendant to its operation or installation (e.g., potential danger, smoke or noise), may be permitted in a district subject to special requirements different from the usual requirements for the district in which the conditional use may be located. Such uses would not be considered appropriate generally or without restriction throughout a particular district but which, if controlled as to number, area, location, size, relation to the neighborhood, etc., would not be detrimental to the public health, safety or general welfare.

**Convenience Store:** A retail store containing less than 4,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies – excluding automotive fuel – to customers who purchase only a relatively few items (in contrast to a supermarket).

**Covenant:** A written agreement requiring or restricting the performance of some action or activity. Covenants run with the land, and should be enforced by private landowners and *not* the municipality (unless they are imposed *by* the municipality). This term may also include deed restrictions.

**Daycare:** A facility which exclusively provides supplementary parental care and supervision and/or instruction to children under sixteen (16) years of age during the entire or any portion of the day, but not for lodging of said children overnight as in a boarding home or school.

**Daycare, Home:** A single family dwelling occupied by a family wherein supplementary parental care and supervision and/or instruction is provided to *no more than* six (6) children, excluding those of the resident family, under sixteen (16) years of age during the entire or any portion of the day. The operator of a home day care is a resident of the home in which said day care is operated. Such operations shall be uses incidental to the principal use of the premises for residential purposes, and will be allowable as *home occupations* on appeal.

**Deed Restriction:** A restriction upon the use of a property placed in a deed running with the land and enforced by private landowners or homeowner or condominium associations.

**Density:** The number of units, whether animal or dwelling, per acre of land.

**District:** See **Zoning District**.

**Duplex:** See **Dwelling, Two-Family or Duplex.**

**Dwelling:** A building containing one or more dwelling units used for residential purposes. In the case of a building having two or more portions divided by one or more party walls forming a complete separation(s), each such portion shall be considered a separate dwelling.

**Dwelling, Single Family:** A building exclusively designed for or occupied by one family, and having only one dwelling unit from the ground to the roof and independent outside access.

**Dwelling, Two-Family or Duplex:** A building designed exclusively for occupancy by two (2) families living independently of each other under one roof.

**Dwelling, Multi-Family:** A building used or intended for use as a dwelling for three (3) or more families living independently of each other under one roof, or as an apartment building.

**Dwelling Unit:** One or more rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.

**Easement:** A grant of one or more of the property rights by the owner to, or for use by, the public, a corporation, or another person or entity.

**Erect:** The word "erect" or "erected" includes built, constructed, reconstructed, moved upon, or any physical operation required for building on the premises. When used in connection with signs, "erect" shall mean to build, construct, attach, hang, place, suspend or affix.

**Family:** Any one (1) or more of the following:

- a. a single individual occupying a dwelling unit.
- b. two (2) or more persons related by blood, marriage or adoption occupying a dwelling unit.
- c. not more than four (4) unrelated persons occupying a dwelling unit.
- d. not more than eight (8) related or unrelated persons who are the functional equivalent of a family in that they live together, participate in such activities as meal planning, shopping, meal preparation and the cleaning of their dwelling unit together and who are part of a community based residential home which qualifies as a community living arrangement licensed by the Alabama Department of Human Resources or other

appropriate federal or state agency having jurisdiction, where the persons occupying the home are handicapped persons under the terms of the Fair Housing Amendments Act of 1988, and where the operator of the home provides room and Board, personal care, rehabilitative services and supervision in a family environment. The presence of staff persons in a home meeting this definition shall not disqualify the group of persons occupying the dwelling unit as a family.

**Farm, Commercial:** The agricultural use of property or land primarily for the purpose of generating income or as the principal occupation of the resident(s) or user(s) thereof.

**Farm, Hobby:** See **Farm, Non-Commercial.**

**Farm, Non-Commercial:** Agricultural use of property or land, from which the income generated is incidental to the total household income of the resident(s) or user(s) thereof.

**Fence:** Any artificially constructed barrier of any material or combination of materials (other than a building) erected to enclose or screen areas of land, or used as a boundary or means of protection or confinement.

**Fence, Privacy:** As distinguished from a *boundary* fence, a privacy fence is typically intended to block or screen part (or all) of a property or use from the view of neighboring properties. Such fences are usually allowed or required to be solid and taller than other types of fences.

**Floor Area:** Also considered the "gross floor area" consisting of the gross horizontal areas of all floors as measured from the exterior faces of the exterior walls of a building, but *excluding* basements and cellars.

**Fowl:** A sub-group of animals or livestock that distinguish themselves by having wings, including chickens, ducks, geese, tropical or exotic birds, etc.

**Fowl House:** An enclosed or partially enclosed agricultural structure used for the keeping and raising of two or more chickens or other fowl.

**Frontage, Street:** Distance measured along a highway or street right-of-way.

**Garage Apartment:** A building of which a portion is used for private storage and/or parking of a motor-driven vehicle(s) and the remainder of which is to be used as a completely

independent and separate single-family living unit for rental or non-profit purposes. Such a dwelling unit is an incidental use to that of the main dwelling for a residence.

**Grade:** The average level of the finished ground surface adjacent to the exterior walls of the building.

**Grading.** The movement of dirt, top soil, grass, native material, landscaping or other forms of surface material which will result in a difference of six (6) inches or greater from the original elevation.

**Greenway:** An open space corridor that links urban, suburban, and rural communities to natural and scenic areas with a network of connected trails, walkways, and natural preservation areas.

**Group Home:** A dwelling shared as a residence by persons who reside together as a single housekeeping unit, in which staff persons may provide supervision, counseling, treatment or therapy for the residents therein, and which may be licensed by, certified by, registered with, or otherwise authorized, funded or regulated, in whole or in part, by an agency of the state or federal government. The term shall include adult care homes, homes for the chronically mentally ill, homes for abused women or children, group care agencies, and similar residential living arrangements for handicapped persons, but shall not include boarding houses, homes for the developmentally disabled, nursing homes, substance abuse treatment facilities, or any facility providing treatment, counseling, or therapy to patients or clients who do not reside on the premises.

**Guest House:** A structure which shall be for temporary occupancy and shall *not* be used for rental purposes. Such uses will be considered incidental to the main dwelling on the property for residential purposes.

**Hardship:** Generally where, owing to special conditions, the literal enforcement of the provisions of this Ordinance would deprive a person or persons of rights commonly enjoyed by others in the same district. Such "hardship" shall include or be considered the same as "*unnecessary hardship*", and such determination must further be based on the criteria set forth in Article 18 of this Ordinance.

**Hardship, Personal or Self-Imposed:** As distinguished from "(unnecessary) hardships", these types of hardships will include all other situations that do *not* meet the criteria set forth for proving (unnecessary) hardship in Article 18 of this Ordinance. Such hardships would include situations where a person or persons cause or bring about the condition necessitating a variance, whether by their own action, inaction, knowledge or lack of

knowledge, etc; furthermore, such hardships shall *not* be considered an appropriate basis for compelling issuance of a variance.

**Hobby Farm:** See **Farm, Non-Commercial**.

**Home Daycare:** See **Daycare, Home**.

**Home Occupation:** Any occupation or activity which is clearly incidental to use of a premises for dwelling purposes, and which is carried on wholly within a main or accessory building by a member or members of a family residing on said premises. Such profession, activity or use is operated as a business or otherwise for financial gain, and is:

- a. *clearly* incidental, subordinate and secondary to the use of the property for residential purposes;
- b. is located in a residential district;
- c. is created and operated as a sole proprietorship; and,
- d. does not alter or change the exterior character or appearance of the property, or affect the residential character and integrity of the neighborhood.

**Incidental Use:** A secondary or subordinate use of property on which a primary or principal use has already been established, but which is *not* necessary to that principal use, and is not customarily associated with or considered accessory to such principal use. Such uses shall be considered "Special Exceptions" as defined herein, and shall accordingly be subject to prior approval by the Zoning Board of Adjustment. Such uses may include but not necessarily be limited to home occupations, garage apartments, guest houses and home daycares.

**Identification Sign:** See **Sign, Identification**.

**Impervious Surface:** Any surface or structure, composed of non-porous materials, that prevents natural absorption of runoff into the ground.

**Improve, Improved or Improvements:** Any development of land or buildings through the expenditure of money or labor that is designed to do more than merely replace, repair or restore to original condition. Improvements are generally considered permanent and fixed, and generally increase the value of the property.

**Independent Living Facility.** A residential building or complex, which groups seniors for the purpose of social interaction and mutual support in a common interest community. Group

facilities may be provided on premises for recreation and social interaction, but only limited support services are typically provided.

**Industry:** Generally, manufacturing and treatment of products and materials.

**Industrial Zones or Districts:** Zoning districts established by this Ordinance principally for occupancy by and use for varying degrees of industrial operations and other similar or related uses. Said districts are differentiated in a hierarchical manner so as to facilitate and promote the compatibility and consistency of development and uses *within* a district, and to facilitate and promote reasonable compatibility and orderly, rational, efficient and effective transitions *between* districts. Such zones or districts are further distinguished, and for the purposes of this Ordinance shall be further defined as, any district for which the first letter or prefix of the code assigned such district is an "I" (e.g., I-1, I-2, I-3, etc.).

**Institution or Institutional Use:** A structure or land occupied by a group, cooperative, board, agency or organization created for non-profit purposes, or for public use or services, including but not limited to churches, schools, hospitals, fraternal orders, etc.

**Intermittent Lighting:** See **Lighting, Intermittent.**

**Junk:** Old, used, dilapidated, scrap or abandoned metal, paper, building material and/or equipment, bottles, glass, appliances, furniture, tools, implements or portions thereof, machinery or motor vehicles or parts thereof, plastic, cordage or any other items, material or waste that has been abandoned from its original use, and may or may not be used again in its present or in some other form.

**Junk Storage:** The open storage of any of the items or materials defined above as "Junk" in such a way that is visually exposed to adjoining properties; is present in such quantity (or quantities) that the health, safety or esthetic well-being of the surrounding area is compromised. Any such storage maintained on a premises for a period exceeding thirty (30) days shall hereafter be considered a "Junk or Salvage Yard" as further defined herein, and will be treated accordingly.

**Junk Yard or Salvage Yard:** A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or other discarded material; or, for the collecting, dismantling, storage and/or salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof. The presence on any lot or parcel of land of two (2) or more motor vehicles which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have

been *or are intended to be* removed for reuse *or* sale, shall constitute *prima-facie* evidence of a junk or salvage yard.

**Kennel:** A lot or premises on which more than three (3) dogs are either permanently or temporarily boarded.

**Kindergarten:** See **Nursery School or Kindergarten.**

**Lighting, Intermittent:** Any flashing light, including signs that spell messages, simulate motion or form various symbols or images.

**Livestock:** Also “farm animals”, these are any animals of any kind – including fish and fowl, cows, horses, pigs, sheep, goats, donkeys, mules, hogs, llamas, emus, etc. – whether kept for personal pleasure (e.g., as pets) or raised/bred for profit, sale or other commercial purposes, and which are *not* boarded (i.e., housed, watered, fed) and kept primarily inside the property owner’s dwelling/residence.

**Lot:** Parcel of land shown on a recorded plat or on the official zoning map, or any piece of land described by a legally recorded deed.

**Lot Area:** The area contained within the lot lines of the individual parcels of land, excluding space within any street or ultimate right-of-way, but including the area of any easement. Lot area shall be measured to the legal right-of-way line of the street.

**Lot, Corner:** A lot abutting two (2) or more streets at their intersection.

**Lot Coverage:** The portion of a lot which is occupied by impervious surfaces, including but not limited to buildings, parking areas, and sidewalks.

**Lot Frontage:** Distance measured along the Front Lot Line. When a lot fronts on a curved street, the frontage shall be determined by utilizing the arc length.

**Lot, Interior:** Any lot which is not a "corner lot".

**Lot, Through:** A lot other than a "corner lot" that abuts two (2) streets.

**Lot, Depth:** The mean (average) horizontal distance between the front and rear lot lines.

**Lot, Width:** The width of a lot as measured at the front building setback line.

**Main Building:** See **Building, Main or Principal.**

**Manufactured Home or Housing:** A generic term that describes single family structures that are manufactured in a factory rather than on site, and are transportable in one or more sections in order to be used as a place of human habitation. For the purposes of this Ordinance, this term shall include “mobile homes”, “modular homes” (except as defined otherwise herein below), “manufactured homes” and “manufactured buildings”, as defined respectively in the Code Of Alabama and administered by the Alabama Manufactured Housing Commission; and “Mobile Home” as defined herein, except where the context of a regulation or requirement indicates a distinction.

**Mini-Warehouse:** A structure or group of structures that is partitioned for the leasing of individual storage spaces and is used exclusively for the storage of non-explosive and non-volatile materials. Such facility or its site is not used for wholesale or retail sales operations, and the individual storage spaces do not exceed eight hundred (800) square feet.

**Mobile Home:** A structure, transportable in one or more sections; is at least eight (8) body feet in width and at least thirty-two (32) body feet or more in length; which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation; and when connected to the required utilities, includes plumbing, heating, air-conditioning and electrical systems contained therein. For the purposes of this Ordinance, and unless otherwise specified within a regulation or requirement, a mobile home shall be considered a “Manufactured Home”.

**Manufactured Home Park:** An area containing one or more mobile homes and/or recreational vehicles (including travel trailers) used as living facilities, or an area containing one or more spaces designed or intended for parking of mobile homes and /or recreational vehicles (including travel trailers) to be used as living facilities.

**Modular Home:** A structure that is distinguished from, and is explicitly not, a manufactured home, mobile home or house trailer, the manufacture and construction of which must be certified as complying with ICC Construction Code(s) (not just HUD codes); it must have a 7:12-pitch shingle roof, front and back porches, and no chassis in any form; and it must be crane-installed onto a permanent foundation that also extends fully under the front porch. Such homes shall be allowed within any single family zoning district following approval from the Zoning Board of Adjustment, in a public hearing, that the structure complies with this definition and will be compatible with the existing homes on surrounding properties.

**Multi- or Multiple Family Dwelling:** See **Dwelling, Multi-Family.**

**Neighborhood Commercial Uses:** Non-residential uses determined by the Planning Commission to be appropriate or acceptable within or adjacent to a residential area based on an analysis of such factors as size, scope, scale, design; having a local customer base; frequency of repeat customers; and having minimal potential for adversely affecting surrounding residential properties in any way.

**Non-Commercial Farm or Farming:** See **Farm, Non-Commercial.**

**Non-Conforming Building:** Any building or structure that does not meet the limitations on or requirements for building size, dimensions or location on a lot, for the district in which such building or structure is located, and for the use to which such building is being put. For the purposes of this Ordinance, such buildings or structures shall be considered "non-conforming uses", and will be treated accordingly.

**Non-Conforming Lot:** A lot the area or dimension of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

**Non-Conforming Use:** The use of any building or land which was lawful at the time of passage and adoption of this Ordinance or amendment thereto, but which does *not* conform -- after such passage and adoption -- with the use regulations of the zoning district in which it is situated.

**Nursery School or Kindergarten:** Any premise or portion thereof used for educational work or parental care of children of less than the age required for enrollment in the public school system.

**Nursing Home:** A home for the aged or infirm in which three (3) or more persons (not of the immediate family) are received, kept or provided with food and shelter or care for compensation. Such operations do *not* include hospitals, clinics or similar establishments devoted primarily to the diagnosis and treatment of the sick or injured.

**Office:** A building, room or space where professional, clerical, administrative and similar activities are performed.

**Off-Premise Sign:** See **Sign, Off-Premise.**

**On-Premise Sign:** See **Sign, On-Premise.**

**Open Space:** Land, not covered by parking areas, rights-of-way or buildings other than recreational structures, which is landscaped or left in a natural state as required by the provisions of this Ordinance and the City of Clay Subdivision Regulations, and which is intended for natural or scenic preservation and/or passive recreational purposes.

**Open Space, Common:** Land area within a development that is held in common ownership and maintained by a homeowners' association of all of the residents for recreation, protection of natural land features, amenities or buffers; is freely accessible to all residents of the development; and is protected by covenant and the provisions of this Ordinance to ensure that it remains in such uses. Common open space does not include surface water bodies (i.e., rivers, streams, lakes or ponds) nor land occupied by common driveways or parking areas, or street rights-of-way; nor does it include lots for single family or multi-family dwellings. Common open space shall be left in a natural state or landscaped, except in the case of recreational structures.

**Outdoor Advertising Sign:** See **Sign, Outdoor Advertising** or **Billboard**.

**Outside Storage:** The keeping of any goods, junk, material(s), merchandise or vehicles that are not wholly enclosed within a building or structure, and that are retained in the same place for more than twenty-four (24) hours (other than that necessary to and in association with construction under a valid building permit). The term "outside storage" shall not apply to fully-functional, completely-assembled vehicles, machines or items sold at retail and placed outside strictly for display purposes; however, it shall apply to any unattached parts of such vehicles, machines or items.

**Permitted On Appeal:** Uses specified as being "permitted on appeal" shall be considered "*special exceptions*" as further defined in this Section.

**Permitted Use:** Any of the uses of land and/or structures that are listed in the Permitted Uses subsections of the various zoning Districts contained within this Ordinance. Any use listed in the Permitted Uses subsection for any given zoning District are accordingly permitted by right (or upon appeal) in the District in question, while any uses of land or structure that are *not* listed in the Permitted Uses subsection for a given zoning District shall be understood to be *prohibited* in that District.

**Personal Hardship:** See **Hardship, Personal** or **Self-Imposed**.

**Pervious Surface:** Any surface, composed of porous materials, that allows absorption of runoff into the ground. Also referred to as "Permeable Surface".

**Plan:** The provisions for the development of land, including a subdivision plat and all information relating to the use, location and bulk of buildings and other structures; the intensity of use or density of development; streets and thoroughfares, sidewalks and parking facilities, common open space and public facilities. A plan can be categorized as one of the following types:

- a. **Development Plan.** A complete set of drawings prepared for a rezoning request, zoning approval or as otherwise may be required by this Ordinance. Such plan shall provide all information as necessary to determine conformance of the proposed development with the Zoning Ordinance and, where applicable, the City's Design and Construction Specifications.
- b. **Final Plat.** A complete and exact subdivision plan, typically prepared after all infrastructure improvements have been made, including all supplementary data prepared for official recording as required by statute. A final plat becomes a record map when it has been recorded with the Jefferson County Probate Judge.
- c. **Preliminary Plat.** A tentative subdivision plan, including all required supplementary data, indicating the layout of a proposed subdivision or land development as a basis for consideration prior to rezoning, subdivision and/or construction plan approval.

**Planned Unit District:** A zoning district established by this Ordinance principally for the development of and use for groups or clusters of individual dwelling units, or for structures containing more than one (1) dwelling unit, and accompanying accessory structures or uses. Such developments can also include the mixing of different types of land uses – e.g., public, commercial and institutional – in with the residences.

**Planned Unit Development:** Land under unified control to be planned and developed as a whole in either a single development operation or a definitively programmed series of development operations or phases. Such a development includes principal and accessory structures, and uses substantially related to the character and purposes of the total development. Construction of such a development takes place in accordance with general and detailed plans that include not only streets, utilities, lots, building locations, etc., but also in accordance with site plans for all buildings as they are intended to be located, constructed, used and related to each other, and additional plans for other uses and improvements on the land as related to the buildings.

**Planning Commission:** Citizens residing within the City that are appointed to develop and review plans, and to act as and be considered a "zoning commission" whose responsibility is to develop and maintain the City's comprehensive plan; to administer the City's subdivision regulations, including review and approval of plats; and to hear, review and make recommendations to the City Council regarding changes to this Ordinance, the official map, the zoning classification and use of individual properties, etc. Such recommendations are advisory *only*, and shall not be considered binding on the City Council, except in the case of subdivision plats where the planning commission is the approving authority. The Commission operates under the procedures generally outlined in Sections 11-52-1 through 11-52-85 of the Code of Alabama, as amended; Article 17 of this Ordinance; and any governing bylaws as may be adopted by said Commission.

**Portable Sign:** See **Sign, Portable.**

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

**Primary Front Yard:** See **Yard, Primary Front.**

**Primary Use:** See **Principal Use.**

**Principal Building:** See **Building, Main** or **Principal.**

**Principal Use:** The (single) primary, main or dominant operation, business or other such use of and taking place on a lot, parcel or premises.

**Privacy Fence:** See **Fence, Privacy.**

**Private Club:** See **Club, Private.**

**Private Drive:** As distinguished from a personal or private *driveway* serving a residence on an individual lot, a private drive is a *service road* or *access drive* serving as and maintained for access to cluster or multiunit developments.

**Product Advertising Sign:** See **Sign, Product Advertising.**

**Projecting Sign:** See **Sign, Projecting.**

**Pub Restaurant:** Any place or premises in which foods, refreshments, and malt or brewed beverages and/or table wines are offered for sale for consumption within the building in which the establishment is located, and which meets the following criteria:

- a. a dining area of at least 800 square feet, equipped with tables and chairs accommodating at least 25 persons at one time, is provided;
- b. at least one meal shall be served per day of operation;
- c. such place shall be duly licensed by the ABC Board for the sale of liquor, malt or brewed beverages and/or table wines for on-premises consumption; and
- d. the serving of such food or meals shall constitute the principal business of such establishment, with the serving of liquor, malt or brewed beverages and/or table wines being only an incidental part of the business. During any 90-day period, the gross receipts from the serving of meals and food shall constitute 60% (60 percent) or more of the gross receipts of the business.

**Residential:** The term "residential" or "residence" is applied herein to any lot, plot, parcel, tract, area or piece of land, or any building used or intended to be used exclusively for family dwelling purposes (but including accompanying uses specified herein).

**Residential Zone or District:** Any zoning district established by this Ordinance or subsequent amendment thereto wherein the primary use is for residential purposes. Such zone or district is further distinguished, and for the purposes of this Ordinance shall be further defined as, any district for which the first letter or prefix of the code assigned such district is an "R" (e.g., R-E, R-L, R-M, R-H, R-P, R-R, etc.).

**Right-Of-Way:** The total width of any land reserved or dedicated as a street, pedestrian way, or for other public or private use.

**Right-of-Way Line:** The right-of-way line shall be considered a property line, and all setback requirements provided for in this Ordinance shall be measured from said right-of-way line.

**Salvage Yard:** See **Junk Yard** or **Salvage Yard**.

**Secondary Front Yard:** See **Yard, Secondary Front**.

**Self-Imposed Hardship:** See **Hardship, Personal** or **Self-Imposed**.

**Service Station:** Any building, structure or land used primarily for the dispensing, sale or offering for sale (at retail) of any automobile fuels, oils, other supplies or accessories and

minor servicing, but *not* including major repair work such as motor overhaul, body and fender repair or spray painting.

**Setback:** Distances between buildings, structures or uses and the property lines set forth within the zoning districts that determine the minimum sizes of the various yards to be required.

**Sign:** Any form of publicity visible from a public street or highway directing attention to an individual activity, business, service, commodity or product, and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks or trade name, or other pictorial matter designed to convey information concerning same, and displayed by means of bills, panels, posters, paints or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structure or supports.

**Sign, Business:** A sign which directs attention to a business, profession, commodity, activity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached. Such sign may be free-standing, a projecting sign or a wall sign.

**Sign, Face:** The surface area of a sign devoted to a message or advertising display.

**Sign, Identification:** A sign which identifies a property or building by way of address, street number, building name or name(s) of person or persons residing in the dwelling unit upon the premises where such sign is located or to which it is attached. Such signs are *not* intended as "business signs", and are no larger than is minimally necessary to sufficiently perform its identification function when viewed from a street or roadway where it abuts the property in question.

**Sign, Off-Premise:** Any sign which directs attention to a business, service, product or activity *not* conducted, offered or sold as part of the business upon the premises where such sign is located; except, however, signs advertising the sale or lease of property upon which they are located.

**Sign, On-Premise:** A permanent sign erected upon, and maintained in conjunction with, the use of a specific parcel of property, identifying the name of the place, persons or organization occupying the premises, and/or designating the principal use or activity, or the principal product or service available upon the premises where such sign is located. Such signs should be fixed permanently onto a structure or otherwise freestanding provided being mounted on a permanent foundation, and may also include wall signs, projecting signs, business signs or identification signs.

**Sign, Outdoor Advertising or Billboard:** A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered or a commodity sold at a location other than where the sign is located, or the advertising upon which does not apply to the premises or any use of the premises where it is displayed or posted.

**Sign, Portable:** Any sign, whether on its own trailer, wheels or otherwise lacking a permanent foundation, and which is designed to be transported from one place to another. It is generally characteristic of such signs that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols.

**Sign, Product Advertising:** A sign erected and maintained in conjunction with the use of a specific parcel of property identifying the name of the place, persons or organization occupying the premises and/or designating a product or service available on the premises which is *not* the *principal* use, activity or product sold on the said premises.

**Sign, Projecting:** Any sign other than a "wall sign" that is located off the ground, and is affixed to an exterior wall or building face, and extends outward more than six (6) inches perpendicular to said wall or building face.

**Sign, Temporary:** A sign or advertising or promotional display constructed of cloth, canvas, fabric, paper, plywood or other light material and intended to be displayed for a short period of time *only*. Included in this category are retailers' signs temporarily displayed for the purpose of informing the public of a sale or special offer, banners, balloons, political signs, etc.

**Sign, Wall:** Any sign affixed directly to and lying flat on a building wall or vertical portion of the roof or awning, and not extending outward from said building more than six (6) inches. Wall signs shall include messages carved, inscribed or designed into a face of a building, and any sign painted or drawn onto a face of a building. For the purposes of this definition, "vertical" shall mean an angular measure of between 45 degrees (45°) and ninety degrees (90°) determined by the surface of such roof or awning and the ground surface of the property on which the building is located.

**Sign, Window:** A sign placed inside a window or upon the window panels) or glass, and which is visible from the exterior of the window.

**Silviculture:** The care and cultivation of forest trees, including site preparation, planting, pruning, thinning and harvesting.

**Single Family Dwelling:** See **Dwelling, Single Family**.

**Single Family Residential District:** Zoning districts established by this Ordinance principally for occupancy by and use for residential development of varying character and accessory uses. Said districts are differentiated in a hierarchical manner so as to facilitate and promote the compatibility and consistency of development and uses *within* a district, and to facilitate and promote reasonable compatibility and orderly, rational, efficient and effective transitions *between* districts.

**Site:** Area of a premises to be covered by a structure.

**Site (Development) Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

**Special Exception:** Generally uses that are "permitted on appeal", or are classified by this Ordinance as "incidental uses", for which no permit shall be issued except upon hearing by and with written approval of the Zoning Board of Adjustment, and further subject to such conditions as said Board may require to preserve and protect the character of a district.

**Specialty Shop:** A small-scale retail commercial business dealing specifically with goods or products associated with a specific, distinctively singular area of interest to a particular clientele.

**Specified Anatomical Area(s):** Less than completely and opaquely covered human genitals, public region, buttock, and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even where completely and opaquely covered.

**Specified Sexual Activities:** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

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

**Street:** A public thoroughfare which affords the principal means of access to abutting property.

**Street Frontage:** See **Frontage, Street.**

**Structure:** Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including but not limited to buildings.

**Structure, Non-Conforming:** See **Non-Conforming Building**.

**Structural Alterations:** Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders; provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizing shall *not* be considered a structural alteration.

**Subdivision:** A division of a lot, tract or parcel of land into two (2) or more lots, plats, sites or other subdivisions of land for the purpose, whether immediate or future, of sale, rent, lease, building development or other use.

**Temporary Building:** Portable, mobile or transportable temporary contractors' construction buildings, the use of which are incidental to construction operations being conducted on the same or adjoining lot or tract, will be allowed with permit in all districts provided they are *not* used as a dwelling. These buildings shall be removed upon completion or abandonment of such construction, or upon expiration of a period of one (1) year; however, at the end of said one (1) year period, application for a renewal permit may be made for a one (1) year extension.

**Temporary Sign:** See **Sign. Temporary**.

**Temporary Use:** A prospective use, intended for limited duration, to be located in a zoning district not permitting such use, but provided that such intended use does *not* constitute continuation of a non-conforming use.

**Thoroughfare:** See **Street**.

**Two-Family Dwelling:** See **Dwelling. Two-Family or Duplex**.

**Unnecessary Hardship:** See **Hardship**.

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

**Use, Accessory:** See **Accessory Use**.

**Use, Conditional:** See **Conditional Use**.

**Use, Incidental:** See **Incidental Use**.

**Use, Non-Conforming:** See **Non-Conforming Use**.

**Use, Permitted:** See **Permitted Use**.

**Use, Permitted On Appeal or Permitted On Appeal Only:** See **Permitted On Appeal**.

**Use, Primary or Principle:** See **Principle Use**.

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

**Use Regulations:** Restrictions and guidelines set forth in this Ordinance regarding the various types of uses and applicable conditions that are permitted in the various zoning districts within the City.

**Utilities:** Equipment or facilities usually connected to or part of a structure designed to provide services such as heat, light, power, communication, water, sewage disposal, etc.

**Variance:** A modification or relaxation of the strict application of the terms and provisions of this Ordinance where, owing to special conditions or circumstances, a literal enforcement of the provisions of this Ordinance will result in an unnecessary hardship. The Zoning Board of Adjustment has the power to grant such variances to alleviate a recognized hardship on individual parcels in the interest of allowing reasonable use of the building, structure or property which, because of unusual or unique circumstances, is denied by the terms of the Zoning Ordinance.

**Wall Sign:** See **Sign, Wall**.

**Window Sign:** See **Sign, Window**.

**Yard:** An open space between a building or use and the adjoining lot lines, unoccupied and unobstructed by any structure or use from the ground upward. In measuring a yard for determining appropriate widths and depths of same, the minimum distance between the lot line and the respective finished exterior wall shall be used; provided, however, that the cornice overhang does *not* exceed twenty-four (24) inches.

**Yard, Front:** A yard extending across the front of a lot between the side lot lines. On corner lots, the front yard shall be considered as parallel to the street upon which said lot has its *least* dimension.

**Yard, Primary Front:** The yard abutting the street on which adjacent dwellings commonly front, or toward which the front of the primary building faces.

**Yard, Rear:** A yard extending across the rear of a lot between the side lot lines. On all lots, the rear yard shall be in the rear of the front yard along the lot dimension opposite that along which the front yard extends.

**Yard, Secondary Front:** The yard fronting on a public street not meeting the definition of the **Yard, Primary Front**.

**Yard, Side:** A yard between the main building and the side lot line, and extending from the required front yard to the required rear yard.

**Zoning Approval:** Certification documenting conformance with the provisions of this Ordinance, such certification being issued by the Zoning Officer and required prior to the issuance of any building permit.

**Zoning Board of Adjustment:** Citizens residing in the City that are appointed to hear and decide appeals requesting reversal, modification or other examination of any order, requirement, provision, decision or determination made by any administrative official or governing body in the enforcement and administration of this Ordinance. In addition to such powers of administrative review, said Board has the responsibility for hearing and deciding cases of special exceptions and variances as set forth in Article 18 of this Ordinance, and operates under the procedures and guidelines generally outlined in Article 18 and any governing bylaws as may be adopted by said Board.

**Zoning Officer:** An appointed official whose primary responsibility is to oversee the enforcement and administration of the provisions of this Ordinance, and of the City's zoning function in general.

**Zoning District:** Zoning districts established by this Ordinance for the purpose of categorizing, controlling, guiding and regulating the development and use of land within the such districts and within the City as a whole. Said districts are differentiated in a hierarchical manner so as to facilitate and promote the compatibility and consistency of development and uses *within* a district, and to facilitate and promote reasonable compatibility and orderly, rational, efficient and effective transitions *between* districts.

**ARTICLE 8**  
**ESTABLISHMENT OF DISTRICTS**

**SECTION 801**  
**ZONING DISTRICTS**

In order to carry out the intent and purposes of this Ordinance, the City of Clay, Alabama, is hereby divided into the following zoning districts; the location, boundaries and area of which are and shall be as shown and depicted on the official Zoning Map:

- R-E Estate Residential District
- R-L Low-Density Single Family Residential District
- R-M Medium-Density Single Family Residential District
- R-H High-Density Single Family Residential District
- R-P Planned Development District
  
- R-R Rural Residential District
- A-G Agricultural District
  
- P-I Public and Institutional District
- P-U Public Utilities District
  
- C-N Neighborhood Commercial District
- C-G General Commercial District
- C-S Special Commercial District
  
- I-1 Light Industrial District
- I-2 Heavy Industrial District
- I-3 Mining and Manufacturing District
  
- C-U Current Use District

**SECTION 802**  
**INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists regarding the boundaries of any district shown on the Zoning Map, the following rules shall apply:

- 802.1** Where such district boundaries are indicated as approximately following the center lines of streets and alleys, lot lines, stream center lines, property lines or corporate limit lines, said lines shall be considered to be such boundaries.
- 802.2** In unsubdivided property or where a district boundary divides a lot, the location of such boundary – unless the same is indicated by dimensions shown on the Zoning Map – shall be determined by the use of the scale appearing on the Zoning Map.
- 802.3** 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 Zoning Board of Adjustment shall interpret the district boundaries.

**ARTICLE 9**  
**USE REGULATIONS FOR ZONING DISTRICTS**

**SECTION 901: R-E ESTATE RESIDENTIAL DISTRICT**

A district designed to provide primarily for the development and use of land for single family residential purposes over a larger, more spacious neighborhood environment with the City's largest lot, yard and house size requirements. However, in recognition of the substantially larger lot sizes, this district also affords property owners the opportunity to have limited agricultural use(s) as well – in conjunction with an established residence – *provided* such use(s) does not substantially alter the residential character of the property or surrounding residential areas.

**901.1 Permitted Uses:**

single family residences\*

customary accessory buildings or structures in accordance with Articles 10 and 11

livestock kept for personal use only (i.e., not for commercial purposes)

customary accessory buildings or structures  
incidental to the keeping of the above livestock

non-commercial farming\*\*

home occupations in accordance with Article 15

\*The primary use of the property shall be residential, with any non-residential uses to be permissible only after the primary (residential) use has been established.

\*\*"Hobby" farms whose expected agricultural income is incidental to the total household income of the occupants.

**901.2 Area and Dimensional Requirements:**

Minimum Floor Area:

2,000 sq.ft. (one story)

1,600 sq.ft. (first floor)

2,600 sq.ft. (total for two stories)

Minimum Lot Dimensions:

2 acres total area  
200-foot minimum width

Minimum Yards:

45-foot front yard set-back  
35-foot rear yard set-back  
20-foot side yard set-backs

**901.3 Additional Requirements Regarding The Keeping Of Livestock:**

Given that the R-E Estate Residential District is first and foremost a residential district, the keeping or presence of any farm animals or livestock (as defined in this Ordinance) shall be subject to the Limitations, Conditions and Requirements on the Keeping of Animals set forth in Section 1012 of this Ordinance.

**SECTION 902: R-L LOW DENSITY SINGLE FAMILY DISTRICT**

A district designed to provide exclusively for single family residential housing, and to facilitate and maintain development of a somewhat more spacious neighborhood environment generally through relatively larger lot, yard and house size requirements.

**902.1 Permitted Uses:**

single family dwellings

customary accessory buildings or structures in accordance with Articles 10 and 11

home occupations in accordance with Article 15

**902.2 Area and Dimensional Requirements:**

Minimum Floor Area:

1,600 sq.ft. (one story)

1,400 sq.ft. (first floor)

2,200 sq.ft. (total for two stories)

Minimum Lot Dimensions:

20,000 sq.ft. total area

100-foot minimum width

Minimum Yards:

35-foot front yard set-back

35-foot rear yard set-back

10-foot side yard set-backs

**SECTION 903: R-M MEDIUM DENSITY SINGLE FAMILY DISTRICT**

A district intended for single-family residential neighborhoods of a slightly more compact and interactive nature, characterized by a moderate density of approximately three dwellings per acre.

**903.1 Permitted Uses:**

single family dwellings

customary accessory buildings or structures in accordance with Articles 10 and 11

home occupations in accordance with Article 15

**903.2 Area and Dimensional Requirements:**

Minimum Floor Area:

1,200 sq.ft. (one story)

900 sq.ft. (first floor)

1,400 sq.ft. (total for two stories)

Minimum Lot Dimensions:

13,500 sq.ft. total area

85-foot minimum width

Minimum Yards:

30-foot front yard set-back

35-foot rear yard set-back

10-foot side yard set-backs

**SECTION 904: R-H HIGH DENSITY SINGLE FAMILY DISTRICT**

A district intended for single-family residential neighborhoods in a compact neighborhood environment through relatively small lot, yard, and house size requirements. These neighborhoods provide locations for affordable, higher-density single family residential developments including garden homes, patio homes and the like.

**904.1 Permitted Uses:**

single family dwellings

garden home or patio home subdivisions in accordance with Section 904.4 below

customary accessory buildings or structures in accordance with Articles 10 and 11, provided further that there shall be no more than one such accessory building or structure per parcel or lot; said building or structure shall be one (1) story only, and shall not exceed one thousand and two hundred (1,200) square feet in area; and said building or structure shall further comply with the separation and setback requirements of Section 904.3.d below

home occupations in accordance with Article 15

**904.2 Area and Dimensional Requirements:**

Minimum Floor Area:

- 1,200 sq.ft. (one story)
- 900 sq.ft. (first floor)
- 1,400 sq.ft. (total for two stories)

Minimum Lot Dimensions:

- 5,500 sq.ft. total area or less
- 50-foot minimum width

Minimum Yards:

- 25-foot front yard set-back
- 35-foot rear yard set-back
- 0-foot side yard setbacks (see below)

**904.3 Building Separation and Other Setback Requirements:**

- a. Dwelling units must be separated by no less than fifteen (15) feet side to side (outside wall to outside wall).
- b. No dwelling shall be located closer than 25 feet to the nearest boundary line of an abutting R-E or R-L District, and no closer than 15 feet from the nearest boundary line of an abutting R-M District.
- c. No dwelling unit shall be located nearer a private drive than ten (10) feet.
- d. Accessory buildings and structures shall be located a minimum of 16 feet from the principle structure; shall maintain the same side setback as the principle structure; and shall maintain a rear yard setback of not less than five (5) feet

**904.4 Supplemental Regulations Pertaining to Garden Homes and Patio Homes:**

- a. Subdivision of lots for garden/patio homes shall be restricted to tracts with a minimum site area of three (3) acres.
- b. Minimum rear yards may be reduced to 20 feet upon approval by the Planning Commission.
- c. If all parking access is from the rear of property, i.e., all lots are rear-loaded with the driveways located behind the houses, front porches may extend into the minimum front yards.
- d. All utilities shall be placed underground, and all lots shall be served by public water and sewer.

**SECTION 905: R-P PLANNED DEVELOPMENT DISTRICT**

Planned Development Districts are intended to provide an optional method of land development which invites imaginative proposals for unique and innovative design ideas. Areas so established shall be characterized by a unified building and site development program (approved through and as part of the zoning) providing for coordinated open space and architectural treatment, while at the same time providing the broadest possible flexibility in the design, types, and densities of residential, commercial and institutional land uses, and especially in the mixing thereof.

In addition, though application for R-P Planned Development zoning requires more information up-front, there are great incentives for approaching a new development in this manner:

- **Variable Dimensional Zoning Standards.** Except as otherwise provided herein, standards for lot width, building height, floor area ratio, yard dimensions, off-street parking and loading, landscaping and screening, fences, signs, and other standards may vary from those established elsewhere in this Ordinance if such variations are approved by the Planning Commission.
- **Variable Subdivision Design Standards.** Dimensional and design standards for subdivisions and subdivision improvements such as streets, blocks, sidewalks and parkways (but excluding improvement construction standards) may vary from those established in the City of Clay Subdivision Regulations.
- **Mixed Land Uses.** Allows the mixing of different housing and land use types without having to zone and plat each section separately and individually, and deal with any unnecessary buffer and setback requirements between the districts.
- **Progressive Development Staging.** The developer may submit plats in stages to the Planning Commission if they are in substantial compliance with the approved plan.

**905.1 Permitted Uses:**

- single family dwellings
- duplexes or two-family dwellings
- residential townhouses or townhomes
- garden homes and patio homes

cottage and conservation subdivisions in accordance with Section 1202

group homes (permitted on appeal)

multi-family dwellings, apartments or condominiums

manufactured home park or subdivision in accordance with Section 1203

locally-oriented commercial businesses that are compatible with surrounding residential development

recreational, religious or educational facilities normally desirable in an orderly and attractive residential area

recreational vehicle park or campground

accessory buildings or structures customarily incidental to the above permitted uses, and in accordance with Articles 10 and 11

other land uses or facilities as may be determined appropriate by the City through the rezoning and Development Plan approval process

### **905.2 Area and Dimensional Requirements:**

The minimum site area for a Planned Development District is five (5) acres.

### **905.3 Development Considerations and Guiding Principles:**

- a. The Development Plan should, among other things, indicate the proposed treatment of the following:
  - (1) Internal stability, safety, attractiveness, order and efficiency in the use of land through the provision of adequate light, air and open space for dwellings and other facilities, and through consideration for the proper functional relationship of all dwellings, structures and/or uses within the Planned Development District.

- (2) The relationship of buildings and structures to the boundaries of the Planned Development District; and to dedicated streets and private drives within the District.
- (3) The location and treatment of parking areas for all non-residential uses.
- (4) General yard, setback and building separations within and between each different use area and residential type.\*

\*Even though a Development Plan is approved at the zoning level, a preliminary subdivision plat showing specific yard sizes, setbacks, etc. must still be submitted for review and approval before any work can begin.

- b. Open Space is considered an integral component of all Planned Developments approved under this zoning designation; and as such, open space should be provided according to the following benchmarks:
  - for developments containing 1 to 99 dwelling units, 200 sq.ft. per unit.
  - for developments containing 100 to 499 dwelling units, 220 sq.ft. per unit.
  - for developments containing 500 or more dwelling units, 230 sq.ft. per unit.
- c. Additional standards specific to Common Open Space (for all developments other than Conservation Subdivisions) require not only that a Common Open Space or network of such open spaces shall be provided; and that the Common Open Space shall be protected in perpetuity on the recorded plat/record map and by a binding legal document recorded with the deed as required in the Subdivision Regulations; but that Common Open Spaces shall be located and arranged on the site according to the following guidelines:
  - (1) No more than twenty-five (25%) percent of the required Common Open Space should be unbuildable, whether due to existing steep grades or other natural constraints or land disturbing activities. Common Open Space areas should be naturally of such condition or improved to a condition to be suitable for the passive recreational use of the residents, including such uses as trails, playgrounds, picnic areas, etc. However, this guideline should not be interpreted to require the removal of any existing trees or other natural vegetation from Common Open Space areas.
  - (2) Common Open Spaces should be located and distributed throughout the development to be accessible to the largest practicable number of lots.

Non-adjoining lots should be provided safe, convenient access to the Open Space through trails, sidewalks or other pedestrian ways.

- (3) Common Open Spaces should be located between the front, side, or rear of opposing blocks, clusters, or lots and should not be located along the perimeter of the site in such a manner as to be adjacent only to the rear of dwelling units.

c. Additional Guiding Principles that should be considered in preparing a Development Plan for approval under an R-P zoning classification include the following:

- (1) Inclusion of at least three different lot sizes or housing types in the residential portion of the development.
- (2) Varied architectural design features (such as roofline articulation, color, and materials) and home placements that avoid the appearance of a long row of identical homes.
- (3) Internal streets should interconnect to the maximum extent practicable, and “complete streets” are strongly encouraged throughout the development.
- (4) Pedestrian and bicycle routes running throughout the district, with connections provided to existing or future adjoining development.
- (5) Including appropriate street trees, sidewalks, and curb and gutter in all street sections.
- (6) Alternative storm water treatment methods are not only permitted, but encouraged.
- (7) Having distinct entry features, such as porches or weather-covered entryways, on the houses.
- (8) Facing all structures toward the street, minimizing setbacks and setting the structures in proper proportion to their lot sizes.

**905.4 Procedure of Application for an R-P Planned Development District:**

- a. Pre-Application Conference.** Before filing any application for zoning as an R-P District, the prospective applicant shall submit, to the Planning Commission R-P Review Committee, plans, sketches and basic site information for consideration and comments as to the proposed development’s relation to the surrounding area and the general objectives regarding said area. These materials shall be submitted to the office of the City Manager at least 14 working days prior to the date set for the pre-application conference to allow adequate review time. Nothing in this section shall negate adherence to the City’s Subdivision Regulations and/or Design and Construction Guidelines.
- b. Application for Approval of an R-P District.** Only after the pre-application conference can a formal application for Rezoning to R-P District be initiated. In addition to the information normally required for a rezoning request, “Supplemental Materials” as called for in Section 905.5 shall be required and submitted together with the request.
- c. Exceptions.** Exceptions may be made regarding the extent of the required “Supplemental Materials” as part of an application for R-P zoning in cases where the subject property exceeds a total of 20 acres, or where the Planning Commission determines at the pre-application conference that there are special, unique, or unusual circumstances that warrant such exceptions. In such cases, the applicant shall be permitted to submit required “Supplemental Materials” in phases as the project’s planning and development progresses. However, such allowance shall in no way exempt the applicant from submitting all of the “Supplemental Materials” for review and approval prior to beginning construction of the development or any portion thereof.

In cases where an exception under this Section is determined to apply, the following materials shall be considered sufficient for the filing of an application for rezoning to R-P District:

- 1. Written Documentation

  - a) Items 1-5 specified in Section 905.5(A) of the “Supplemental Materials Required for the Development of an R-P District”.

- b) Estimated percentages of acreage to be devoted to each land use type including any sub-categories within residential, commercial, institutional, recreational, etc.
- c) Any proposed deed restrictions, covenants, and organizational documents shall accompany the layout plan at the time of submittal. Submittal shall include articles of incorporation and bylaws creating a homeowner's or condominium association, as applicable, for residential subdivisions.
- d) If there is a homeowner's or condominium association, as applicable, representing residents of the development, then membership in the association shall be mandatory and automatic for all homeowners of the development and their successors. The association shall have lien authority to ensure the collection of dues from all members. There shall be only one homeowner's or condominium association for the development.

2. Preliminary Site Plan

- a) Items 1-6 specified in Section 904.5(B) of the "Supplemental Materials Required for the Development of an R-P District".
- b) General delineation of areas to be devoted to each land use type including any sub-categories within residential, commercial, institutional, recreational, etc.
- c) General layout of proposed major roads and thoroughfares.
- d) General delineation of any phasing applicable to the request.

3. The Planning Commission further reserves the right to request additional information, which said Commission deems reasonable and necessary for the adequate review and evaluation of the project at its various stages of development.

4. Upon a recommendation by the Planning Commission for approval, all materials and plans and any modifications made thereto in the review and hearing processes, shall be considered binding on the subsequent development of the property while zoned as an R-P District. In the event

the Commission finds the proposal to be nonconforming to the intents and purpose of this Ordinance, as well as in consideration of the best interests of the area affected and the city as a whole, the reasons for such determination shall be set forth as public record in said Commission's recommendation for denial.

**905.5 Supplemental Materials Required for the Development of an R-P District.** Listed below is the information required to proceed with the development of an R-P District.

A. Written Documentation

1. Legal description of the total site, including statement of present and proposed ownership;
2. A statement of development objectives, including a description of the character of the proposed development, consistency with the Comprehensive Plan, and relationship to surrounding neighborhoods and other existing developments;
3. A development schedule indicating the approximate start date when construction can be expected to begin and be completed, and any applicable phasing of the construction;
4. A statement of the applicant's intentions with regard to future selling or leasing of all or portions of the development, including land areas, dwellings, etc.; and
5. Plan for or intended manner of permanent care and maintenance of open spaces, recreational areas, road rights-of-way, public utilities, etc.

B. Development Plan

1. Development name;
2. Legal title, quarter-quarter section(s), township, and range;
3. Scale, north arrow, and vicinity map;
4. Boundary survey and dimensions of property;

5. Delineation of all designated flood hazard areas, wetlands, and contiguous areas of 5,000 square feet and greater with slopes greater than 20%;
6. Delineation of proposed land use areas;
7. Proposed lot lines and dimensions;
8. Number of all existing and proposed residential structures, including:
  - a) locations of different housing types,
  - b) building locations and orientations,
  - c) number of units and stories, floor-to-floor heights, and total heights per building, and
  - d) floor areas of dwelling units;
9. Number of all existing and proposed non-residential structures, including:
  - a) types of uses proposed,
  - b) building locations and orientations, and
  - c) number of stories, floor-to-floor heights, total heights per building, and all floor areas;
10. Location and size of all areas to be conveyed, dedicated, or reserved as common open space, public parks, recreational areas, and similar public and semi-public uses;
11. Location of utilities, above-ground utility structures, and easements;
12. Street plan, including:
  - a) location and dimension of streets, alleys, driveways, access points,
  - b) notations of proposed ownership of streets,
  - c) location, dimensions, and capacities of parking areas,
  - d) service and loading zones, and
  - e) sidewalks, greenways, and other pedestrian and bicycle paths;
13. Location and design for drainage and on-site treatment of stormwater, including:
  - a) curbs and gutters, inlets, culverts, access to public storm sewer system,
  - b) drainage ways, vegetative swales, and
  - c) detention and retention elements;

14. A general landscape plan indicating treatments and materials used for private and common open spaces and the landscape treatment of the perimeter of the development including materials and techniques to be used.
- C. Any additional information determined by the Zoning Officer and/or City Engineer to be reasonable and necessary for evaluating the character and potential impact of the proposed development.

**905.6 Failure to Begin Construction.** Construction of the approved development plan must begin within one year from the time of its final zoning approval. If the development is to be constructed in stages, the construction of each stage shall begin within one year of the construction start times for each stage as described in the development schedule submitted as part of the requirements for the application. In all cases, progress towards completion of the development shall proceed in accordance with said development schedule; and failure to comply with this provision shall constitute a violation of the development plan.

**905.7 Conformance to the Approved Plan submitted for Approval of an R-P District.** Upon recommendation for and/or approval of a proposed R-P development, all materials, proposed development plans, etc., and any changes or modifications made thereto in the review and hearing processes, shall be considered binding on subsequent development of the affected property while zoned as a Planned Development District.

However, to facilitate minor adjustments to the approved development plan as may be required by the City Engineer or other circumstances unforeseen at the time of R-P District approval, the Zoning Officer is authorized to approve alterations to the final development plan which, in said officer's estimation, are incidental in scope. Such modifications shall not allow increases in land use intensity or in development density.

All other changes in the development plan shall be reviewed by the Commission, which shall determine the most appropriate course of action regarding said changes. The Zoning Officer and the Commission reserve the right to require further review, hearings, or complete re-submission under the procedures applicable to the initial approval of the R-P District zoning with regard to any changes that may substantially alter the proposal as originally approved.

**905.8 Plan Violation.** Any deviation from the development plan not approved in conformance with this Section shall constitute a violation of the approval establishing the R-P District zoning and shall subject the applicant/developer to the procedures and penalties set forth in Article 17 of this Ordinance.

**SECTION 906: R-R RURAL RESIDENTIAL DISTRICT**

A district designed to provide primarily for the use of land for single family residential purposes, but also to allow limited agricultural use(s) in conjunction with an established residence *provided* such use(s) does not substantially alter the residential character of the property or surrounding residential areas.

It is the express intent of this District to promote the health, safety and welfare of the animals kept on the R-R-zoned property while simultaneously recognizing and preserving the rights of adjoining property owners to the enjoyment of their own properties. The keeping of animals on R-R properties must be kept compatible with, and never impose adverse effects upon, the use and enjoyment of adjoining properties for residential purposes.

**906.1 Permitted Uses:**

single family residences\*

customary accessory buildings or structures in accordance with Articles 10 and 11

livestock kept for personal use only (i.e., not for commercial purposes)

customary accessory buildings or structures  
incidental to the keeping of the above livestock

non-commercial farming\*\*

home occupations in accordance with Article 15

\*The primary use of the property shall be residential, with any non-residential uses to be permissible only after the primary (residential) use has been established.

\*\*"Hobby" farms whose expected agricultural income is incidental to the total household income of the occupants.

**906.2 Area and Dimensional Requirements:**

Minimum Floor Area:

- 1,000 sq.ft. (one story)
- 800 sq.ft. (first floor)
- 1,200 sq.ft. (total for two stories)

Minimum Lot Dimensions:

21,780 sq.ft. total area or less\*

100-foot minimum width

\*Any future division of land shall have the Minimum Lot Size specified.

Maximum Lot Size: 2 Acres

Minimum Yards:

35-foot front yard set-back

35-foot rear yard set-back

15-foot side yard set-backs

**906.3 Additional Requirements Regarding The Keeping Of Livestock:**

Given that the R-R Rural Residential District is primarily a residential district, the keeping or presence of any farm animals or livestock (as defined in this Ordinance) shall be subject to the Limitations, Conditions and Requirements on the Keeping of Animals set forth in Section 1012 of this Ordinance.

## **SECTION 907:      A-G AGRICULTURAL DISTRICT**

A district designed to provide for larger lot or land areas on which the dominant or primary use is of an agricultural nature, and ordinarily for the purpose of generating profit. The A-G District is distinguished from the R-R Rural Residential District in that A-G is predominantly agricultural in nature, intended for a more rural setting, while R-R is predominantly residential in nature and intended to serve as a transitional zone between rural areas and traditional single family subdivision development.

### **907.1 Permitted Uses:**

single family dwellings

home occupations in accordance with Article 15

apiary

aviary

animal shelters

dairy

dog kennel with outside runs (no retail sales)

general (including commercial) farming

greenhouse and nursery (wholesale only)

manufactured homes, *permitted on appeal only*

poultry farm

rabbit and other animal farms

ranching

customary accessory buildings or structures in accordance with Articles 10 and 11, provided further that all buildings and structures in an A-G zoning district shall comply with the minimum front yard setback requirement set forth herein below.

**907.2 Area and Dimensional Requirements:**

Minimum Floor Area:

600 sq.ft. (one story)

Minimum Lot Dimensions:

2 acres total area

150-foot minimum width

Minimum Yards:

50-foot front yard set-back

50-foot rear yard set-back

20-foot side yard set-backs

**907.3 Additional Requirements:**

The minimum set-back of livestock barns shall be:\*

- 50 feet from adjoining property lines;
- 100 feet from road right-of-way lines; and,
- 120 feet from the nearest then-existing residence on any adjoining property.

\* Structures for housing more than twenty-five (25) head of livestock shall not be located closer than three hundred (300) feet to all property lines and street right-of-way lines.

The minimum set-back of fowl houses shall be:

- 100 feet from adjoining property lines;\*
- 300 feet from road right-of-way lines; and,
- 300 feet from the nearest then-existing residence on any adjoining property.

\* Poultry houses for housing more than five hundred (500) birds shall not be located closer than three hundred (300) feet to all property lines.

Swine shall not be housed, fed and/or watered within 100 feet of any adjoining property line, or within 300 feet of any road or road right-of-way.

**SECTION 908: P-I PUBLIC AND INSTITUTIONAL DISTRICT**

A district designed to provide for the development of land for public and semipublic uses, services and other similar institutional facilities or functions.

**908.1 Permitted Uses:**

cemeteries (whether in association with an existing church/place of worship or free-standing) in accordance with Section 908.4 herein below.

charitable/philanthropic organizations

churches and places of worship,  
including all structures normal and incidental thereto

convalescent/nursing homes, homes for the aged

day care, day nurseries and kindergartens

fire stations

government buildings (except for garages, repair or storage yards, warehouses and penal or correctional institutions)

hospitals

independent/assisted living facilities

libraries, museums, community centers and other

lodges, fraternal and social/youth organizations

not-for-profit membership clubs (e.g., lodges, fraternal and social/youth organizations)

post offices

schools

public parks and playgrounds

public service organizations

stadiums/places of assembly operated by non-profit organizations or public agencies

## **908.2 Area and Dimensional Requirements:**

Minimum Yards:

35-foot front yard set-back\*

35-foot rear yard set-back\*\*

35-foot side yard set-backs\*\*\*

\*There shall be no front yard setback required when all off-street parking is located to the rear of the principle building, or otherwise behind the front building line.

\*\*The rear yard setback may be reduced to 15 feet where said yard adjoins any non-residential zoning district.

\*\*\*There shall be no side yard setback required where said yard adjoins any non-residential zoning district; however, if the structure is not built to the side lot line, a minimum set-back of 10 feet shall be maintained.

## **908.3 Additional Requirements** (applicable only to newly established uses)

There shall be no more than 75% coverage of the lot area by buildings, structures and impervious surfaces.

In cases where a P-I District adjoins or abuts any residential zoning district, all of the required side and rear setback space may be utilized for parking space *except* the outermost footage that is required to be grassed or planted and maintained as a buffer strip or green belt in accordance with Sections 1008 and 1009.

No open or outdoor storage areas of any kind shall be permitted. Repair and work yards, dumpsters, utility appurtenances, loading and service areas, etc., shall be located behind the front building line and screened from public view in accordance with the provisions of Sections 1008 and 1009.

## **908.4 Supplemental Requirements for Cemeteries.** For all areas intended to provide for the development and/or use of land for the burial of the dead, but *not* necessarily in

association with a church or other religious institution, the following requirements shall apply:

- a. no interments/gravesites shall be made closer than 30 feet to any adjoining property line;
- b. columbaria and mausoleums shall be set back no less than 50 feet from any adjoining property line;
- c. no interments/gravesites shall be made within 150 feet of any water line or underground water supply; and,
- d. all other buildings or structures related to the cemetery use, including materials, shall be set back from adjoining property lines a minimum distance of 35 feet.

**SECTION 909: P-U PUBLIC UTILITIES DISTRICT**

A district designed to provide for the development and use of land specifically for the purpose of providing utility services, or for enhancing the level or quality of existing such services, and to do so in as unobtrusive and seamless a manner as possible (including minimizing visibility from adjacent businesses and dwellings through the use of existing topography and vegetation, and maximizing the distance between utility and any buildings on adjacent lots).

**909.1 Permitted Uses:**

public utilities such as sewage pumping or lift stations,  
power substations, gas peak shaving stations, water towers  
or pumping stations, etc.

radio and television stations, towers, etc.

(excluding cellular communication towers: see Section 1011)

**909.2 Area and Dimensional Requirements:**

- a. Minimum Setbacks where the adjoining property is developed: \*  
100 feet from any residential dwelling; or,  
50 feet from any non-residential structure.

\*For the purpose of these measurements, any perimeter fencing/screening of the utility facility shall be a structural member of said facility, and the required distance shall according be measured from the nearest such fencing/screening to the exterior wall of the adjoining structure.

- b. Minimum Yards where the adjoining property is undeveloped:  
35-foot front yard set-back  
35-foot rear yard set-back\*  
35-foot side yard set-backs\*\*

\*Rear yard may be reduced to 15 feet if the adjoining property is zoned commercial, industrial or utilities.

\*\*Side yard may be reduced to 0 feet if the adjoining property is zoned commercial, industrial, utility or institutional; however, if the structure is not built to the side lot line, a minimum set-back of 10 feet shall be maintained.

**909.3 Landscaped Buffer and Screening.**

- a. A landscaped buffer strip of at least fifteen (15) feet in width, planted and maintained along the perimeter of the facility in accordance with Sections 1008 and 1009 of the Ordinance, shall effectively screen the view of the facility from adjacent public ways and residential properties.
- b. For sites within 1,000 feet of a residence, screening shall include a decay-resistant, solid wood fence, brick or masonry walls, or a combination thereof.

**909.4 Security Devices.**

- a. The facility shall be fully secured with a minimum eight feet (8') high, dark vinyl coated steel or wood fence, brick or masonry wall, or combination thereof, to be installed around the entire perimeter of the facility on the *inside* of the required landscaped buffer strip, and otherwise in accordance with Sections 1008 and 1009 of this Ordinance.
- b. Other security measures shall include locks and alarms; also, approved barbed or razor wire and lighting of the facility shall be permitted, if deemed necessary to fully secure the facility.

**909.5 Access.** Driveways and parking shall be provided to assure access to the facility for maintenance or emergency services. In some cases, parking/access may be from an adjoining alley, public street or off-street parking area.

## **SECTION 910: C-N NEIGHBORHOOD COMMERCIAL DISTRICT**

A district intended for limited, small-scale commercial businesses and offices that, by the nature of such operations, are compatible with and serve the daily needs of surrounding neighborhoods, and provide convenient access for pedestrians and bicyclists. In addition to being compatible with adjoining residential areas, Neighborhood Commercial uses may, under certain conditions or in certain instances, be desirable complementary uses *within* a residential area.

### **910.1 Permitted Uses:**

neighborhood commercial uses approved by the Clay Planning Commission in accordance with Section 910.4 of this Section, including but not necessarily limited to those listed herein below (and not, specifically in the case of the C-N District, to infer that all uses listed below are necessarily permitted by right: see Section 910.4 below).

The following uses may be permitted provided that the gross floor area involved does not exceed 5,000 square feet:

business and professional offices

private training schools (music, dance, business, vocational, etc.)

The following uses may be permitted provided that the gross floor area involved does not exceed 3,000 square feet:

barber and beauty shops, salons, day spas

cafes and restaurants not serving alcoholic beverages  
for on-premises consumption

convenience stores with no gas pumps or service station  
and no sale of alcoholic beverages

daycare

drug stores

florist and gift shops

ice cream/soda parlors, coffee shops

laundromat

markets and delicatessens

other specialty shops

parks and playgrounds

pub restaurant

shoe repair and shoe shops

A single family dwelling or upper story dwelling may be permitted as an accessory use-

### **910.2 Area and Dimensional Requirements:**

Minimum Yards:

35-foot front yard set-back\*

35-foot rear yard set-back\*\*

35-foot side yard set-backs\*\*\*

\*There shall be no front yard setback required when all off-street parking is located to the rear of the principle building, or otherwise behind the front building line.

\*\*The rear yard setback may be reduced to 15 feet where said yard adjoins any non-residential zoning district.

\*\*\*There shall be no side yard setback required where said yard adjoins any non-residential zoning district; however, if the structure is not built to the side lot line, a minimum set-back of 10 feet shall be maintained.

### **910.3 Additional Requirements:**

No drive-through windows will be permitted.

No sales of alcoholic beverages of any kind will be permitted, with the sole exception being in a properly-permitted pub restaurant.

No open or outside storage or repair area of any kind will be permitted.

Outdoor seating areas may be permitted forward of the building line provided a continuous, unobstructed path of no less than five feet is maintained along the sidewalk fronting on the property.

#### **910.4 Neighborhood Commercial Uses Permitted:**

Before any rezoning, zoning approval, certificate of occupancy or business license is issued for any (new) use in a Neighborhood Commercial District, non-residential uses located within or adjacent to a residential area shall be closely evaluated by the Clay Planning Commission with regard to their relationship to the (existing and future) surrounding community. Such uses must be determined by the Commission to be compatible in size, scope, scale and design with the surrounding residential development, and to rely primarily on the residents living in that area or its immediately surrounding area for the majority of their business. It is also characteristic of such uses to have a high frequency of repeat customers, as an establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, personal services or food service. No commercial use shall be permitted that will in any way detract from the residents' safe and peaceful enjoyment of their neighborhood's living environment.

## **SECTION 911: C-G GENERAL COMMERCIAL DISTRICT**

A district designed to provide generally for most retail businesses and activities, and particularly for more intense or larger-scale commercial operations.

### **911.1 Permitted Uses:**

any use permitted in a C-N Neighborhood Commercial District  
(without size restrictions)

automotive service stations, however those providing major repair work or having  
any kind of outside storage shall be permitted on appeal only

banks and financial institutions

bowling alleys and other indoor recreations

bus stations

car sales and rentals

car washes

clinics and similar health-care facilities

commercial gyms

drug stores

eateries and food service businesses

funeral homes

garden shops and plant nurseries, farmer's markets

hotels or motels

indoor entertainment (theatres, etc.)

institutional uses

laundry and dry-cleaning pick-up stations

mini-warehouses

outdoor amusement operations

parks and playgrounds

post offices

printing, reprographic and publishing businesses

private clubs/lodge halls

private training schools (music, dance, business, vocational, etc.)

public assembly halls

radio stations (excluding towers)

retail stores and service establishments

sale of package liquor, beer, wine, etc. for off-premises consumption only

shopping centers

veterinary establishments (as distinguished from kennels) with no outside runs

## **911.2 Area and Dimensional Requirements:**

### Minimum Yards:

35-foot front yard set-back\*

35-foot rear yard set-back\*\*

35-foot side yard set-backs\*\*\*

\*There shall be no front yard setback required when all off-street parking is located to the rear of the principle building, or otherwise behind the front building line.

\*\*The rear yard setback may be reduced to 15 feet where said yard adjoins any non-residential zoning district.

\*\*\*There shall be no side yard setback required where said yard adjoins any non-residential zoning district; however, if the structure is not built to the side lot line, a minimum set-back of 10 feet shall be maintained.

### **911.3 Additional Requirements:**

In cases where a General Commercial district adjoins or abuts *any* residential zoning district, all of the required side and rear setback space may be utilized for parking space *except* the outermost footage that is required to be grassed or planted and maintained as a buffer strip or green belt in accordance with Sections 1008 and 1009 of this Ordinance.

No establishment offering the sales of alcoholic beverages shall be permitted within 500 feet of any church, school, public park or playground, as measured from the nearest lot line of the establishment to the nearest lot line of the institutional district, institution, park or playground as applicable.

No open or outdoor storage or repair areas of any kind shall be permitted except storage involving finished goods or items sold on-site at retail. Such storage shall not include heavy equipment or bulk materials and shall only be permitted behind the front building line.

Outdoor seating areas may be permitted forward of the building line provided a continuous, unobstructed path of no less than five feet is maintained along the sidewalk fronting on the property.

**SECTION 912: C-S SPECIAL COMMERCIAL DISTRICT**

A district intended to provide for more specialized or less common types of retail businesses or establishments; for businesses offering age-restricted products or services; and otherwise for commercial uses determined to be inappropriate, unacceptable or not otherwise permitted in any other commercial district.

**912.1 Permitted Uses:**

bars and taverns

cafes and restaurants offering the sale of alcoholic beverages  
for on-premises consumption

dance halls

night clubs

palm-reading and fortune-telling

veterinary clinics with outside runs

any other commercial use not specifically addressed  
or determined to be comparable to uses addressed  
in this or any other zoning district shall be *permitted on appeal*

**912.2 Area and Dimensional Requirements:**

Minimum Yards:

35-foot front yard set-back\*

35-foot rear yard set-back\*\*

35-foot side yard set-backs\*\*\*

\*There shall be no front yard setback required when all off-street parking is located to the rear of the principle building, or otherwise behind the front building line.

\*\*The rear yard setback may be reduced to 15 feet where said yard adjoins any non-residential zoning district.

\*\*\*There shall be no side yard setback required where said yard adjoins any non-residential zoning district; however, if the structure is not built to the side lot line, a minimum set-back of 10 feet shall be maintained.

### **912.3 Additional Requirements:**

No age-restrictive use nor any establishment offering the sale of alcoholic beverages under this zoning classification shall be permitted within 1,000 feet of any church, school, public park, playground, or residential district as measured from the nearest lot line of the establishment to the nearest boundary line of the applicable institutional or residential district (or the nearest lot line of an institution, park or playground as may otherwise be applicable).

In cases where a Special Commercial district adjoins or abuts *any* residential zoning district, all of the required side and rear setback space may be utilized for parking space *except* the outermost footage that is required to be grassed or planted and maintained as a buffer strip or green belt, in accordance with Sections 1008 and 1009 of this Ordinance.

No open or outdoor storage or repair areas of any kind shall be permitted except storage involving finished goods or items sold on-site at retail. Such storage shall not include heavy equipment or bulk materials and shall only be permitted behind the front building line.

### **912.4 Additional Requirements Pertaining to Age-Restrictive Establishments:**

There shall be no visible exposure to the general public of any activities involving specified sexual activities or specified anatomical areas taking place within an age-restrictive establishment. All doors or windows through which exposure of such activities may occur shall be internally covered by curtains, blinds or similar method **or** such activities shall be screened from outside view by interior walls or screens of a height and opacity to thoroughly block such activities from view. However, windows and doors shall not be blacked out by painting of the glass surface nor covered, internally or externally, in any manner not approved by the Fire Department.

## **SECTION 913: I-1 LIGHT INDUSTRIAL DISTRICT**

A district designed to provide for industrial uses that are determined to be *least* offensive or detrimental to adjoining properties in terms of health, safety, comfort, aesthetics and the general welfare of, and overall compatibility with, the surrounding area.

### **913.1 Permitted Uses:**

animal shelters

automotive, vehicle and equipment repair (major and minor), but excluding any junk yard, salvage operation, abandoned vehicle storage or any similar type activity

bottling and distribution plants

contractor and building material yards

distribution yards for gasoline/fuel oil tank trucks, provided that all bulk storage tanks and loading platforms shall be set back *no less than* one hundred and fifty (150) feet from adjoining property lines

fabricating, processing, assembling and manufacturing uses but excluding those determined to be especially detrimental to health and safety beyond the district by reason of emission of odor, dust, gas, fumes, smoke, noise, vibration or waste material

heavy equipment sales and service

laundry and dry-cleaning plants

mini-warehouse and mini-storage

paint and body shops

research labs

sale and service of machinery, vehicles, boats, recreational vehicles, etc.

service stations with garages

truck stops and bus terminal facilities

wholesaling, warehousing, lumber yards and other businesses to which outside storage is accessory or incidental, including building material yards, *but* provided that the operation does *not* involve the storage of any materials of an explosive or toxic nature

### **913.2 Area and Dimensional Requirements:**

Minimum Yards:

35-foot front yard set-back\*

35-foot rear yard set-back\*\*

35-foot side yard set-backs\*\*\*

\*The front yard setback – for office and administrative buildings only – may be reduced to 20 feet when all off-street parking is located to the rear of the front-most building, or otherwise behind the front building line. All other structures must maintain the required 35-foot setback.

\*\*The rear yard setback may be reduced to 20 feet where said yard adjoins an Industrial zoning district.

\*\*\*The side yard setback may be reduced to 20 feet for office and administrative buildings, and may also be reduced to 20 feet for all other buildings and structures where said yard adjoins any Industrial zoning district.

### **913.3 Additional Requirements:**

Storage, repair and work yards, dumpsters, utility appurtenances, loading and service areas, etc. shall be located behind the front building line.

Business operations to which open or outside storage is accessory or incidental, and which are permitted in a Light Industrial district, shall be allowed accordingly *provided* that there is *no open or outside storage of junk or salvage items or materials of any type* in connection with the operation.

In cases where a Light Industrial district adjoins or abuts *any* residential zoning district, all of the required side and rear setback space may be utilized for parking space *except* the outermost footage that is required to be grassed or planted and maintained as a buffer strip or green belt, in accordance with Sections 1008 and 1009 of this Ordinance.

**SECTION 914: I-2 HEAVY INDUSTRIAL DISTRICT**

A district designed to provide for more intensive types of industrial uses that, by the nature of their products or operation, can be expected to have relatively greater detrimental impacts on adjacent properties and the surrounding area.

**914.1 Permitted Uses:**

any use permitted in an I-1 Light Industrial District

cement plants

fixed plants for processing stone, chert, gravel, clay, slag, coal or iron ore

iron and steel mills

other heavy manufacturing uses

railroad shops, roundhouses and yards

saw mills and timber processing facilities

**914.2 Permitted Conditional Use:** Auto dismantling, junk yards and salvage yards shall be permitted under the following conditions:

- a minimum 8-foot high wall, privacy fence or other suitable screen will be required that will obstruct from view (from adjacent public streets and neighboring properties) all wrecked cars and other junk;
- all wrecked cars and other junk will be stored to the rear of (behind) said wall, fence or screen; and,
- said wall, fence and/or screen and its location shall be approved by the Planning Commission, and shall further be required to conform to all other applicable requirements of Section 1008 of this Ordinance.

### **914.3 Area and Dimensional Requirements:**

Minimum Yards:

35-foot front yard set-back\*

45-foot rear yard set-back\*\*

45-foot side yard set-backs\*\*\*

\*The front yard setback – for office and administrative buildings only – may be reduced to 20 feet when all off-street parking is located to the rear of the front-most building, or otherwise behind the front building line. All other structures must maintain the required 35-foot setback.

\*\*The rear yard setback may be reduced to 20 feet where said yard adjoins an Industrial zoning district.

\*\*\*The side yard setback may be reduced to 20 feet for office and administrative buildings, and may also be reduced to 20 feet for all other buildings and structures where said yard adjoins any Industrial zoning district.

### **914.4 Additional Requirements:**

Storage, repair and work yards, dumpsters, utility appurtenances, loading and service areas, etc. shall be located behind the front building line.

In cases where a Heavy Industrial district adjoins or abuts *any* residential zoning district, all of the required side and rear setback space may be utilized for parking space *except* the outermost footage that is required to be grassed or planted and maintained as a buffer strip or green belt, in accordance with Sections 1008 and 1009 of this Ordinance.

**SECTION 915: I-3 MINING AND MANUFACTURING DISTRICT**

A district designed to provide for mining and manufacturing operations that are more extensive or larger-scale in nature than industrial uses classified in other industrial districts and, as such, are most likely to have substantial detrimental impacts on adjoining properties and the surrounding area.

**915.1 Permitted Uses:**

any use permitted in an 1-2 Heavy Industrial District  
*except* auto dismantling, junk and salvage yards

dumping of spoiling, tailings and other such waste

extraction, milling and other processing of timber products

non-residential mobile buildings and/or other facilities that may be accessory or appropriate to the conduct of such uses as are permitted herein

subsurface and underground mining operations, quarrying, etc.

surface or strip mining and gas wells (*permitted on appeal only*)

any other industrial use not specifically addressed or determined to be comparable to uses addressed in this or any other zoning district shall be *permitted on appeal*

**915.2 Area and Dimensional Requirements:**

Minimum Yards:

40-foot front yard set-back\*

50-foot rear yard set-back\*\*

50-foot side yard set-backs\*\*\*

\*The front yard setback – for office and administrative buildings only – may be reduced to 30 feet when all off-street parking is located to the rear of the front-most building, or otherwise behind the front building line. All other structures must maintain the required 35-foot setback.

\*\*The rear yard setback may be reduced to 20 feet where said yard adjoins an Industrial zoning district.

\*\*\*The side yard setback may be reduced to 20 feet for office and administrative buildings, and may also be reduced to 20 feet for all other buildings and structures where said yard adjoins any Industrial zoning district.

### **915.3 Additional Requirements:**

In cases where a Mining and Manufacturing district adjoins or abuts *any* non-industrial zoning district, all of the required side and rear setback space shall be planted and/or maintained as a buffer strip or green belt, in accordance with Sections 1008 and 1009 of this Ordinance.

No extraction of minerals, coal, ore, etc. by the surface stripping method will be permitted within one hundred feet of any lot line or public road right-of-way. No buildings, structures or other facilities accessory or incidental to strip mining will be permitted within fifty (50) feet of any lot line or public right-of-way, other than a building used solely as an administrative office. Exceptions to these setback requirements shall be made on those portions of the property adjoining or abutting another property used for strip mining. In such cases, there shall be no setback from such adjoining properties.

Storage, repair and work yards, dumpsters, utility appurtenances, loading and service areas, etc. shall be located behind the front building line.

**SECTION 916:**

**C-U CURRENT USE DISTRICT**

The purpose of this district is to stabilize land use and development patterns in the City by helping to avoid the creation of land use and zoning conflicts arising due to the presence of antiquated, non-applicable or otherwise inappropriate zoning; and to serve as a holding zone, automatically becoming the active zoning on any and all properties within the City that may be affected whenever a pre-existing zoning district is deleted through amendments to this Ordinance or other similar action. This district is intended to provide a means for more properly zoning land in accordance with its actual use and with proper consideration of its compatibility with the surrounding area; in accordance with the City’s adopted Comprehensive Plan, where there is conflict between the existing zoning and the future proposed land use pattern of a given area; or in order to establish a City zoning classification on property previously zoned by another jurisdiction.

**916.1 Permitted Uses:**

Continuation of any legal existing use(s) actually established and operating on the parcel or property as of the date C-U (Current Use) zoning was applied to said parcel or property; and any accessory buildings or structures that are customarily incidental and subordinate to, or reasonably necessary for the continuance of, any of the permitted principal uses.

Conservation/management for watershed, fish and wildlife habitat, hunting and fishing, or any other purposes that promote the preservation of land and the environment in its natural state

Silviculture (as defined in this Ordinance), and any other activity (such as minor maintenance or repair work) for which a land disturbance permit from either the Alabama Department of Environmental Management (ADEM) or the local Storm Water Management Authority (SWMA) is *not* required.

A single family residence as may be permitted on an existing individual parcel, including accessory buildings and structures as are normally permitted in association therewith.

No use.

**916.2 Area and Dimensional Requirements:**

Minimum Lot Sizes:

15,000 square feet or less\*

\*Any future division of land shall have the Minimum Lot Sizes specified.

Minimum Yards:

- 35-foot front yard set-back
- 35-foot rear yard set-back
- 15-foot side yard set-backs

Other setbacks (as may be applicable) shall be measured in accordance with Articles 10 and 11 of this Ordinance.

**916.3 Additional Requirements:**

In conjunction with the uses permitted in this Section, the following development and operational parameters shall apply:

- a. Any existing use(s) established and operating on any and each parcel or property in a C-U District shall remain at the same level of intensity and density of such use(s) as was present at the time of zoning to C-U (Current Use).
- b. Except as provided for in this Section, no increase in said intensity or density of use shall be permitted, including new construction, clearing of vegetation, grading, fill, improvements, road-cutting or other modifications of the existing surface features of the property.
- c. Nothing in this Section shall be construed or used to grandfather or otherwise make legal any currently illegal or nonconforming use(s) that are not listed as being permitted in sub-section 916.1 above (Permitted Uses).

**916.4 Additional Provision for the Subsequent Rezoning of C-U-Zoned Properties:**

Any owner of an interest in land classified into the Current Use District zoning may, at any time following such reclassification, file a petition seeking rezoning to different classification in accordance with Article 17 of this Ordinance. However, it is hereby provided that the rezoning fees of Article 19 shall be waived with regard to the first such filing for any given parcel or property.

**ARTICLE 10**  
**GENERAL REGULATIONS AND PROVISIONS**

**SECTION 1001**  
**USES IN GENERAL**

In each district, only the uses specifically listed as "permitted uses" or "permitted on appeal" shall be allowed; no other uses shall be allowed. Uses specified as being "permitted on appeal only" are exceptions and no permit shall be issued for such uses except with written approval of the Zoning Board of Adjustment, and shall be further subject to such conditions as said Board may require to preserve and protect the character of the district concerned.

Any use or structure existing at the time of enactment or subsequent amendment of this Ordinance but not in compliance with its provisions shall thereafter be considered a "non-conforming use", and shall be subject to the stipulations, regulations and other provisions set forth in Article 16 of this Ordinance.

**SECTION 1002**  
**ACCESSORY USES**

Unless otherwise prohibited or restricted, a permitted use also allows uses, buildings and structures that are accessory to a principle use or structure (as defined in this Ordinance) if located on the same site or building plot. However, such accessory uses, buildings and/or structures shall *not* be established or erected prior to the establishment or construction of the principle use or building *except* in A-G Agriculture Districts that are not in a recorded subdivision. Furthermore, said accessory uses, buildings and structures shall be compatible with the character of the principle use as well as with that of the zoning district in which it is located.

**SECTION 1003**  
**INCIDENTAL USES**

Unless otherwise prohibited or restricted, certain uses, buildings and structures that are incidental to a principle use or structure (as defined in this Ordinance) will be permitted on the same site or building plot as said principle use or structure *subject to* prior approval by the Zoning Board of Adjustment. However, such incidental uses, buildings and/or structures shall *not* be established or erected prior to the establishment or construction of the principle use or building.

Furthermore, said incidental uses, buildings and structures shall be compatible with the character of the principle use as well as with that of the zoning district in which it is located.

**SECTION 1004**  
**TEMPORARY USES**

Temporary uses will be permitted only on appeal to and upon approval of the Zoning Board of Adjustment. All such uses and/or occupancy permits shall be for one (1) year or less unless otherwise specified by the Board.

**SECTION 1005**  
**USE EXEMPTIONS**

The following uses are permitted in any district provided the parties in question have complied with all existing laws and regulations governing such installations: poles, wires, cables, conduits, pipe lines, utility vaults, laterals and other similar distribution facilities, and roads and ways of any description. All such uses shall be subject, however, to the securing of any proper and necessary "use" and "building" permits; and it is further stipulated that no structure or facilities associated with any kind of extraction shall be considered exempt under the provisions of this section.

**SECTION 1006**  
**ONE MAIN BUILDING ON A LOT**

Every building hereafter erected or moved shall be located on a lot, tract or parcel, and in no case shall there be more than one (1) principal residential building (and its accessory or duly permitted incidental structures) on any lot, tract or parcel.

**SECTION 1007**  
**GARAGE APARTMENTS, GUEST HOUSES AND ACCESSORY DWELLINGS**

Garage apartments, guest houses and other accessory dwellings of any kind may be permitted as incidental and accessory uses respectively only on appeal to and upon approval by the Zoning Board of Adjustment.

**SECTION 1008**  
**BUFFER, PRIVACY FENCE AND SCREENING REQUIREMENTS**

**Buffer Required.** When any district (other than a C-N Neighborhood Commercial District) requiring a side and rear setback of thirty-five (35) feet or more abuts a residential use; or in cases where a buffer strip, green belt, privacy fence or screening is otherwise required or deemed necessary for the protection and/or separation of uses on adjoining properties or parcels, there shall be a buffer strip/privacy fence planted/erected and maintained in accordance with this Section and Section 1009.

**Screen Required.** When any of the following areas or facilities associated with a non-residential use faces out toward a residential use or a public right-of-way, such area or facility shall be screened from view from such abutting residential use or right-of-way in accordance with this Section:

- garbage collection, including dumpsters, recycle bins and/or refuse handling areas;
- service entrances, service/maintenance areas or utility structures;
- water meters, gas meters, electric meters and air conditioning/mechanical units;
- loading docks or spaces; and,
- outdoor storage of materials, stock and equipment; and

In either case, the elements set forth herein below shall constitute the *minimum* requirements for a buffer strip, berm, privacy fence and screen respectively, unless otherwise specified in individual cases or in the Clay Design and Construction Specifications.

**1008.1**        **For a Buffer Strip or Green Belt**, unless otherwise specified in a zoning district or other direct mandate, shall at a minimum consist of a planted strip at least fifteen (15) feet in width composed of living deciduous or evergreen trees spaced not more than ten (10) feet apart, and not less than one (1) row of dense, living evergreen shrubs spaced not more than five (5) feet apart, which shall be maintained in perpetuity by the owner of the property.

Existing natural vegetation, in individual cases and in accordance with Section 1009.2, may be used to meet the buffer requirements of this Section where said vegetation is determined by the Zoning Officer to satisfy the purpose and intent of the buffer in question.

**1008.2**        **For Berms** that may be appropriate for larger developments or land uses, a berm may be utilized in conjunction with planted or existing landscaping as an alternate means of creating separation from adjoining properties. In such cases, the alternative buffering plan must be submitted to the Clay Planning Commission for

prior approval based on the proposed buffer's capacity to satisfy the purpose and intent of this Section.

Furthermore, in such cases where the use of a berm is approved by the Planning Commission, said berm(s) must be a minimum of four (4) feet high with a maximum slope of three to one (3:1); berms in excess of six (6) feet high shall have a maximum slope of four to one (4:1), as measured from the exterior property line; and all berms shall be landscaped and stabilized to prevent erosion.

**1008.3** **For a Privacy Fence,** a solid wooden fence, six (6) feet in height, erected on the interior of the property in question at least fifteen (15) feet from and parallel to the property line(s) abutting the parcels that are to be screened. The land area between the privacy fence and the property line shall be grassed, landscaped or otherwise maintained as a buffer strip or green belt, and *both* said grassed or landscaped area *and* the fence shall be perpetually maintained structurally, as well as kept neat and orderly in appearance, by the owner of the property.

Specifications for other types of fences and walls are set forth in the Clay Design and Construction Specifications.

**1008.4** **For Screens,** fences or walls shall be a minimum of six (6) feet high, and be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof. No more than twenty-five (25) percent of the fence surface shall be left open, and the finished side of the fence shall face the abutting property.

Chain-link fencing, with or without plastic, metal, or wooden slats, shall not be utilized for screening purposes; screening shall not compromise safety by blocking vision at intersections or obstructing the visibility of vehicles entering or leaving driveways; and it must not impede or divert the flow of water in any drainage way.

Furthermore, in individual cases where either existing vegetation, a planted buffer and/or a privacy fence is determined by the Zoning Officer to sufficiently obstruct a particular area or facility from view, and therefore to satisfy the purpose and intent of the required screen in question, said Officer may waive any requirement of this Section for additional screening.

**SECTION 1009**  
**PLANTING AND MAINTENANCE REQUIREMENTS**  
**FOR BUFFERS, LANDSCAPING AND SCREENING**

In cases where a buffer strip, green belt, parking lot landscaping, screening or other planted or landscaped area is required, the following requirements and standards shall apply (except where higher requirements or standards may apply, including in – but not limited to – the Clay Design and Construction Specifications).

**1009.1 Planting Requirements.**

- a. Shrubs shall be evergreen and at least thirty (30) inches tall when planted with an average height of five (5) to six (6) feet to be expected as normal growth within four (4) years.

However, up to 25% of the required shrubs may be deciduous, and may be two (2) feet tall when planted, provided an average height of three (3) to four (4) feet is expected as normal growth within four (4) years.

- b. Shrubs planted on a berm may be of a lesser height, provided the combined height of the berms and plantings is a least six (6) feet after four (4) years.
- c. Existing mature tree growth on the site shall be preserved to the maximum extent possible. In some cases, such as uses locating on large, wooded lots, preservation of substantial natural growth around the property perimeter may be determined to be a sufficient buffer by the Zoning Officer (under Section 1008.1 of this Ordinance).
- d. In locations where the visual impact of a particular use or facility would be minimal, such as remote agricultural/rural locations or developed heavy industrial areas, the landscaping requirements may be reduced or waived by the Clay Planning Commission.

**1009.2 Maintenance.**

- a. All required buffers and landscaping shall be maintained in perpetuity by the property owner.

- b. Ground cover shall be regularly maintained as necessary to prevent overgrowth during the spring and summer months, and all areas shall be kept free of debris and refuse during all seasons.
- c. Grass-type ground covers shall be kept in a healthy, controlled condition.
- d. Existing natural vegetation used to meet buffer requirements may be preserved in a natural state; however, upon a determination by the Building Inspector that the condition of a buffer area constitutes a health or safety hazard, such condition shall be remedied by the owner per the recommendations of the Building Inspector.

**SECTION 1010**  
**BUILDING MATERIALS STANDARDS**

Certain standards and specifications for building materials have been adopted by the City in order to allow flexibility and variety in architectural style, design and function while maintaining and promoting overall consistency of all of the buildings collectively in the City of Clay. These standards are contained in the Clay Design and Construction Specifications, and shall apply to all structures – including accessory dwellings, whether attached to the principal dwelling or not – permitted after the adoption of Ordinance No. 2006-07 on March 27, 2007.

Approval of building materials for remodeling or additions to any structures that existed prior to that enactment shall be at the discretion of the Chief Building Inspector with the approval of the City Council.

Approval of building materials for new construction in subdivisions that were platted and approved prior to the enactment of Ordinance No. 2006-07 on March 27, 2007 shall be at the discretion of the Chief Building Inspector with the approval of the City Council.

**SECTION 1011**  
**COMMUNICATION TOWERS**

Communication towers may be erected within the City limits, in any zoning district, as deemed appropriate by the Zoning Board of Adjustment. Communication towers, antennas, and similar or related wireless communications facilities (excluding radio and television stations and towers permitted in a P-U Public Utilities District) may be permitted in any zoning district upon appeal to, and approval by, the Zoning Board of Adjustment, and subject to such conditions as said

Board may require to preserve and protect the character of the district and surrounding properties.

In considering each such appeal, the Board shall give due consideration to the following:

- lighting of the tower;
- visual impact;
- use compatibility;
- co-location alternatives, provisions, possibilities and/or other options;
- design options (e.g., use of existing structures, camouflage techniques, etc.);
- safety and security.

Setbacks for communication tower facilities shall be those of the district in which said tower is to be located; however, in no case shall tower facilities (including security fences) be located closer than fifteen (15) feet to a residential or agricultural zoning district. Further, the outermost fifteen (15) feet (minimum) abutting any such residential or agricultural district shall be landscaped and maintained as a buffer strip or green belt as set forth in Sections 1008 and 1009 of this Ordinance.

**SECTION 1012**  
**LIMITATIONS, CONDITIONS AND REQUIREMENTS**  
**PERTAINING TO THE KEEPING OF ANIMALS**

**1012.1** No person shall keep or maintain, in connection with any residential dwelling unit, more than three (3) dogs aged six (6) months or older, except in the A-G Agriculture District.

**1012.2** The keeping or maintaining of horses, mules, cattle, sheep, goats, hogs, fowl or any other such “farm” or “livestock” animal shall be prohibited throughout the City, except:

- a. within and in accordance with the A-G Agriculture District regulations;
- b. as otherwise provided in this Section regarding chickens; or,
- c. in R-E Estate Residential and R-R Rural Residential Districts as follows:

(1) Supplemental Setback Requirements

The minimum set-back of livestock barns shall be:

- 50 feet from adjoining property lines;
- 100 feet from road right-of-way lines; and,
- 100 feet from the nearest then-existing residence on any adjoining property.

The minimum set-back of fowl houses shall be:

- 100 feet from adjoining property lines;
- 300 feet from road right-of-way lines; and,
- 300 feet from the nearest then-existing residence on any adjoining property.

Swine shall not be housed, fed and/or watered within 100 feet of any adjoining property line, or within 300 feet of any road or road right-of-way.

Piles of feed or bedding shall be located no closer than fifty (50) feet from a public street right-of-way line, lot line, or zoning district boundary to minimize odor and nuisance problems.

Manure shall be stored for removal and disposed of in accord with all applicable county, state, and federal regulations. No manure piles shall be located closer than fifty (50) feet from a public street right-of-way, lot line, zoning district boundary, wetland, watercourse, or other water body.

(2) Livestock Density Restrictions

The number of animals permitted in an R-R (Rural Residential) district shall be determined by a system of "animal unit equivalents" that shall be assigned to each individual animal as follows:

- |                  |                              |
|------------------|------------------------------|
| horse = 1 unit   | goat = 0.2 unit              |
| swine = 1 unit   | rabbit = 0.025 unit          |
| cow = 0.5 unit   | all fowl = 0.067 unit (each) |
| sheep = 0.5 unit |                              |

Specific counts as to the number of animals allowable on a given property can be determined by dividing the available acreage by

the unit equivalent in the chart above (e.g., 1 (acre) divided by 0.025 (rabbit units) equals 40 rabbits allowed). Different animals can be kept on the same property, provided the total cumulative animal unit count does not exceed the maximum density of animals set forth herein below.

Off-spring with the mother present shall be considered included in the mother's unit until reaching breeding age.

Unit equivalents for other animals shall be defined by the Clay Planning Commission.

And for the purpose of protecting the residential character of development in these districts, a total of no more than two (2) animal units (as determined by the preceding table and computations above) shall be permitted on any one property; any total number of units in excess of the two (2) units permitted herein will require an A-G (Agricultural) zoning classification.

**1012.3** Within all single family zoning districts, or a single family portion of a Planned Development, the keeping of chickens (*gallus domesticus*) is allowed but only under the following terms and conditions:

- a. the minimum lot size of the property is 10,000 square feet.
- b. the principal use of the property is a single family dwelling.
- c. the number of chickens does not exceed:
  - four (4) on lots 10,000 square feet to 19,999 square feet; or,
  - six (6) on lots 20,000 square feet or greater.
- d. no roosters shall be allowed.
- e. the chickens shall be kept in the rear yard only.
- f. the chickens shall be provided with secure indoor accommodations in the form of a henhouse, coop or similar enclosed structure, raised above the surface of the ground and allowing a minimum of two (2) square feet per bird.

- g. the structure of Item (f) above shall be contained within, or made a part of, a securely protected enclosure or fenced outdoor area containing a minimum four (4) square feet per bird.
- h. no part of the chicken housing areas encompassed by Items (f) and (g) above shall extend into any side yard area, nor closer to the rear property line than the minimum standard setback for the zoning district in which the property is located; all required chicken housing areas must be located directly behind the residence.
- i. the chickens may be allowed an expanded outdoor forage area beyond that required in Item (g) above, however provisions must be made (fencing, etc.) such that they shall not be allowed to roam beyond the property lines of the parcel on which their permanent housing (of Items (f) and (g) above) is located.
- j. the enclosures (both indoor and outdoor) shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors.
- k. feed shall be stored in a rat-proof container.
- l. the chicken owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
- m. there shall be no outside slaughtering of the chickens.
- n. there shall be no breeding of chickens or production of fertilizer for commercial purposes.
- o. **PERMIT REQUIRED:** Persons wishing to keep chickens in a residential district under this Section must first obtain a permit from the City by submitting a dimensioned site plan showing the size, location and orientation of the chicken housing areas. The City will issue a permit upon verification of the property's zoning and the compliance of the housing facilities with the requirements of this Section.
- p. **PERMIT REVOCATION:** Any permit issued for the keeping of chickens in a residential district/development may be revoked for the following reasons:

- an owner allowing any chicken(s) to become a nuisance to any neighbors, including but not limited to noxious odors from the animals or their enclosure, or noise of a loud and persistent and habitual nature; or,
  - violation of any of the terms or conditions of this Section.
- q. This Sub-Section (1012.3) is not intended to apply to ducks and geese, nor to indoor birds kept as pets (such as, but not limited to, parrots or parakeets), nor to the lawful transportation of fowl through the corporate limits of the City. Neither shall it apply to poultry kept in areas of the City which are zoned A-G Agriculture, R-R Rural Residential or R-E Estate Residential (which have their own governing regulations).
- r. Fowl currently existing in residentially-zoned areas of the City shall not be "grandfathered" or permitted to remain after the effective date of this Section; however, owners of the poultry will have ninety (90) days from the effective date to come into compliance with this Section.

**1012.4**

No person shall breed or maintain any wild animal or reptile that, in the opinion of the Zoning Officer, poses a threat to human safety in Clay. Excluded from this restriction are zoos, pet shops, animal shelters, medical or scientific facilities, or other locations where the showing or maintenance of such animals is a permitted use under the provisions of this Ordinance.

**ARTICLE 11**  
**AREA AND DIMENSIONAL REQUIREMENTS**

Any structure hereafter erected or altered shall be on a lot or parcel of the area and width specified in the zoning district within which the affected property is located, shall also be provided with the yards specified therein, and shall further be subject to the requirements and provisions of this Article. No open space (yard) or lot requirement for a building or structure shall be occupied by or counted as meeting the area and dimensional requirements for another building or structure.

**SECTION 1101**  
**GENERAL REQUIREMENTS**

**1101.1 Measurement of Front Yard Setbacks.**

Where sidewalks are required, setbacks shall be measured from the sidewalk. Where sidewalks are not required, setbacks shall be measured from the property line.

**1101.2 Yards and Building Setback Lines from Roads and/or Streets.**

- a. When any required yard abuts a street or roadway with a dedicated right-of-way of forty (40) feet or more in width, the setback shall be the standard setback required in that zoning district, and shall be measured from the property line.
- b. When any required yard abuts a street or roadway with a dedicated right-of-way of less than (40) feet in width, the setback shall be not less than twenty-five (25) feet *plus* the setback required in the zoning district affected. The total setback shall be measured from the centerline of the existing road.
- c. When any required yard abuts a street or roadway without a dedicated right-of-way, the setback shall be not less than twenty-five (25) feet *plus* the setback required in the zoning district affected. The total setback shall be measured from the centerline of the existing street or roadway.

**1101.3 Denied Access Highways and Railroad Right-of-ways.** The setback requirements along denied access highways and railroad right-of-ways shall be not less than fifteen (15) feet.



**1101.7**      **Height Limitations.** The height limitations, if any, included in this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; nor shall they apply to monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, silos, flag poles, radio towers, masts, aerials and similar structures.

**1101.8**      **Fences, Hedges and Shrubbery** must be kept trimmed down or otherwise modified at street and/or road intersections so as to permit clear visibility within a vision triangle formed by the required setback lines of both the front and side yards and points three and one-half (3.5) feet above the crowns of the intersecting roads.

**SECTION 1102**  
EXCEPTIONS AND MODIFICATIONS  
TO  
AREA AND DIMENSIONAL REQUIREMENTS

**1102.1**      **Conformity of Front Setbacks to Existing Patterns.** In any residential district where a majority of the existing residences along one block are *less* than the minimum setback required for that zoning district, the setback on that block may be reduced to be in line therewith.

**1102.2**      **Irregular Shaped Subdivision Lots.**

- a.      For cul-de-sacs, curved streets and the like, the lot width at the building line shall be at least the minimum width required by the zoning applicable to the property in question.
- b.      The minimum road, street or highway frontage shall be no less than fifty percent (50%) of the minimum lot width required in the affected zoning district. However, in no case shall such frontage be less than forty (40) feet measured along the arc of the curve.

**1102.3**      **Corner Lots.** The yard setback for the secondary frontage of a corner lot in a residential district may be reduced to 20 feet in lieu of the full front yard setback distance of the applicable zoning. The determination of the rear yard shall be made by the owner/applicant.

**1102.4**

**Other Residential Exceptions.** In cases of practical difficulty or unnecessary hardship, the Zoning Officer may grant the following exceptions to the yard requirements in a residential district:

- a. An allowance of up to five (5) feet for uncovered front or rear stoops or steps.
- b. Chimneys, bay windows, etc. may project no more than thirty (30) inches into the required rear or side, yards provided they are not more than ten (10) feet in width.
- c. Uncovered rear decks may project no more than fifteen (15) feet into the minimum required rear yard.

**ARTICLE 12**  
**SUBDIVISION AND DEVELOPMENT ALTERNATIVES**

Retained from prior Zoning Ordinance amendments in October 2012 and before.

The following Sections present the regulations and requirements applicable to the various alternative subdivision/land use options permitted in certain zoning districts in the City. In order for a permit to be issued for any of these types of subdivisions/developments, the property on which the development is located must be zoned such that it permits same, and the requirements specified herein below must be met.

**SECTION 1201**  
**CONSERVATION SUBDIVISIONS**

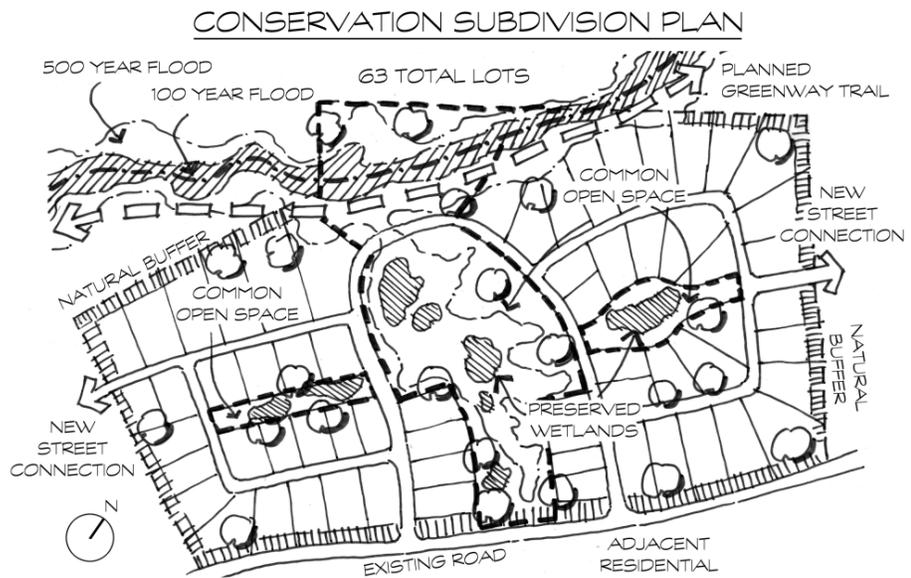
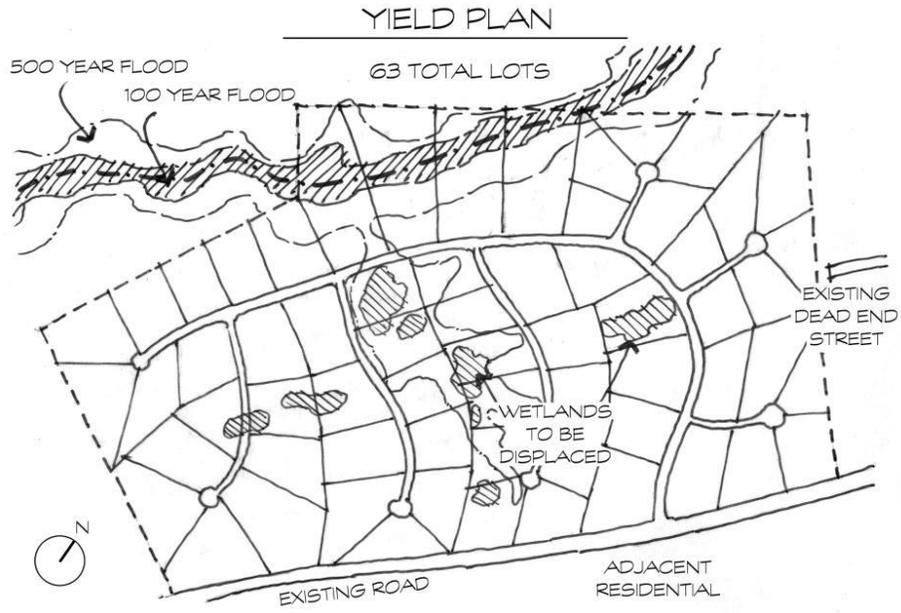
**1201.1 Intent.**

- a. To provide the flexibility to achieve the most effective development on lands that are constrained by natural hazards or by environmental regulations, which may limit the amount or type of development on such properties;
- b. To enhance quality of life by promoting the creation of accessible green spaces throughout the community;
- c. To protect sensitive, environmental land features to protect the health and safety of residents and neighboring property owners;
- d. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation;
- e. To allow clustering of homes and orienting them closer to the street, thereby providing gathering places and encouraging the use of parks as focal points within the community;
- f. To encourage street designs that reduce traffic speeds and excessive reliance on main arteries for trips generated;
- g. To promote construction of convenient walking trails, bike paths, and greenways within new developments that are connected to adjacent neighborhoods and activity centers to increase accessibility for pedestrians and bicyclists; and

- h. To reduce perceived density by providing a maximum number of lots with direct access to and views of open space.

**1201.2 General Regulations.**

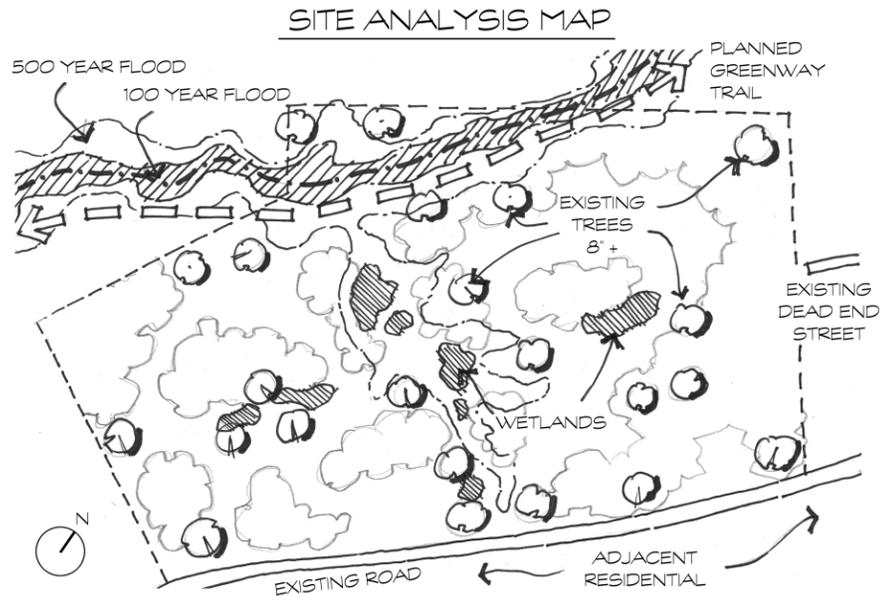
- a. **Applicability of Regulations.** The Conservation Subdivision is available as an option on properties directly affected by the presence of flood hazard areas, severe topography, and areas otherwise affected by Federal, State, or City environmental regulations. The Applicant shall comply with all other provisions of the Zoning Ordinance and all other applicable regulations, except those incompatible with the provisions herein.
- b. **Ownership of Development Site.** The tract of land to be subdivided and/or developed may be held in single, separate, and multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.
- c. **Density Determination.** The maximum number of lots on the site shall be determined, first by the preparation of a yield plan and then preparation of a conservation subdivision plan. The yield plan is a *conventional* subdivision plan conforming to the lot requirements of the applicable zoning district, but not including protected open space. The plan does not have to meet the formal requirements for a site design plan, but the design must be reasonably capable of being constructed given site constraints and applicable regulations. Following the preparation of the yield plan, the developer shall prepare a conservation subdivision plan which yields no more lots than identified within the yield plan. The conservation subdivision plan shall identify open spaces to be protected in accordance with Section 1201.4 and may include lots which do not meet the size and setback requirements of the applicable zoning district.



**1201.3 Application Requirements.**

- a. **Site Analysis Map Required.** Concurrent with the submission of a site concept plan, the Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this Article. The preliminary site plan shall include the following features:

1. Property boundaries;
2. All streams, rivers, lakes, wetlands, flood hazard boundaries, and other hydrologic features;
3. All boundaries of applicable regulated buffer areas, easements, and rights-of-way;
4. Topographic features of no less than 5-foot intervals;
5. All Primary and Secondary Conservation Areas labeled by type, as described in Section 1201.4 of this Article;
6. General vegetation characteristics;
7. General soil types;
8. Planned location of protected Open Space;
9. Existing roads and structures; and
10. Potential connections with existing greenspace and trails.



- b. **Open Space Management Plan Required.** An open space management plan, as described in Section 1201.4, shall be prepared and submitted prior to the issuance of a land disturbance permit.
- c. **Instrument of Permanent Protection Required.** An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in Section 1201.4, shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.

- d. **Other Requirements.** The Applicant shall adhere to all other applicable requirements of the underlying zoning and subdivision regulations.

**1201.4 Open Space.**

- a. **Definition.** Notwithstanding the definition in Article 7 of this Ordinance or elsewhere, for the purposes of this Section, Open Space is the portion of the conservation development or subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.

b. **Standards to Determine Open Space.**

1. The minimum restricted Open Space shall comprise at least 25% of the gross tract area.
2. The following are considered Primary Conservation Areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of the conservation subdivision:
  - The 100-year floodplain;
  - Riparian Zones of at least 75 ft width along all perennial and intermittent streams;
  - Slopes above 25% of at least 10,000 square feet contiguous area;
  - Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
  - Populations of endangered or threatened species, or habitat for such species;
  - Existing trails that connect the tract to neighboring areas; and
  - Archaeological sites, cemeteries and burial grounds.
3. The following are considered Secondary Conservation Areas and should be included within the Open Space to the maximum extent feasible:
  - Important historic sites;
  - Existing healthy, native forests of at least one acre contiguous area;

- Individual existing healthy trees greater than 8 inches caliper; and
  - Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads.
4. Utility rights-of-way and small areas of impervious surface may be included within the protected Open Space but cannot be counted towards the 25% minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the Open Space.
  5. At least 33% of the Open Space shall be suitable for passive recreational use.
  6. At least 75% of the Open Space shall be in a contiguous tract. The Open Space shall adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.
  7. The Open Space shall be directly accessible to the largest practicable number of lots and/or buildings within the site. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.
- c. The following uses shall be **permitted** within the Open Space:
1. Conservation of natural, archeological or historical resources;
  2. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
  3. Walking or bicycle trails constructed of porous paving materials;
  4. Passive recreation areas, such as open fields;
  5. Active recreation areas, provided that they are limited to no more than 10% of the total Open Space and are not located within Primary Conservation Areas. Active recreation areas may include

impervious surfaces. Active recreation areas in excess of this limit must be located outside of the Protected Open Space.

6. Landscaped stormwater management facilities, community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses. Such facilities shall be located outside of Primary Conservation Areas;
  7. Easements for drainage, access, and underground utility lines;
  8. Other conservation-oriented uses compatible with the purposes of this Ordinance.
- d. The following uses shall be **prohibited** within the Open Space:
1. Golf courses;
  2. Roads, parking lots and similar impervious surfaces, except as specifically authorized in the previous sections;
  3. Agricultural and forestry activities not conducted according to accepted Best Management Practices;
  4. Impoundments; and
  5. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.
- e. **Ownership and Management of Open Space.**
1. **Ownership of Open Space in Residential Subdivisions.** A homeowner's association representing residents of the conservation subdivision shall own the Open Space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the Homeowner's Association.

2. **Management Plan.** Applicant shall submit a Plan for Management of Open Space and Common Facilities that:
  - allocates responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
  - estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
  - provides that any changes to the Plan be approved by the Commission; and
  - provides for enforcement of the Plan.
3. In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, the City may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

f. **Legal Instrument for Protection of Open Space.**

1. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
  - (A) A permanent conservation easement in favor of either:
    - i. a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions;

*or*

- ii. a governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance.

If the entity accepting the easement is not the City, then a third right of enforcement favoring the City shall be included in the easement.

(B) A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

(C) An equivalent legal tool that provides permanent protection, if approved by the City.

- 2. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

- g. **Tax Assessment of Open Space.** Once a legal instrument for permanent protection has been placed upon the Open Space, the Tax Assessor of Jefferson County, shall be requested to reassess the Open Space at a lower value to reflect its more limited use. If the Open Space is used purely for passive recreational purposes and the terms of the instrument for permanent protection effectively prohibit any type of significant economic activity, then the assessment should be at a value of zero.

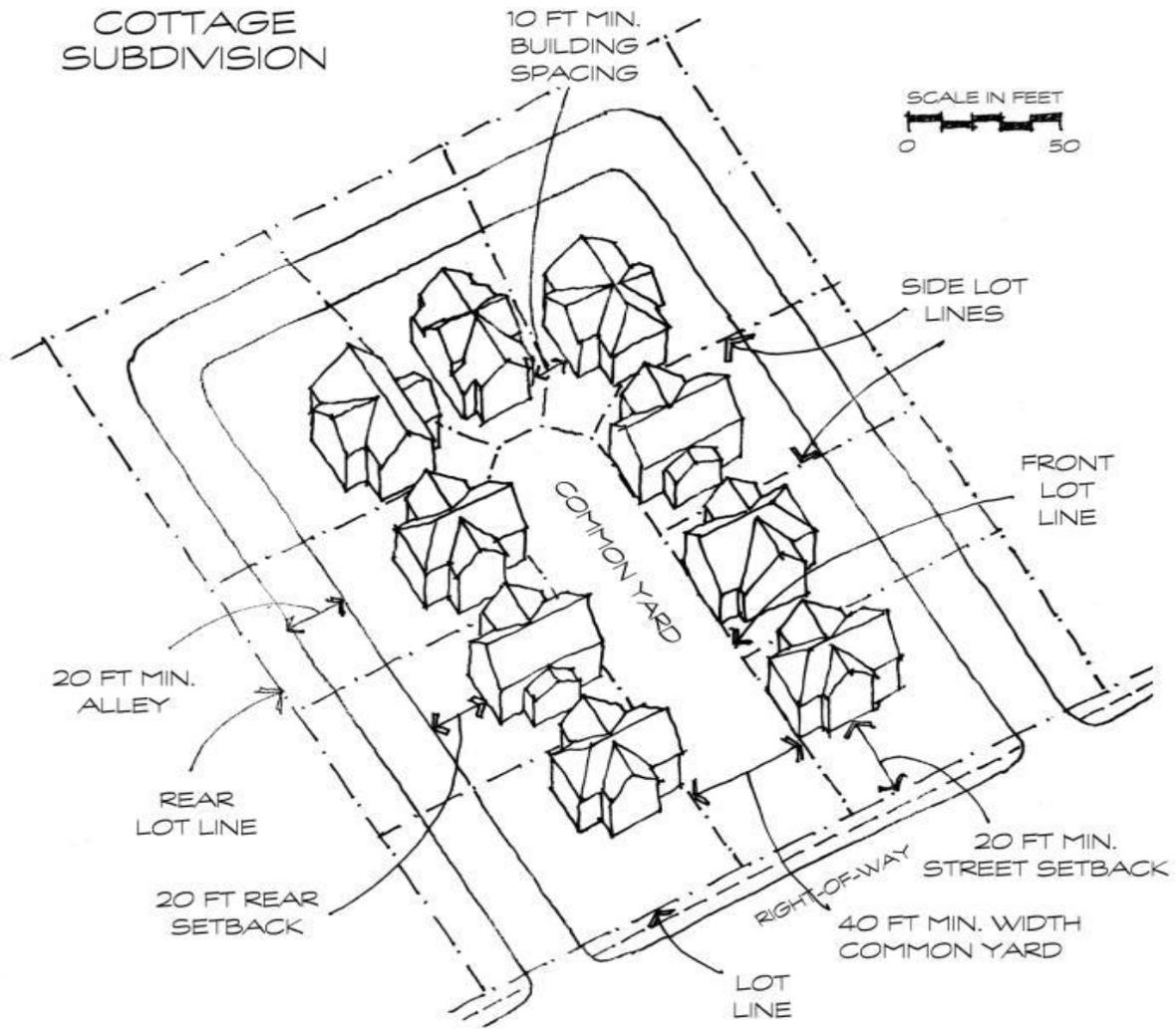
## **SECTION 1202**

### **COTTAGE SUBDIVISIONS**

**1202.1** Cottage homes shall be developed in clusters of a minimum 4 homes to a maximum of 12 homes.

**1202.2** Cottage homes shall be oriented around, and have covered porches or main entry from, a common open space that:

- a. is maintained by a Condominium or Homeowners' Association; and,
- b. consists of an area containing at least 250 square feet per cottage home.



**1202.3** Cottage homes shall have a covered porch at least 60 square feet in size.

**1202.4** All structures shall maintain adequate fire separation in compliance with the Building Code.

**1202.5** Parking for cottages shall be accessed by a common driveway or alley of a width necessary to accommodate turning into parking spaces. Parking spaces shall:

- a. be clustered and separated from the common area by landscaping, wall or architectural screen;

- b. be screened from streets and adjacent residential uses by landscaping, wall or architectural screen; and
- c. not be permitted within 40 feet of a public street.

**1202.6** Setbacks for all structures from interior lot lines shall be an average of 10 feet, but not less than 5 feet, except 15 feet from a public street. Buffers and setbacks from exterior lot lines shall be in accordance with the requirements of the applicable zoning district.

### **SECTION 1203 MANUFACTURED HOME PARKS**

All manufactured home parks shall be served by public water and sewer. Manufactured home parks existing prior to the effective date of this Ordinance shall not be permitted to expand except where public water and sewer is provided. Furthermore, a site plan meeting the requirements set forth herein below is required to be submitted for approval of a manufactured home park.

**1203.1 Density.** The minimum park size shall be twenty acres. The maximum density shall be five manufactured homes per acre, with only one manufactured home per lot if the park is subdivided.

**1203.2 General Requirements.** There shall be set aside a recreational area or areas, within the manufactured home park, which shall be suitably restricted to such use. The size of the recreational area shall be compatible with the size of the park.

**1203.3 Space Requirements.**

- a. Each manufactured home space or lot shall have a minimum area of 6,500 square feet, and a width of not less than 60 feet provided that no lot have less frontage on its access street than is required for a driveway allowing maneuverability of the home onto the lot.
- b. Manufactured homes shall be located with a minimum setback of 20 feet from the access street and five feet from any Lot Line, provided that no manufactured home shall be closer to any other manufactured home than 15 feet.

- c. Each manufactured home space and lot shall be improved with one patio of concrete or other suitable impervious material, having a minimum area of 150 square feet, and one gravel or better home pad of a size equal to or greater than the dimension of the manufactured home located on the pad, but in no case less than ten feet by 40 feet.
- d. Permanent structures located within any manufactured home lot or space shall be used for storage purposes only, shall have a maximum area of 80 square feet and shall be located not less than six feet from any manufactured home nor closer to any Lot Line than provided herein.
- e. No permanent additions of any kind shall be built onto, or become a part of any manufactured home; provided, however, that this provision shall not be construed to prohibit the addition to the manufactured home of a patio cover or carport cover if same is not permanently attached to the ground. Such patio covers or carport covers shall be similar in appearance and design to the manufactured home.
- f. Proper blocking, anchoring, and securing of manufactured homes onto foundations shall be done in compliance with the Building Code and Jefferson County Health Department regulations.
- g. With the exception of access and ventilation openings, which shall be covered with wire mesh screen, the space beneath each manufactured home shall be enclosed. All enclosing materials shall be permanently installed and shall be opaque and rust and rot resistant, and shall extend from the lower edge of the exterior walls of the manufactured home to ground surface of the lot upon which it is located.

**ARTICLE 13**  
**SIGN REGULATIONS**

The purpose of this Article is to establish regulations for the erection and maintenance of signs. It is determined that, while signs are a proper commercial use of private property in certain areas of the City and under certain zoning classifications, such signs should be reasonably regulated in the interest of the public safety and welfare, and to safeguard and promote the aesthetic quality of the City by the establishment of standards for the number, size, height, spacing and illumination of such signs.

The regulations contained herein shall govern all signs, both presently existing and hereafter erected or displayed; however, said regulations shall not waive or repeal additional requirements of other applicable ordinances.

Furthermore, for the purposes of this Ordinance, all signs shall be considered "*uses*" in their own right and, as such, shall hereafter be subject to the provisions set forth in Article 16 of this Ordinance (Non-Conforming Uses).

**SECTION 1301**  
**GENERAL REGULATIONS APPLYING TO ALL SIGNS**

- 1301.1** No sign shall be erected or maintained which would imitate, resemble, obscure or otherwise physically interfere or be confused with any official traffic sign, signal or device, nor obstruct, mislead, confuse or otherwise physically interfere so as to disrupt either pedestrian or vehicular traffic flow.
- 1301.2** Signs shall not be erected or maintained which are structurally unsafe or in substantial disrepair.
- 1301.3** It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this Article.
- 1301.4** No sign shall be permitted on top of any building or rooftop.
- 1301.5** No sign structure shall be located on or project over any public property or right-of-way.

**1301.6** No sign shall contain, include or be illuminated by intermittent lighting except those giving *only* public service information such as but not limited to time, date, temperature, weather or news.

**1301.7** All illuminated or highly reflective signs shall be effectively shielded so as to prevent beams or rays of light from being directed at any portion of a street or roadway, or from shining on or into any residential buildings, or otherwise adversely affecting surrounding or facing properties. Furthermore, such signs shall not adversely affect the safe operation of motor vehicles by reason of light intensity or brilliance which causes glare or otherwise impairs the vision of drivers of motor vehicles.

**1301.8** Unless otherwise authorized by the Zoning Board of Adjustment, the prescribed time period for the display of temporary signs shall be thirty (30) days.

**1301.9** **Maintenance.** Any sign not meeting the following provisions shall be removed within sixty (60) days after receipt of notification from the Building Inspector unless it is determined by the Inspector that the sign owner is delayed for legitimate reasons and is making a good faith effort to correct any deficiencies:

- a. The area around any free-standing sign shall be kept clear of trash and litter, and shall present a neat and healthy appearance.
- b. All signs shall be maintained at the level of appearance originally held at the time of erection and in accordance with the requirements of this Article.
- c. Exposed backs of signs must be painted a single neutral color so as to present an attractive, finished appearance.
- d. It shall be the responsibility of the business owner of an on-premises sign to maintain and insure conformance to the provisions of this Article; abandoned signs shall be the responsibility of the property owner.

**1301.10** **Area and Dimensional Requirements.** Unless otherwise specified in this Article, the following dimensional requirements shall apply:

- a. The minimum front setback shall be zero (0) feet from the right-of-way or ten (10) feet from the edge of the pavement, whichever is greater, or twenty-five (25) feet from the centerline of an undedicated public road;

except, however, for identification signs mounted on mailboxes, and for temporary signs which conform to the requirement set forth as item 1301.10(c) below.

- b. The side and rear setbacks shall be the minimum such yard or setback required for the district in which the sign is located; except, however for temporary signs which shall be placed no closer than fifteen (15) feet to any residential district boundary.
- c. No sign shall be placed in such a manner that motorist visibility is obscured at driveways, entrance points to any business or at intersecting streets and alleys.
- d. The maximum area of any sign shall be thirty-two (32) square feet, with a maximum height of four (4) feet and a maximum length of eight (8) feet, *inclusive* of any embellishments, border or trim, but excluding the base or apron, supports and other structural members.
- e. The maximum height (elevation) of all signs shall be four (4) feet as measured from ground level at the base of the sign to the top of said sign; except, however, in the case of projecting signs or wall signs, the top of which shall be elevated *no higher than* the top of the building or structure upon which said signs are attached or mounted.
- f. Any (all) projecting sign(s) shall extend outward from the building to which it is affixed no more than two and one-half (2½) feet, shall not exceed a total of six and one-quarter (6¼) feet in area, and shall be limited in elevation such that the top edge of the sign is no higher than the top of the building or structure to which it is attached.
- g. Any (all) wall sign(s) shall be limited such that no portion of such sign shall be higher than the top of the portion of the building or wall face to which it is attached or affixed, nor shall it extend more than one (1) foot beyond the wall.

**1301.11 Penalties.** Both the owners or other persons in charge or control of signs *and* the owners or other persons in charge or control of property on which signs are located shall be responsible for assuring compliance with this Article. Any failure or refusal to comply with the provisions of this Article shall be a violation and subject to penalties as provided in Article 17 of this Ordinance.

**SECTION 1302**  
**SIGNS PERMITTED IN SPECIFIED ZONING DISTRICTS**

Any type of sign not listed herein as being permitted in the specified zoning district shall be considered prohibited in that district.

**1302.1 Signs Permitted in All Zoning Districts.** The following signs shall be permitted in all zoning districts, but shall be subject to additional regulations as further specified below:

- a. Signs to regulate traffic.
- b. Signs required to be posted by law.
- c. Warning signs and no trespassing signs.
- d. Identification signs lighted with indirect, non-intermittent light only.
- e. Signs established by, or by order of, any governmental agency.
- f. Signs indicating bus stops, taxi stands and similar transportation facilities.
- g. Signs giving information concerning the location or use of accessory off-street parking facilities, or loading and unloading facilities.
- h. Flags or insignias of a governmental, religious, charitable or fraternal organization except when displayed in connection with a commercial promotion.
- i. Decorative flags and bunting for celebrations, conventions and commemorations for a period of time prescribed and authorized by the City Council.
- j. Temporary signs.
- k. Window signs which identify or advertise activities, services, goods or products available within the building, but which collectively cover no more than twenty percent (20%) of the window glass surface.

1. One (1) construction sign per street frontage located on the property where building is actually in progress under a valid building permit. Such sign may include the names of persons and/or firms performing services or labor, or supplying materials to the premises, but must not exceed twenty-four (24) square feet in area. Such sign must also be removed immediately upon completion of construction.

**1302.2 Additional Signs Permitted in Agricultural Districts.** The following signs shall be permitted in an A-G Agricultural zoning district:

- a. Product advertising signs provided the total combined area of such signs shall not exceed six (6) square feet for anyone premise. Such signs may include single signs with two (2) sign faces oriented in opposite directions which shall be counted as only one (1) sign for the purpose of computing and allocating the total square footage allowed herein.
- b. No such signs shall be placed within fifteen (15) feet of any residential District boundary.

**1302.2 Additional Signs Permitted in Institutional Districts.** The following signs shall be permitted in a P-I Public and Institutional zoning district, and shall be subject to additional regulations as further specified below:

- a. Bulletin boards and identification signs for public, charitable, educational or religious institutions to be located on the premises of said institutions, not to exceed a total of twenty-four (24) square feet in area. One (1) single sign with two (2) sign faces oriented in opposite directions will be allowed.
- b. No such signs shall be placed within fifteen (15) feet of any residential district boundary.

**1302.3 Signs Permitted in all Commercial and Industrial Districts.** The following signs shall be permitted in any commercial or industrial zoning district, and shall be subject to additional regulations as further specified below:

- a. One (1) business sign or professional name plate for each premise denoting only the name, street, number and business of an occupant in a commercial or office building, or of an industrial operation. Each such sign or name plate shall not exceed a total of six (6) square feet in area.

One (1) single sign with two (2) sign faces oriented in opposite directions will be allowed.

- b. No such signs shall be placed within fifteen (15) feet of any residential district boundary.

#### 1302.4

**Additional Signs Permitted in C-G General Commercial and all Industrial Districts.** The following signs shall be permitted in a C-G General Commercial zoning district or in any industrial zoning district, but shall be subject to additional regulations as further specified below:

- a. One (1) on-premise sign shall be permitted on a parcel or property subject to the provisions of Section 1304 of this Article (Permitting Procedures) and any fees that may be applicable. If a property has frontage on more than one (1) street or roadway, one (1) additional on-premise sign may be *permitted on appeal*; said additional sign(s) shall also be subject to the provisions of Section 1304 of this Ordinance and any applicable fees.
- b. Fuel price informational signs advertising the price of motor vehicle fuel provided that only one (1) fuel price sign per fuel type will be allowed. The size of each individual price sign shall not exceed two hundred and sixteen (216) square inches (or one and a half (1.5) square feet) in area.
- c. One (1) product advertising sign not exceeding twelve (12) square feet in area. If a property has frontage on more than one (1) street or roadway, one (1) additional such sign will be permitted.
- d. One (1) portable sign shall be permitted for any one business establishment. Such signs shall be subject to the provisions of Section 1304 of this Article (Permitting Procedures) and any applicable fees.
- e. Wall signs provided the total area covered by such signs does not exceed twenty-four (24) square feet.
- f. As a standard rule regarding the number and combination of sign types (listed hereinabove as being permitted in C-G General Commercial and Industrial zoning districts) that will be allowed on any single parcel or property at any one time, signage of any one (1) type listed in items "a" through "d" above (and subject to the conditions and/or restrictions

provided therein) will be permitted *in addition* to wall signage as provided for in item "e".

However, it is further provided that the Planning Commission may approve an alternative signage plan allowing additional or other sign types, and/or combinations thereof, for specific developments or properties upon request and submission of such plan. Before approving any such alternative plan, the Commission must first determine that:

1. the total proposed signage is both appropriate to the property and acceptable within the context of the surrounding area;
  2. the purpose and intent of this Article will not be compromised; and,
  3. the goals and objectives of the City's Comprehensive Plan will be furthered by such approval.
- g. In shopping centers and similar larger-scale multi-tenant developments, a single unified structure containing multiple signs (identifying said tenants) stacked vertically, and arranged in no more than two (2) columns, with or without a unifying development/shopping center name sign, may be permitted.

**1302.5 Additional Restrictions Pertaining to Signs in a C-S Special Commercial District.** No signs for age-restricted establishments shall have graphic displays: all signs and/or exterior displays of any kind that may be visible from any public way shall be limited to words, phrases and numbers, and shall not include live, animated or pictorial displays, or any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined in Article 7 of this Ordinance). This provision shall apply to any display, decoration, sign, show window or other openings.

### **SECTION 1303 PROHIBITED SIGNS**

The following signs shall hereafter be considered expressly prohibited throughout the City:

- a. Lights and signs that resemble any traffic control device, official traffic control signs, or emergency vehicle lights or markings.
- b. Signs that produce noise or sounds capable of being heard, including non-distinguishable sounds.
- c. Signs which emit odor, visible smoke, vapor or particles.
- d. Signs attached to or painted onto a vehicle for the *primary* purpose of advertising.
- e. Abandoned signs.
- f. Signs attached to trees, utility poles or street lights, or placed on any public property except as authorized by ordinance of the City Council.
- g. Signs painted or drawn upon rocks, trees or other natural features.
- h. Stacked signs that are separate sign displays mounted one above the other whether on unified or separate structures, except as may otherwise be permitted in specified districts.
- i. Signs or attention attracting devices that contain a beacon of any type and/or contain a spot light providing direct illumination to the public.
- j. Three-sided signs and “V”-type signs.
- k. Off-premise signs.
- l. Outdoor advertising signs and billboards.
- m. Signs that project more than two and a half (2.5) feet from any building or structure on which they are mounted.
- n. Portable signs except as provided for in Section 1304 of this Ordinance.

**SECTION 1304**  
**PERMITTING PROCEDURES**

**1304.1** Any sign classified and/or defined in this Ordinance as "On-Premise" or "Portable" shall require a permit as provided in this Section. Application for a permit shall be made to the Building Inspector, and shall be accompanied by such drawings, plans, specifications, and engineering designs as may be necessary to fully advise and acquaint the Inspector with the sign and its location. Said application shall also be accompanied by the deed, lease or other agreement and zoning approval by which the applicant has the right to erect, use or maintain the sign at that location.

Prior to the issuance of a sign permit, any applicable fees for on-premise and portable signs shall be payable as set forth under separate City ordinance. These fees are in addition to and *not* in lieu of any other fees or licenses required.

**1304.2** **Special Provisions for Portable Signs.** For the purposes of this Ordinance, all portable signs shall be considered temporary in nature, and shall be permitted for a period not to exceed six (6) months. A permit for a second six (6) month period may be issued only upon appeal to and approval of the Zoning Board of Adjustment. No further permits will be issued for a portable sign to be located on the same parcel or property for which two (2) permits have already been issued.

**ARTICLE 14**  
**PARKING REGULATIONS**

**SECTION 1401**  
**OFF-STREET PARKING**

There shall be permanent off-street parking in the amount specified by this Article at the time of the erection of any building, when any principal building is enlarged or increased in capacity by the addition of dwelling units, guest rooms, seats or floor area, or before conversion from one unit of occupancy to another. Such parking shall be provided within a parking garage, a surface parking lot or in driveways serving single-family detached dwellings. Parking facilities provided in accordance with this Ordinance shall not subsequently be reduced below the requirements of this Article.

**1401.1      Parking Lots to be Improved.** Parking lots are intended to provide for the off-street parking space required by this Article, and shall be improved and maintained in accordance with the requirements of this Article and the applicable standards of the City of Clay Design and Construction Specifications, and maintained in perpetuity by the owner. All parking spaces, excluding those on the lots of one, two, and three family dwellings shall be striped.

**1401.2      Joint Use of Parking Lots.** The number of parking spaces required for one use shall not be considered as all or part of the required parking for another use on the same or separate lot.

However, in instances where circumstances involving a combination of uses or other factors might require total parking in excess of actual need; or where a use for which the highest parking demand occurs at a different time from other uses on the same lot or block; such shall be determined and certified by the Zoning Officer, and subsequently approved by the Planning Commission, in accordance with Section 1403 below.

**1401.3      Certification of Minimum Parking Requirements.** Each application for zoning approval shall include information as to the location and dimensions of off-street parking spaces and the means of ingress and egress between such spaces and adjacent streets or alleys. This information shall be in sufficient detail to allow an accurate determination of conformance with this Article. Zoning approval for the use of any building, structure or land where off-street parking is required shall be withheld until the provisions of this Article are fully met.

- 1401.4 Free Flow of Traffic and Pedestrian Protection.** Ingress and egress for parking facilities shall conform with the requirements of the Design and Construction Specifications. Wherever a reservoir or vehicle standing area is deemed necessary by the Zoning Officer to prevent such blocking of traffic, such reservoir shall be required.
- 1401.5 Use of Setback Space.** In all zoning districts except residential where side and rear yards adjoin residential districts, all of the required side and rear setback space may be utilized for parking space *except* the outermost fifteen (15) feet. Said outermost fifteen (15) feet shall be grassed or landscaped, or otherwise maintained as a buffer strip in accordance with the requirements of the individual district in which the property is located; with applicable provisions elsewhere in this Ordinance; or as may otherwise be required in a particular case or situation.
- 1401.6 Dimensional Requirements.** For the purposes of this Ordinance, each off-street parking space shall not be less than two hundred (200) square feet in area, ten (10) feet in width by twenty (20) feet in length, *exclusive* of access drives or aisles. Each space shall be of and maintained in usable shape and condition, and shall have vehicular access to a public street.
- 1401.7 No Backing Onto Public Streets.** Except for residential uses in residential zoning districts, adequate turning space shall be provided so that no vehicle will be required to back out into a public street.
- 1401.8 Off-Street Loading and Unloading Areas.** In each non-residential district, adequate off-street loading and unloading space shall be provided on the same premises with every building, or part thereof, hereafter erected or occupied for any use which involves the receipt or distribution of materials or merchandise by motor vehicle. This space shall be so placed and arranged as not to interfere with the free movement of vehicles and pedestrians over a public road. The adequacy of such loading and unloading areas shall be determined by the City Engineer and/or Building Inspector.

## SECTION 1402 MINIMUM PARKING REQUIREMENTS

- 1402.1 Parking Requirements by Use.** The number of off-street automobile parking spaces shall conform to the following thresholds for the various respective types of uses (except as otherwise provided in Section 1403 below for shared parking).

Any fractional space calculated according to the table below shall be computed as a whole space, effectively rounding the total number of spaces required up to the next whole number.

<b>Type of Use</b>	<b>Minimum No. of Spaces</b>	<b>Maximum No. of Spaces</b>
Single-family, two-family, and three-family dwellings	2 per dwelling unit	none
Apartments and Condominiums:		
studios and one-bedroom units	1 per unit	1.5 per unit
two-bedroom units	1.5 per unit	2 per unit
three- or more bedroom units	2 per unit	3 per unit
Places of Worship and Assembly Halls	1 per 325 gross square feet or 1 per 5 seats in the main assembly area (whichever is greater)	1 per 275 gross square feet or 1 per 3.5 seats in the main assembly area (whichever is less)
Health Club	1 per 120 gross square feet	1 per 90 gross square feet
Lodging	1 per guestroom plus 1 per 500 square feet of common area	1 per guestroom plus 1 per 250 square feet of common area
Industrial	1 per 500 square feet or 2 for every 3 employees on the maximum working shift (whichever is greater)	1 per 400 square feet or 3 for every 3 employees on the maximum working shift (whichever is less)
Medical Office	1 per 225 gross square feet	1 per 190 gross square feet
Office	1 per 325 gross square feet	1 per 280 gross square feet
Restaurants, Pub Restaurants, Bars, and Indoor Entertainment	1 per 125 gross square feet	1 per 90 gross square feet
General Retail	1 per 250 gross square feet	1 per 200 gross square feet
Day Care Facilities	1.5 spaces per employee plus adequate area for loading and unloading children	2.25 spaces per employee plus adequate area for loading and unloading children

Elementary and Middle Schools, Junior High Schools	1 per 4 seats in assembly room plus 0.75 per daytime employee	1 per 4 seats in assembly room plus 1 per daytime employee
High School	1 per 4 seats in assembly room plus 1 per daytime employee	1 per 3.5 seats in assembly room plus 1 per daytime employee
Private Club or Lodge	1 per 250 gross square feet	1 per 200 gross square feet
Assisted Living Facilities	1 per 6 residents	1 per 4 residents
Independent Living Facilities	1 per 4 residents	1 per 3 residents
Outdoor Entertainment/Recreation	as recommended by the Zoning Officer on a case-by-case basis	
Funeral Home	1 per 60 square feet per funeral service room	1 per 40 square feet per funeral service room
Community Center	10 plus 1 space per 450 square feet over 2,000 square feet	10 plus 1 space per 375 square feet over 2,000 square feet

**1402.2 Uses Not Specified.** Where a use is not specifically identified hereinabove, the parking space requirements of a similar or related use shall apply.

**1402.3 Availability of On-Street Parking.** In non-residential areas where on-street parking is existing or required by the Subdivision Regulations, on-street parking spaces directly abutting the use may be counted toward the parking requirement for the use. On-street handicap parking spaces shall not be counted, nor shall any on-street parking space be counted toward two or more uses.

**1402.4 Parking Above the Maximum Number of Spaces.** Where a developer prefers to provide “overflow” parking or parking spaces in excess of the maximum provided herein, such as to meet intermittent high demands for parking (i.e. holiday shopping), such excess space(s) shall be provided upon a pervious parking surface as approved by the City Engineer.

**SECTION 1403**  
**REDUCED REQUIREMENTS FOR SHARED PARKING**

In circumstances involving a combination of uses sharing a common parking area(s) for which compliance with the conventional requirements of Section 1402 above might create total parking in excess of actual need; or, wherever a use for which the highest parking demand occurs at a different time from other uses on the same lot or block; such shall be determined and certified by the Zoning Officer. Upon such certification, the parking requirement for the *combined* uses may be reduced in accordance with a recommendation by the Zoning Officer and as approved by the Planning Commission, provided however that the following conditions as met.

- a. Reductions shall only be approved when a written agreement between the owners of such parking areas has been provided to the Zoning Officer, and where the parking areas are commonly shared and interconnected by an alley or shared drive and pedestrian walkways.
- b. Reductions shall only be applicable to uses on the same block, and where each space to be shared is no further than 600 feet from an entrance to any of the uses sharing such parking.

**SECTION 1404**  
**PARKING LOT LANDSCAPING REQUIREMENTS**

All parking lots containing ten or more spaces shall be required to have installed landscaping improvements in accordance with the Design and Construction Specifications, and according to any site plan approved by the Planning Commission. When existing parking lots, established prior to the effective date of this Ordinance and amendments thereto, are to be expanded by ten (10) or more additional spaces, the parking lot shall be improved in accordance with the provisions of the aforementioned requirements.

**ARTICLE 15**  
**HOME OCCUPATION REGULATIONS**

As the City recognizes the need to afford opportunities for residents to work from home, it is the intent of this Section to establish regulations which will permit home occupations in a manner that will preserve the peace, quiet and tranquility of residential neighborhoods, and to ensure the compatibility of such uses with other uses permitted within the same zoning district. Thus, home occupations may be allowed as an incidental use, in conjunction with a single family residence, but only in accordance with the regulations, restrictions, requirements and procedures of this Article.

**SECTION 1501**  
GENERAL REGULATIONS REGARDING HOME OCCUPATIONS

**1501.1      General Restrictions.** The home occupation shall be clearly incidental to the residential use of the dwelling, and shall *not* change the essential residential character of the dwelling or the property on which it is located, nor shall it adversely affect any of the uses permitted in the zoning district in which the occupation is located.

No home occupations shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased pedestrian and/or vehicular traffic, or any other conditions that might be created which would constitute an objectionable use of residentially zoned property.

**1501.2      Limitation on Types of Home Occupations.** Home occupations should be limited to an office or a business of a personal service nature. However, the Zoning Officer reserves the right to defer the determination of whether any proposed home occupation meets this criteria to the Zoning Board of Adjustment in cases where the nature and/or potential externalities of the proposed operation are not entirely clear.

**1501.3      Employment Limitations.** The person conducting the home occupation shall be a full-time resident of the dwelling in which the home occupation is being conducted. Furthermore, employment for a home occupation purpose shall be limited to members of the family residing in the dwelling; there shall be *no* employment of help other than members of the residing family.

**1501.4      Limitation on Area of a Home Occupation.** Use of the dwelling for a home occupation purpose shall be limited to twenty-five percent (25%) of one (1) floor

of the principal building. Use of one (1) accessory building for the home occupation may be permitted provided that it be no larger than twenty-five percent (25%) of the floor area of the principle building, and that such use does not cause the elimination of the required off-street parking spaces for the dwelling.

**1501.5 External Alterations to Building.** No displays or changes in building facade, including the dwelling and all accessory buildings, shall indicate from the exterior that the dwelling is being utilized for any purposes other than a dwelling.

**1501.6 Confinement to Building.** A home occupation shall be confined *entirely* to the principle building and/or accessory building; *no* outside storage shall be allowed in connection with a home occupation.

**1501.7 Sale of Products.** No display of products shall be visible from the street. Furthermore, except for non-durable articles (consumable products) that are incidental to a service that is the principle operation in the home occupation, only articles or goods lawfully made *on the premises* may be sold.

**1501.8 Limitation on Students.** Instruction in music, dancing, art, crafts and similar subjects shall be limited to two (2) students at any one time.

**1501.9 Restriction on Hours of Operation.** Any activity of a home occupation that may cause any kind of disruptive effect outside of the principle residence shall be limited to the hours between 7:00 a.m. and 10:00 p.m.

**1501.10 Elements Prohibited in a Home Occupation.** A home occupation shall not produce noise, obnoxious odors, vibrations, lighting glare, fumes, smoke, or electrical interference detectable to normal sensory perception on any adjacent lots or streets. Neither shall any home occupation involve the use or storage of explosive, highly combustible, or hazardous materials.

## SECTION 1502

### PROCEDURES FOR PERMITTING HOME OCCUPATIONS

**1502.1 Administrative Approval.** Applications for home occupations that meet all of the regulations and requirements of Section 1501 above may be approved by the Zoning Officer. However, said Officer shall have the discretion, where the appropriateness of a proposed use as a home occupation may be in question as

relates to any of the elements of Section 1501, to require hearing and approval of any such application by the Board of Zoning Adjustment.

- 1502.2 Home Daycare as a Home Occupation.** Home daycares, as defined in Article 7 of this Ordinance, shall be considered conditional home occupations for the purposes of this Ordinance, and shall accordingly be subject to approval by the Zoning Board of Adjustment. However, in recognition of the differences between home daycares and other, more business-like types of home occupations, regulation Items 4, 6, 8 and possibly 9 of Section 1501 above may be not be applicable and/or may be relaxed to some extent with regard to a home daycare.

### **SECTION 1503**

#### **MONITORING, INSPECTION AND ENFORCEMENT OF HOME OCCUPATION REGULATIONS**

- 1503.1 Prior To Approval.** The review of any application for a home occupation may include an inspection of the dwelling and property by the Zoning Officer and/or Building Inspector prior to the issuance of any permit.
- 1503.2 Following Approval.** The Zoning Officer and/or Building Inspector, or their respective designees, shall have the right to enter and inspect the property, dwelling and/or accessory buildings for compliance purposes following advance notice to the property owner.
- 1503.3 Permit Expiration and Renewal.** Home occupation permits shall expire one (1) year from the date of issuance, and once granted may be renewed without additional hearings provided there have been no reported issues and no changes in the nature of the occupation.

**ARTICLE 16  
NON-CONFORMING USES**

**SECTION 1601  
CONTINUANCE OF NON-CONFORMING USES  
AND STRUCTURES**

The lawful use of a structure or land existing at the time of the effective date of this Ordinance (and subsequent amendments) may be continued although such use does not conform to the provisions hereof. If no structural alterations are made, a non-conforming use of a structure may be changed to another non-conforming use of a *more restrictive* classification or to a conforming use; however, such use shall not thereafter be changed to a use of a *less* restrictive classification.

For the purposes of this Article, a “use of a more restrictive classification” shall mean a use generally more compatible with its surroundings and/or the district in which it located, and otherwise of more limited impact to neighboring properties, including traffic, light, noise, odor, etc. This determination shall be made by the Zoning Officer.

**SECTION 1602  
DISCONTINUED NON-CONFORMING USES**

- 1602.1** In the event a structure or premises occupied or utilized by a nonconforming use that becomes discontinued for a continuous period of six (6) months or longer, the use of said structure or premises shall thereafter conform to the regulations of the district in which it is located.
- 1602.2** In the event the use of a property, on which nonconforming signs exist, becomes discontinued for a continuous period of six (6) months or longer, such sign(s) shall be brought into conformity with the provisions of Article 13 at the time of re-use of the property.

**SECTION 1603  
STRUCTURAL EXTENSIONS AND ALTERATIONS**

No structure or premises occupied by a non-conforming use shall be enlarged, extended, reconstructed or otherwise structurally altered *unless* such use is changed to a use that conforms to the use regulations of the district in which such structure or premises is located. However, a structure or premises occupied by a nonconforming use *may* be physically enlarged, extended,

reconstructed or structurally altered if and only to the extent necessary to be in compliance with any existing and applicable law or ordinance specifying minimum standards for reason of health or safety.

**SECTION 1604**  
USE EXTENSIONS

No non-conforming use shall be enlarged, extended or expanded unless such use is changed to a use which conforms to the use regulations of the zoning district in which such use is located.

**SECTION 1605**  
NEW CONSTRUCTION FOR CONFORMING USES

A structure or building conforming to the use regulations of the district in which it is located but *not* conforming to other provisions of this Ordinance may be enlarged, extended or expanded provided that such enlargement, extension or expansion conforms to all regulations set forth in that district and any other applicable regulations provided for in this Ordinance.

In cases where an existing building or structure does *not* conform to the area and dimensional requirements, or other related provisions, of this Ordinance, said building or structure may be enlarged, extended or expanded provided that such enlargement, extension or expansion conforms to all regulations set forth in that district and any other applicable regulations provided for in this Ordinance. If such improvements or alterations do *not* conform to the applicable regulations and requirements of this Ordinance, and/or do not bring the existing building or structure into conformity with the provisions of this Ordinance, a variance will be required prior to issuance of a building permit for any enlargement, extension, expansion or similar structural alterations.

**SECTION 1606**  
DESTRUCTION OF A NON-CONFORMING USE

Any building or structure (occupied by a non-conforming use) that is damaged by explosion, fire, act of God or the public enemy to the extent of more than seventy-five percent (75%) of its fair market value *immediately prior* to said damage shall *not* be restored except in conformity with the regulations of this Article.

**ARTICLE 17**  
**ADMINISTRATION, ENFORCEMENT, AMENDMENTS AND PENALTIES**

**SECTION 1701**  
**ZONING OFFICER**

The Zoning Officer is hereby authorized, and it shall be said Officer's duty, to administer and enforce the provisions of this Ordinance. The Zoning Officer shall give information upon request as to the provisions of this Ordinance, and shall interpret the meaning of said Ordinance in the course of administration and enforcement thereof.

**SECTION 1702**  
**BUILDING PERMIT**

**1702.1 Building Permit Required.** No building, sign or other structure shall be erected, moved, extended, enlarged or otherwise structurally altered until the Building Inspector has issued a Building Permit for such work. The Building Inspector shall not issue a Building Permit until conformance with the provisions of this Ordinance and the City of Clay Design and Construction Specifications is certified by the Zoning Officer through the issuance of Zoning Approval.

**1702.2 Expiration of Building Permit.** Any Building Permit, under which, no construction work has commenced above the foundation walls or other foundation support after six months from the issuance of the permit, shall expire. Further, any Building Permit, issued for a property, shall expire upon the sale or transfer of said property to a new owner other than the person for which the Building Permit was originally issued and shall expire upon any change in the building contractor employed for the project at the time the permit was originally issued. Any Building Permit renewed subsequent to its initial approval and issuance shall, however, be subject to the provisions of all ordinances and amendments thereto in force at the time of said renewal.

**SECTION 1703**  
**ZONING APPROVAL**

The provisions of this section shall govern the filing for, and the applicability and issuance of a Zoning Approval:

**1703.1**      **Application.** Each application for a Zoning Approval shall be filed in written form at the Clay City Hall, and shall include the following:

- a.      The address and legal description of the property as of public record;
- b.      The name of the property owner and the applicant;
- c.      A description of the uses to be established or expanded;
- d.      An accurate dimensioned drawing of the building plot showing the location of:
  - buildings and structures, both existing and proposed
  - lot areas to be used
  - parking areas including lighting and landscaping as required;
  - water supply facilities
  - sewage disposal facilities;
- e.      Any additional information as may be required and deemed necessary by the Zoning Officer to determine whether the provisions of this Ordinance are being observed.

**1703.2**      **Expiration of Zoning Approval.** Any Zoning Approval issued shall expire at the end of a ninety (90) day period from the date of issuance.

**1703.3**      **Non-Conformities.** In *no* case shall a Zoning Approval be issued for the construction or alteration of a structure not in conformity with the provisions of this Ordinance.

**SECTION 1704**  
**CERTIFICATE OF OCCUPANCY**

No land, building or other structure or part thereof hereafter erected, moved or altered following issuance of a proper building permit shall be occupied or utilized until the Building Inspector of the City shall have issued a certificate of occupancy stating that such land, building, structure or part thereof is found to be in conformity with the provisions of this Ordinance, the City of Clay Building Code, the City's Design and Construction Specifications, and any other applicable codes.

Within three (3) days after the owner or his agent has notified the Building Inspector that building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector, the Zoning Officer and any other appropriate authority of the City to make a final inspection thereof, and to jointly issue a certificate of occupancy *if* the building or premises or part thereof is found to conform to:

- a. The provisions of this Ordinance;
- b. The City of Clay Building Code (and any other applicable building codes);
- c. The provisions of the City of Clay Design and Construction Specifications (and other pertinent regulations);
- d. The content of site development and use information submitted in the application for zoning approval; and,
- e. The content of site development and use information submitted in an application for rezoning, and any restrictions or conditions resulting from said petition for a change of zoning.

In the case said land, building, structure or part thereof is not found to conform in any way to any of the items set forth above, a certificate of occupancy shall be refused, and said refusal and the cause for same shall be stated in writing.

## **SECTION 1705 AMENDMENTS**

The provisions of this Ordinance, including the Zoning Map, may from time to time be amended, supplemented, changed, modified or repealed by the City Council in accordance with the procedures stated herein.

## **SECTION 1706 PETITION TO AMEND: REQUESTING CHANGES IN ZONING OR TO THIS ORDINANCE**

**1706.1** The Zoning Map and Ordinance shall only be amended after a recommendation by the Commission and passage of an amendment by the City Council.

Recommendations by the Commission and final action on a rezoning request by the Council shall take into consideration the following:

- a. Compatibility with the Comprehensive Plan;
- b. Availability and adequacy of public infrastructure and services, including water, sewer, roads, police and fire protection, etc.; and,
- c. Impacts of the requested change on neighboring properties and the surrounding area, including traffic, noise, light, odors, etc.

**1706.2** Wherever the Council, after a recommendation by the Commission, finds that a requested rezoning is desirable, appropriate and promotes the general welfare, but is otherwise in conflict with the Comprehensive Plan, the Council shall cause the Comprehensive Plan to be officially amended to incorporate such finding.

However, the Planning Commission shall not make a recommendation for approval of any rezoning request that would be in conflict with the Comprehensive Plan. Should said Commission wish to consider such a rezoning, it must first table the case pending hearing and adoption of any necessary amendments to the Plan that would eliminate the conflict(s). Failure to adopt such amendment will necessarily require the Commission to recommend denial of the rezoning in question.

**1706.3** Petitions to amend this Ordinance and/or the Zoning Map may be initiated by:

- a. The owner of the land, or the owner's authorized agent in which case a notarized letter to that effect is required, upon the filing of an application with the Planning Commission; or,
- b. By the introduction of a resolution for such purpose by any member of the City Council.

**1706.4** **Application.** An application for any change in zoning shall be filed with the Zoning Officer at least fifteen (15) working days prior to the next regularly scheduled meeting of the Planning Commission. Any petition/application so filed shall include at least the following items and information; *no petition/application will be accepted without the items and information below:*

- a. Statement of the nature of the proposed amendment;

- b. Parcel Identification Number(s), address and, if applicable, a legal description of the property involved;
- c. Names and addresses of the owner(s) of the property;
- d. Statement of how the property in question is to be used;
- e. A Development Plan including a dimensioned drawing(s) of the property, showing proposed buildings, structures, parking areas, loading and service areas, access, buffers and screening, signage and landscaping; and,
- f. Any additional information as may be required and deemed necessary by the Zoning Officer to determine whether the provisions of this Ordinance and other applicable regulations can be observed and to allow for adequate evaluation of potential land use conflicts or other adverse impacts on adjacent properties and the surrounding area, including but not limited to traffic, light, noise, and drainage.

**SECTION 1707**  
**ACTION ON PETITIONS**

Subsequent action following the proper filing of a petition/application and required materials shall be as follows:

**1707.1 The Planning Commission.** The Planning Commission shall consider a petition/application at the first regularly scheduled meeting following proper filing of said petition.

**1707.2 Recommendations of the Planning Commission.** The Planning Commission shall have seventy (70) days after the public hearing in which to make recommendations to the City Council. The recommendations of the Planning Commission shall be advisory only, and shall not be binding on the City Council. Failure of the Planning Commission to make such recommendations within the prescribed time shall constitute a *favorable* recommendation.

The Commission may recommend denial of the petition, approval, or approval upon consideration of certain conditions, which shall be provided in writing to the Council.

- 1707.3**      **Planning Commission Review Required.** No amendment to this Ordinance or the Zoning Map shall become effective unless it has been submitted to the Planning Commission for a recommendation.
- 1707.4**      **The City Council.** Only after the recommendations of the Planning Commission regarding a petition/application have been recorded and submitted to the City Council will the Council take action on said petition.
- 1707.5**      **Expiration.** In any case where construction, alteration or use of a building, structure or land has not been initiated within one year from the date of the Council's approval of a rezoning application, such property shall revert to the zoning classification held prior to rezoning; the property owner or other designated representative shall be required to file a new petition/application for rezoning in order to continue with the project.

Provided, however, that the Council may waive such expiration in any case where sufficient evidence is presented that a good faith effort has been made by the applicant to proceed with the project originally approved. Evidence must show that the delay resulted from circumstances beyond the control of the Applicant.

## **SECTION 1708**

### **NOTICE OF PUBLIC HEARING**

No changes in or amendments to the provisions of this Ordinance shall become effective until after a public hearing in relation thereto, and at which interested parties and citizens shall have an opportunity to be heard. Written notice shall be given to all property owners within five hundred (500) feet of a property being considered for rezoning, and an additional notice shall be posted on or as near the site as possible to serve as visual notification to the general public. In the event there are no other property owners within 500 feet, the adjacent property owners shall be notified. Notice shall be posted within the required time frame in four (4) public locations.

- 1708.1**      **For Notice of Hearing Before the Planning Commission,** at least seven (7) days notice of the time and place of such hearing by the Commission shall be required.
- 1708.2**      **For Notice of Hearing Before the City Council,** at least fifteen (15) days notice of the time and place of such hearing by the Council shall be required.

**1708.3** The written notice to property owners provided for the hearing before the Planning Commission shall also provide the necessary information as required for notice of the City Council Hearing for the same case(s), and such shall be considered as fully accommodating the requirements of this Article.

However, whenever the Commission fails to reach a decision on an application, for which notice of the originally scheduled Council hearing on the same case has already been given, a new notice shall be provided to the affected property owners with the rescheduled date of the Council Hearing.

### **SECTION 1709 TIME LIMIT**

After the City Council has voted on a petition/application for an amendment to this Ordinance and/or the Zoning Map, another petition/application for the same kind of rezoning of the same tract or parcel of land, or for the same change of the same portion of the Zoning Ordinance, will not be considered until a period of one (1) year has elapsed from the date of such action by the City Council.

Furthermore, the withdrawal of a petition/application to amend this Ordinance or the Zoning Map *after* the hearing held by the Planning Commission but *prior to* hearing by the City Council shall also require a one (1) year period of time before another application of the same nature may be submitted.

Be it further provided with regard to this Section, however, that the Planning Commission may adjust this time period if, in the opinion of the majority of said Commission, an usual situation or circumstance exists which would warrant another hearing prior to expiration of the one (1) year period stipulated herein. Such circumstances may include, but shall not be limited to, the following and any combination thereof:

- a. change in ownership of the applicable property;
- b. provision of utilities, public services or public improvements not available at the time of the original request;
- c. rezoning of adjacent properties which would tend to support the original request;
- d. amendments to this Ordinance or the Comprehensive Plan which would tend to support the original request.

**SECTION 1710**  
**TEMPORARY EMERGENCY RELIEF**

The Zoning Officer is hereby granted authority to provide immediate emergency and temporary relief to applicants requesting such relief by issuing permits authorizing the installation of manufactured homes on applicant's property under the following conditions:

- a. Such permit shall be temporary and not to exceed one (1) year from date of issuance;
- b. Such permit shall *not* be transferable; and,
- c. Prior to the issuance of such permit, the Zoning Officer shall be reasonably satisfied that the applicant's requested relief is necessary, and that the need for such relief was proximately caused by damage resulting from fire or natural disaster.

**SECTION 1711**  
**REMEDIES AND PENALTIES FOR VIOLATION**

In accordance with Section 83, Chapter 52, Title 11 of the Code of Alabama, 1975, as amended, it shall be unlawful for any building or structure to be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land to be used in violation of any regulation in, any provision of or any amendment to this Ordinance.

**1711.1 Remedies.** In any case where any building or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained or used, or any structure, building or land is used in violation of this Ordinance as set forth above, the Building Inspector, Zoning Officer or other appropriate authority of the City may institute injunction, mandamus or any other appropriate action or proceedings to:

- a. Stay or prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
- b. Restrain, correct, abate or remove such violation;
- c. Prevent the occupancy of such building, structure or land; or,
- d. Prevent any illegal act, conduct, business or use in or about such premises.

**1711.2**        **Procedures.** Prior to any criminal prosecution, the Zoning Officer or an agent thereof shall give a written notice or citation to the person, firm, corporation or other organization violating and provision of this Ordinance stating the rule or regulation being violated, and notifying said person, firm, corporation or organization to cease and desist such violation immediately or otherwise be prosecuted as provided for herein. The notice shall fix a reasonable time for compliance, as approved by the Council based on the nature of the violation and effort required for compliance.

**1711.3**        **Penalties.** Any person, firm, corporation or other organization which violates any regulation in, any provision of or any amendment to this Ordinance shall, upon conviction, be fined at least the cost of court, *plus* not more than one hundred dollars (\$100.00) or imprisonment for not more than ten (10) days or both, for each offense. Each and every day during which such violation continues shall be deemed a separate offense. Conviction of a violation and imposition of any fine shall not constitute an exemption from compliance with the regulations and other provisions of this Ordinance.

**1711.4**        **Further Provisions.** In any case of violation of this Ordinance as set forth herein, any adjacent or neighboring property owner who would be damaged or caused hardship by such violation, may institute injunction, mandamus or other appropriate action or proceeding to stay or prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to correct or abate such violation, or to prevent occupancy of, such building, structure or land.

The Zoning Officer or other appropriate authority of the City may intervene in any such action, suit or other proceedings wherein there is involved any violation of any regulation in, any provision of or any amendment to this Ordinance. When such intervention takes place, said Officer or other appropriate authority shall be deemed to be, and shall be treated as, an original party to the action, suit or proceedings. It is the intent of this Section that any action, suit or proceedings in which such authority of the City intervenes shall proceed the same as if said authority had been an original party insofar as any statute, act or rule prohibiting an entire change of parties is concerned.

**ARTICLE 18**  
**ZONING BOARD OF ADJUSTMENT**

**SECTION 1801**  
**ESTABLISHMENT AND PROCEDURES**

**1801.1**      **Creation and Membership.** A Zoning Board of Adjustment for the City of Clay, hereinafter called the Board, was established on January 6, 2003 according to the provisions of Title 11, Chapter 52, Article 4, Sections 80 and 81 of the Code of Alabama, 1975, and amendments thereto. Further in accordance with said Code, the Board shall be composed of five members and two supernumerary members appointed by the City Council. The supernumerary members shall serve the Board at the call of the chairman, only in the absence of regular members. Each member of this Board shall serve without compensation and may be removed for cause by the appointing authority upon written charges and after a public hearing.

Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. And while the appointment, procedures, powers and actions of said Board are governed and controlled by the Code sections cited herein, the Board shall make, adopt, and from time to time amend its own bylaws and rules of procedure (as authorized by said Code).

**1801.2**      **Meetings, Procedure and Records.** Meetings of this Board shall be held at such times as the Board may determine, or upon call of the chairperson. Such chairperson or, in their absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of this Board shall be open to the public.

This Board shall adopt its own rules of procedure, and keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, so indicating such fact. All records of the Board's examinations and of other official actions shall be immediately filed in the office of the City Clerk and shall be of public record.

All procedures, bylaws and records shall be public record and be made available and shall immediately be filed in the office of the Board

**1801.3**      **Filing of Appeals, Public Hearing and Rulings by the Board.** Petitions to be heard at any regular meeting of the Board may be filed by any owner with a legal interest in the property in question, or by said owner's authorized agent (in which

case a notarized letter is required). Such petition/application must be filed with the City Clerk of the City of Clay, stating the nature of the request and accompanied by a deed and plot plan (or site development plan, if additional development, construction, buildings, structures or other improvements are proposed to be undertaken, or any other modifications are to be made to the physical characteristics of the property).

The Board shall fix a reasonable time for the hearing of an appeal taken by the Clerk, and shall give public notice thereof as well as due notice to all adjoining property owners. Public notice shall be for a period of no less than fifteen (15) days. Written notice shall be given to all property owners adjoining a property being considered for an appeal, and an additional notice shall be posted on or as near the site as possible to serve as visual notification to the general public.

A decision regarding said appeal shall be made by the Board within a reasonable time; however, a concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official; to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance; or to effect any variation in such Ordinance. Upon the hearing of such appeal, any party may appear in person, by agent or by attorney.

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

**1801.4**      **Time Limit.** A request for hearing before the Board which has been denied on first presentation shall only be accepted for re-hearing after a waiting period of six (6) months, unless significant changes occur which would warrant another hearing as determined by the Board. In any request for re-hearing less than six months from the calendar date of the initial hearing, the applicant must present evidence that the conditions pertinent to the case have changed significantly. If the Board is convinced by four concurring votes that there has been a significant change, an application can be filed and treated as a new request and will be heard at a subsequent meeting.

**SECTION 1802**  
**POWERS AND DUTIES**

The Zoning Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards as provided for herein, shall have the following powers, duties and responsibilities as authorized by Section 11-52-80 of the Code of Alabama, 1975, as amended.

**1802.1 Powers in General.** In exercising the powers set forth in this section, the Zoning Board of Adjustment may reverse or affirm in whole or in part, or may modify the order, requirement, decision or determination appealed from. Said Board may subsequently make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer or official from whom the appeal is taken.

**1802.2 Administrative Review.** The Board shall have the authority to hear and decide appeals where it is alleged there is any error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Ordinance or amendment thereto. In exercising the power of Administrative Review, the Board must apply and not *vary* the terms of this Ordinance. Such appeals may include the following:

- a. Hear and decide upon requests for the interpretation of the provisions of this Ordinance;
- b. Determine the precise location of boundary lines between zoning districts when there is dissatisfaction with a decision regarding said subject made by an administrative official; or,
- c. Classify a use which is not specifically mentioned within the Ordinance, for the purpose of determining the permissiveness of such use in any zoning district.

**1802.3 Special Exceptions.** Within this Ordinance, there are exceptions to the permitted uses of land listed in certain zoning districts, such as conditional uses and uses that are permitted on appeal. The term "special exception" shall also apply to and include incidental uses, and may be applicable to certain accessory uses or structures as well. In these situations, the Zoning Board of Adjustment is specifically authorized to:

- a. Hear and decide such special exceptions;

- b. Decide such questions as are involved in determining whether special exceptions should be granted; and,
- c. Ensure that special exceptions are granted *only* when they conform to the spirit and intent of this Ordinance.

In exercising this power regarding Special Exceptions, the Board shall follow the language of this Ordinance exactly, and shall make certain that all the conditions specified in this Ordinance have been met. Furthermore, the Board may compel the applicant to meet any additional requirements which the Board deems necessary to protect surrounding neighborhoods from undue congestion, excessive light and/or noise, odors, and other impacts which might otherwise be incurred by the exception.

#### **1802.4**

**Variances.** The Zoning Board of Adjustment may authorize, upon appeal in specific cases, such variances from the terms of this Ordinance as will not be contrary to the public interest and, where owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

Before any variance is granted, however, the Board shall consider the following guidelines and, upon finding that the conditions outlined below do, in fact, exist, may grant such variance:

- a. There are extraordinary and exceptional conditions which are peculiar to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- b. Granting the requested variance will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
- c. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

- d. The requested variance will be in harmony with the purpose and intent of this Ordinance, and will not be injurious to the neighborhood or to the general welfare.
- e. The special circumstances causing the alleged need for the variance are not the intended result of actions of the applicant (i.e., *self-imposed* hardship).
- f. The requested variance is the *minimum* variance that will make the legal use of the land, building or structure possible.
- g. The variance will not allow the permanent establishment of a use that is *not permissible* in the district involved under the terms of this Ordinance, nor any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Furthermore, in contrast to the conditions warranting a variance outlined above, the Board shall ***not*** consider the following as grounds for the issuance of a variance:

- a. The non-conforming use of neighboring lands, structures or buildings in the same district, or the permitted *or* non-conforming use of lands, structures or buildings in other districts shall not be considered grounds for a variance.
- b. Proof that a variance would increase the financial return from the land will not be considered pertinent to the determination of a hardship.
- c. Neither a personal hardship nor a self-imposed hardship will be considered grounds for a variance.

**In *no* case** shall the Zoning Board of Adjustment grant a variance that:

- a. Would permit the permanent use of land, building(s) or structure(s) for a use prohibited within the district in which the land, building(s) or structure(s) is located; or,
- b. Would permit the extension or addition of a non-conforming use; or,
- c. Would in any way make a non-conforming use more permanent.

**1802.5**      **Validity and Applicability of Variances and Special Exceptions.** Any variance or special exception granted by the Zoning Board of Adjustment, in addition to any other relevant provisions of this Section, shall be applicable *only* to the land or property involved, and shall be valid *only* for the applicant having appealed for such variance or special exception unless otherwise determined and/or designated by the Board.

### **SECTION 1803**

#### **APPEALS FROM ACTIONS OF THE ZONING BOARD OF ADJUSTMENT**

Any party aggrieved by any final judgment or decision of the Zoning Board of Adjustment may, within fifteen (15) days after said judgment or decision, appeal therefrom to the circuit court (or court of like jurisdiction) by filing with the Board a written notice of appeal specifying the judgment or decision from which the appeal is taken. In the case of such appeal, the Board shall cause a transcript of the proceedings in the action to be certified to the court to which the appeal is taken, and the action in such court shall be tried *de novo*.

## **ARTICLE 19**

### **FEES**

The Council shall, from time to time, establish or modify fees for the following procedures, permits, and/or applications required by this Ordinance, the Subdivision Regulations and/or the Design and Construction Specifications, and shall do so under a separate municipal ordinance. The fees and charges specified by the Council shall be non-refundable and shall not be conditioned upon or related to the action taken with respect to the application. Churches, City properties, projects funded entirely by the City of Clay, the hearing process for assigning initial zoning to annexed properties (in accordance with Article 6, Annexations), and properties previously rezoned to Current Use (Section 916) shall be exempt from all such zoning fees.

- All Rezoning.
- Variances on single-family residential properties.
- Special Exceptions for accessory dwellings.
- Special Exceptions for telecommunications towers/antennae.
- All other Variances and Special Exceptions.
- Subdivision Reviews (preliminary and final plats).
- Land Disturbance Permits.
- Temporary and permanent Sign Permits.
- Building Permits.
- Manufactured Home Permits.

**ARTICLE 20**  
**LEGAL STATUS PROVISIONS**

**SECTION 2001**  
**CONFLICT WITH OTHER REGULATIONS**

Whenever the regulations of this Ordinance require more restrictive standards than are required in or under any other statute, the requirement of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

**SECTION 2002**  
**VALIDITY**

This Ordinance and the various articles, sections, subsections, sentences, clauses, etc. contained herein are hereby declared to be severable. Should any section, provision or other element of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall *not* affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**SECTION 2003**  
**REPEAL OF EXISTING ZONING RESOLUTION**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed. Any previous resolution(s) referring to and/or authorizing such administration and regulation as provided for in this Ordinance, prior to as if in place of this Ordinance, are also hereby repealed.

**SECTION 2004**  
**EFFECT UPON OUTSTANDING BUILDING PERMITS**

Nothing contained herein shall require any change in the plans, construction, size or designed use of any building structure or part thereof for which there is a valid outstanding permit on the date of passage of this Ordinance. However, any further construction or use shall be in conformance with this Ordinance.

**SECTION 2005**  
**EFFECTIVE DATE**

This Ordinance, and any amendments thereto, shall take effect and be in force immediately upon adoption by the City Council of the City of Clay, Alabama.

Done this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Manager

I, Ronnie Dixon, City Manager of Clay, Alabama, do hereby certify that Ordinance Number \_\_\_\_\_ has been posted by me at the following places located within the corporate limits of Clay.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
City Manager