Article 7  USE-SPECIFIC REGULATIONS

§7.1. Farm

7.1.1. The minimum land area shall be ten (10) acres

7.1.2. The following farming activities shall be permitted:

1. Forage and sod crops
2. Grain and seed crops
3. Dairy animals and products
4. Livestock, such as beef cattle, swine, sheep, goats or any similar livestock; including the breeding and raising of such animals but excluding commercial meat processing operations
5. Poultry, including egg production but excluding commercial poultry processing operations
6. Nursery operations involving the raising of plants, shrubs and trees for sale and transplantation, including greenhouses and the incidental sale of items customarily associated with a nursery operation
7. Bees and apiary products
8. Fisheries, excluding commercial fish processing operations
9. Fruit and vegetables of all kinds, including the growing and harvesting of such fruit and vegetables, but excluding commercial food processing operations

7.1.3. Area and Dimensional Regulations.

1. In the A-1 Agricultural District, the minimum setback of livestock barns and commercial chicken (fowl) houses from adjoining property lines shall be 100 ft; and from street right-of-way lines shall be 300 ft; provided, however, that no livestock barn or chicken houses shall be built closer than 300 ft to the nearest then existing residence other than that of the owner. Swine, (hogs) to be housed, fed and watered not nearer than 100 ft to any adjoining property line or within 300 ft of any street right-of-way.

2. Temporary sawmills and chippers (used in connection with timber cutting operations) shall be set back at least 200 ft from any lot line.

3. Non-farm related single family residences and subdivisions are permitted, provided that the recording of lots in this district contains a minimum of half (1/2) an acre and is in complete conformance with the City subdivision regulations. Applicants should also be apprised of the fact that a two (2) acre minimum lot is required for a hobby farm, in case the intent is to utilize the lot for that purpose.

7.1.4. A booth or stall (farm stand) from which farm produce grown on the same premises and sold to the general public shall be permitted subject to the following:

1. Sales areas shall be set back from all lot lines so as to meet the district yard requirements.
2. Sales areas shall not occupy any part of a required off-street parking or loading area.

7.1.5. Incidental structures and activities commonly associated with a farm may include: barns, silos, animal pens, loading and unloading platforms, chutes and other accessory uses.

§7.2. Hobby Farms

7.2.1. The minimum lot area shall be two (2) acres.

7.2.2. Unless otherwise provided for in this Ordinance, the keeping of farm animals and fowl (livestock and fowl) shall be limited to the following types:

1. Poultry (shall not include chicken houses or other facilities to house fowl), horses, donkeys and ponies are permitted.
2. The keeping of goats, sheep and swine in a hobby farm is prohibited.

7.2.3. The use shall be subject to the following setback and area requirements:

1. Farm animals shall be housed not less than 200 ft from any adjacent lot not zoned A-1 Agricultural District.
2. At least one (1) acre of lot area shall be required for each small livestock animal and a maximum of twenty (20) poultry for every 8,000 sq ft of lot area shall be permitted.
3. Offensive animal odors shall not be detectable at the property line.

§7.3. Shopping Centers

Where permitted, a shopping center shall consist of a building group that is unified in accordance with the following:

7.3.1. A site development plan shall be required which provides for:

1. An integrated parking area and vehicular loading spaces as specified in Article 8.
2. Convenient vehicular servicing of the buildings, satisfactory circulation of traffic throughout the parking areas and no undue interference with
through traffic in gaining ingress and egress from the proposed site.

3. The location, size and character of all exterior signs.

4. A buffer strip if required in accordance with §9.2 Buffers.

5. Convenient and safely located pedestrian walkways.

6. A traffic analysis indicating the estimated effect of the proposed shopping center on adjacent street traffic, including volume flows to and from the proposed facility. This analysis should be prepared by a Registered Engineer.

7. A preliminary plan or engineering report providing for site grading, storm drainage, sanitary sewers and water supply prepared by a Registered Engineer.

8. Copy of any Deed Restrictions intended for the property upon which the shopping center is to be constructed.

§7.4. Gasoline Service Stations

Where permitted, Gasoline Service Stations shall observe all regulations for such structures and their uses as required by the laws of the State of Alabama, as well as provisions contained herein:

7.4.1. All permanent storage of materials, merchandise and equipment shall be within the principal building or within the setback lines and screened as required in §9.4 Screening.

7.4.2. Drains located on the premises without the approved separators in the trap shall be prohibited. Gasoline storage tanks shall be in full compliance with Alabama Department of Environmental Management (ADEM) requirements and local regulations.

7.4.3. Applicable Only To New Service Stations:

1. Minimum site of 12,000 sf
2. Frontage on a public street of at least 120 ft
3. All islands shall have a minimum of a twenty (20) ft setback from the street.
4. All driveways shall as approved by the City Engineer in accordance with the access standards of the Public Works Manual.
5. A minimum of 1,600 sf of lot area is required for each triple pump island after the first three. A lot area of 1,200 sf shall be provided for each service bay or car wash and 150 sf for a separate pay station.

7.4.4. Applicable Only To Construction of Gasoline pumps and facilities to existing establishments. The following minimum standards shall apply to the gasoline dispensing area, including pump islands and approach drives:

1. One triple island, 2,700 sf
2. One pay station and one triple island, 5,200 sf
3. A minimum of 1,600 sf of lot area shall be provided for each additional triple pump island and a minimum of 1,200 sf of lot area shall be provided for each bay and car wash.

7.4.5. The following are prohibited uses at Gasoline Service Stations:

1. Storage of vehicles on the premises for purposes other than maintenance and repair. This shall not include wrecked motor vehicles left on the premises temporarily for insurance inspection and estimates of repair. However, such vehicles shall not be parked or stored on the premises longer than seventy-two (72) hours.

2. Major vehicle repair activities as defined in §3.5.4

3. Buying or offering for sale of new or used motor vehicles

4. Any use performed inside the principal building or on the premises which is offensive or dangerous or which constitutes a nuisance to the occupants of adjacent properties by reason of smoke, fuels, dust, odor, vibrations, noise or unsightliness

§7.5. Fast Food Restaurants

Where permitted, Fast Food Restaurants shall comply with the following:

7.5.1. Submission of a site development plan, which provides for:

1. A landscaping strip shall be provided along any frontages in accordance with §9.3.
2. A preliminary plan or engineering feasibility report providing for the site grading, storm drainage, sanitary sewers and water supply shall be prepared by a Registered Engineer.
3. Fixed lighting shall be arranged so as not to shine, reflect or glare onto surrounding properties or public streets.
4. The outside premises shall be cleared of all used paper, trash, refuse and other waste materials at least once every six (6) hours prior to closing.
§7.6. Hospitals

Where permitted, Hospitals shall comply with the following regulations:

7.6.1. Submission of a site development plan which provides for:

1. A preliminary plan or engineering feasibility report providing for site grading, storm drainage, sanitary sewers and water supply, prepared by a Registered Engineer

2. Where deemed necessary by the City Engineer, a traffic analysis indicating the estimated traffic flows to and from the hospital prepared by a Registered Engineer

3. For each bed in a hospital there shall be 100 sf of outdoor open space, exclusive of required front yards, side yards, buffer areas, parking areas, loading spaces or other purposes. The said outdoor space shall be open and unobstructed from the ground upwards.

§7.7. Assisted Living and Nursing Care Facilities

Where permitted, Nursing Care and Assisted Living Facilities shall comply with the following requirements:

7.7.1. Submission of a site development plan which provides for:

1. A preliminary plan or engineering feasibility report providing for the site grading, storm drainage, sanitary sewers and water supply, prepared by a Registered Engineer.

2. Where deemed necessary by the City Engineer, a traffic analysis indicating the estimated traffic flows to and from the nursing care facility prepared by a Registered Engineer.

3. For each bed in the facility there shall be 200 sf of outdoor open space, exclusive of require front yards, side yards, buffer areas, parking areas, loading spaces or other purposes. The said outdoor open space shall be open and unobstructed from the ground upwards.

§7.8. Cemeteries

Where permitted, Cemeteries shall comply with all applicable State regulations and the following requirements:

7.8.1. A site development plan which depicts the boundaries of the cemetery, existing zoning, adjacent land uses, topography, drainage and buffers

1. No part of a Cemetery shall be located closer than 200 ft from any residential district, nor closer than 500 ft from any hospital or nursing care facility.

2. A six (6) ft high protective wall or fence shall be constructed on all property lines, except at points of ingress and egress. Cemeteries shall be exempt from any required screening along public rights of way. The facility shall have installed gates with locks at points of ingress and egress.

3. No grave site shall be located closer than 150 ft from a water line or underground water supply.

4. Mausoleum, crematorium or any other building or structure, accessory to or incidental to a cemetery, shall not be closer than 200 ft from any property line.

§7.9. Home Occupations

Where permitted, Home Occupations shall comply with the following requirements:

7.9.1. The Home Occupation shall be clearly incidental to residential use of the dwelling and shall not change the essential character of the dwelling or adversely affect the uses permitted in the applicable district. No Home Occupation shall be permitted which might interfere with the general welfare of the surrounding residential area due to potential noise, increased traffic or any other conditions which would constitute an objectionable use of residentially zoned property.

7.9.2. Home Occupations shall be limited to:

1. an office or a business of a personal service nature.

2. Instruction of music, art, dancing and similar activities limited to two (2) students at a time. Any noise created by the activity shall not be detectable outside the premises.

7.9.3. The Home Occupation shall be confined to twenty-five (25) percent of the principal dwelling and, no outside storage shall be used in connection with the Home Occupation. In addition, no additional buildings or structures may be constructed in connection with the Home Occupation.
7.9.4. Employment shall be limited to members of the family residing in the dwelling.

7.9.5. No display of products shall be visible from the street and only articles made on the premises may be sold.

7.9.6. The activity carried on as a Home Occupation shall be limited to the hours between 7:00 A.M. and 10:00 P.M.

7.9.7. Procedure. An application for a Home Occupation Permit shall be filed with the Zoning Administrator. The Building Inspector and a representative of the Public Safety Department, shall be permitted to make an inspection upon receipt of the initial application; and, in addition, make inspections at any time, upon reasonable request, to enter and inspect the premises for compliance purposes.

7.9.8. The Building Inspector and/or representative of the Public Safety Department shall file with the Zoning Administrator, or ZBA when a Special Exception is required, a written report of any inspection to determine if the licensee is in compliance with this Section or, if not in compliance, to set out any area of non-compliance.

7.9.9. Signs shall be in accordance with the specifications set forth in the City Sign Regulations.

§7.10. Mini-warehouses

7.10.1. Where permitted mini-warehouses shall comply with the following requirements:

1. No outdoor storage shall be permitted on the site.

2. No storage of volatile, toxic or explosive materials shall be permitted, either inside the structure(s) or on the premises.

3. Use shall be limited to storage of personal property items and the pickup and deposit of goods or property in dead storage, except a manager's office which is clearly incidental to the principle use. The facility or site shall not be used for wholesale or retail sales operations or activities. However, this shall not include periodic auctions which are held on the premises to dispose of items which have been abandoned and/or for which the lease time has expired.

4. A minimum lot size of three (3) acres shall be required for a mini-warehouse development.

5. Screen fencing shall be installed around the perimeter of the development. Said fencing shall be a minimum of eight (8) ft in height. The points of access to the facility shall be provided with gates which shall be locked when the facility is not open for business.

6. All outdoor lighting shall be shielded to direct light and glare only onto the mini-warehouse premises and may be of sufficient intensity to discourage vandalism and theft. The said lighting and glare shall be deflected, shaded, and focused away from all adjoining property.

7. A limit of thirty (30) mini-warehouses or 15,000 sf of mini-warehouse floor area per acre is required.

7.10.2. A site development plan is required, which provides for:

A preliminary plan or engineering feasibility report which addresses site grading, storm drainage, water run-off, the availability of required utilities, and the identification of areas to be buffered. A buffer shall be provided as required in §9.2 Buffers.

§7.11. Wireless Facilities

7.11.1. General Requirements. Applications for wireless facilities shall include the following:

1. A network design plan for all of the service provider’s existing and planned sites in the City and surrounding jurisdictions. The network design plan shall indicate the location of existing and proposed facilities and the service area covered by each site.

2. A qualified electrical engineer licensed by the state of Alabama shall prepare an evaluation of the radio frequency (RF) field exposure conditions of the facility demonstrating that the radiation levels generated by the facility meet Federal standards and that interference to consumer electronic products is unlikely to occur.

3. Visual representations sufficient to accurately show the appearance of the proposed facility, such as photomontages, mock-ups, and story poles.

4. The City may require a co-location agreement binding the applicant and property owner to make the facility available in the future for the installation of additional communication equipment by other wireless communication providers.

5. If the facility is abandoned in the future, the applicant shall be required to remove the wireless antennae and equipment from the site within 180 days.

6. Wireless facilities and all equipment shall be designed to be in compliance with the City noise ordinance.

7. All applications shall include a notarized letter of intent committing the antenna support structure
owner or lessee on behalf of themselves and their successors in interest that the antenna support structure shall be shared with additional users if the additional user(s) agrees to meet reasonable terms and conditions of shared use.

8. No transmissions from a wireless facility shall interfere with any existing public safety communications.

7.11.2. Design Requirements. The following specific design requirements shall apply to each type of wireless facility:

1. General Design Standards.
   a. Except as required by the Federal Aviation Administration or Federal Communications Commission, the antenna support structure shall not be illuminated.
   b. No signs or advertising shall be placed upon an antenna support structure and associated equipment buildings or structures.
   c. All wireless facilities shall be designed structurally, electrically, and in all other respects to accommodate the user's equipment and the equipment of at least two additional service providers.
   d. In considering a wireless facility for approval by Special Exception, the ZBA shall have the authority to impose conditions on the placement and/or concealment of the facility as necessary to achieve the intents of the regulations herein.

2. Building-Mounted Facilities.
   a. Building-mounted wireless facilities shall not exceed ten (10) feet above the building surface on which they are located. An additional one (1) foot of height may be added for every ten (10) feet the antenna is set back from the building parapet. Distributed, repeater, or microcell antenna systems mounted on buildings within non-residential districts shall conform to the height limit of the applicable zoning district.
   b. Building mounted antennae shall be integrated with the building design so as to be visually unobtrusive.
   c. Building mounted antenna equipment shall be screened from public view.

3. Structure-Mounted Facilities. Wireless facilities, including distributed, repeater and microcell antenna systems, mounted on a utility pole/structure shall be subject to the following:
   a. An antenna system mounted on a structure within the public right-of-way shall be limited in height to the height of that particular structure.
   b. Antenna systems shall be located and designed to minimize their visibility on utility poles or other structures.
   c. Antenna systems' equipment shall be screened from public view.
   d. If proposed to be located in a district in which above-ground utilities are prohibited, the ZBA may approve such installation by Special Exception provided the structure on which it is to be mounted may be located out of public view, such as within an alley or wooded area.

§7.12. Industrial Parks

Where permitted, Industrial Parks shall comply with the following requirements:

7.12.1. An Industrial Park shall, for the purpose of this Ordinance, include all land forty (40) acres or more in size, subdivided and platted into two (2) or more parcels, and used or intended to be used for predominately industrial or commercial purposes of an Industrial character.

7.12.2. A site development plan shall be required for each Industrial Park which provides the following:
   1. Access to an Industrial Park shall be by way of a major thoroughfare.
   2. All streets within an Industrial Park shall have a minimum right-of-way width of seventy (70) ft, a maximum gradient of five (5) percent and shall conform to the City standards for commercial streets or as otherwise approved by the reviewing authority.
   3. Off-street parking and loading shall be provided in accordance with Article 8.
   4. Outdoor storage in an Industrial Park shall be permitted only when accessory to a permitted principal use and only when storage areas are suitably screened by either landscaping, fences or walls, and are located at least 100 ft from any property line and at least 150 ft from any street lines. Such storage areas shall not cover more than fifteen (15) percent of the site areas. The reviewing authority shall approve plans for the location and screening of all outdoor storage areas before a Building Permit shall be issued for their construction.
   5. Buffers shall be provided as required in §9.2 Buffers.
6. Cul-de-sac streets shall not be permitted in Industrial Parks. Dead end streets; however, are permitted when no more than 500 ft in length, as measured from the terminal point of the dead-end street to the closest intersection, and when such terminal point is provided with a paved vehicle turnaround area having a minimum right-of-way radius of seventy (70) ft.

7. Street lighting shall be provided in accordance with the City street lighting standards with the location of street lights in conformance with Alabama Power Company recommendations.

8. The vehicular approach to an Industrial Park site from a public street shall be so designed that uncontrolled left hand turns from the street shall be eliminated or reduced either by a frontage roadway or other suitable means deemed adequate by the reviewing authority.

9. Sight distances at all points of ingress and egress to public streets shall not be less than 1000 ft, except where a traffic signal light is installed at the entrance to or exit from the Industrial Park site unless otherwise determined by a study conducted by the City Engineer or other persons qualified in this field.

10. Where points of ingress and egress to Industrial Parks from public streets or highways having speed limits in excess of thirty (30) miles per hour are located, there shall be provided on the public thoroughfare acceleration and deceleration lanes, the length of which shall be determined in accordance with Table 7.12 or other standard adopted by the City, whichever is more restrictive:

<table>
<thead>
<tr>
<th>Speed Limit (in Miles per Hour)</th>
<th>30</th>
<th>40</th>
<th>50</th>
<th>55</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distance (in Feet)</td>
<td>100</td>
<td>200</td>
<td>300</td>
<td>350</td>
</tr>
</tbody>
</table>

11. A report of subsurface soil conditions shall be provided to the reviewing authority by a Registered Engineer as evidence of suitable bearing for foundations in the construction of industrial structures of a nature intended to be used within the proposed Industrial Park.

12. A preliminary plan or engineering feasibility report shall be submitted to the reviewing authority, which provides for the site grading, storm drainage, sanitary sewerage and water supply, prepared by a Registered Engineer.

13. A copy of any deed restrictions shall be provided to the Commission.

§7.13. Transmission Towers (Commercial)

Where permitted, the distance between the base of the tower and property lines abutting urban residential districts, public parks and roads must equal twenty (20) percent of the tower height; property lines adjacent to other uses (e.g. agricultural, industrial) require a setback equal to the rear yard setback established for the underlying zone.

7.13.1. All applicants for such towers shall submit an engineering report to both the Zoning Administrator and to the Commission, documenting all of the following:

1. Height, design and building materials selected, including pertinent technical, engineering, economic and other factors influencing the final design.

2. Total anticipated capacity of the structure, including the number and types of antennas that can be accommodated.

3. Evidence of structural integrity.

4. Failure characteristics of the tower and demonstration that the site and setbacks are of adequate size to contain debris.

5. Mitigation measures for ice and other hazards, including setbacks and de-icing equipment.

7.13.2. Where applicable, adequate parking shall be provided, along with buffers where such tower site abuts any residential zone district. Such towers shall be prohibited in any residential district.

7.13.3. In all zones permitted, a security fence, six (6) ft in height, around the tower base or along the perimeter of the site, shall be required to prevent unauthorized entry, vandalism and injuries.

7.13.4. In addition, all such structures shall be in full compliance with all applicable local, State and Federal Regulations.

§7.14. Seasonal Sales

Unless otherwise specified in this Ordinance, the seasonal sale of farm produce, firewood, Christmas trees and similar items shall be conducted either from motor vehicles or premises. Such items shall not be sold from permanent structures/locations and the use of structures or buildings in conjunction with said activity shall be temporary as specified by the City and subject to the City’s conditions at the time a business license is issued. Nothing herein shall prohibit seasonal
sales as a temporary activity on the premises of and associated with an otherwise existing use and the permanent building in which such existing use is housed.

§7.15. Multiple-family Dwellings

Multiple-family developments shall comply with the area and dimensional regulations of the applicable district except as otherwise indicated herein. For the purposes of these regulations, Independent Living Facilities shall be considered a type of multi-family development.

7.15.1. Requirements applicable to all Multiple-family development types.

1. Parking areas for tenants shall be set back behind the front building line and shall be set back no less than fifteen (15) ft from any dwelling building. A sidewalk of no less than four (4) ft in width shall be provided between the building and parking area.

2. All utilities shall be placed underground; all multiple-family dwellings shall be served by public water and sewer.

3. Min. Front Yard Setback: as required by the R-4 District except when abutting a single-family dwelling or duplex or a property zoned for such uses. In such case, the minimum front yard setback for the multiple-family dwelling shall be no less than that established or required by the abutting single-family dwelling or duplex district along the same frontage.

4. Min. Side and Rear Yard Setbacks: as required by the applicable district or by §9.2 Buffers, whichever is greater

7.15.2. Requirements for Multi-Family Buildings. The following shall apply only to multiple-family developments with no more than one (1) dwelling building be constructed on the lot.

1. Entrances to individual units shall be from the interior of the building. Mailboxes and laundry rooms shall also be within the same Building.

2. No less than fifteen (15) percent of the site area shall be improved and maintained as Common Open Space for the recreational use of tenants.

7.15.3. Requirements for Multi-Family Complexes. The following shall apply to any multiple-family developments with more than one (1) dwelling building to be constructed on the lot.

1. Two (2) or more principal buildings shall be permitted per Lot.

2. Spacing shall be provided between buildings in accord with §5.9 R-4 District.

3. No less than twenty (20) percent of the site area shall be reserved as Open Space. At least twenty-five (25) percent of the Open Space shall be dedicated, designed and improved as a Common Open Space for the recreational use of residents. Such space shall be no less than forty (40) ft in width along its narrowest dimension. The Common Open Space shall not include steep grades, areas with poor drainage or other constraints to its recreational use.

§7.16. Public Buildings

Area and Dimensional Regulations. The following requirements shall apply to all public buildings located in any Residential District.

1. Front yard: As required in the applicable district.

2. Rear yard: Thirty-five (35) ft

3. Side yard: Thirty-five (35) ft

4. Maximum height: Forty-five (45) ft or 3 stories

5. Maximum area: Fifty (50) percent

§7.17. Accessory Dwellings

Accessory dwellings shall only be permitted as an accessory use to a permitted single-family detached dwelling.

7.17.1. Area and Dimensional Requirements.

1. Minimum lot area: Accessory dwellings shall only be permitted on lots with a minimum lot size of 8,000 sf.

2. The minimum habitable floor area shall be 300 sf and the maximum habitable floor area shall be thirty (30) percent of the gross floor area of the principal dwelling. For instance, a principal dwelling with a gross floor area of 1,500 sf shall be permitted an accessory dwelling no larger than 450 sf.

3. Setbacks. If detached from the principal dwelling, accessory dwellings shall be to the rear of the principal dwelling or within the upper floor of a detached garage or similar permitted accessory structure and shall be set back as otherwise required of accessory structures.

7.17.2. Additional Requirements.

1. Utilities shall not be separate or separately metered from that of the principal dwelling. However, in the A-1 and E-1 Districts, the ZBA, upon a recommendation by the Zoning Administrator, may
approve separate meters as part of the Special Exception approval.

2. No more than two (2) persons, regardless of their relationship to the owner of the principal residence, shall reside in the accessory dwelling at any time.

3. One (1) parking space, in addition to that required for the principal dwelling, shall be provided. Access to such space shall not conflict with the parking area for the principal dwelling; however, an additional driveway shall not be permitted for the accessory dwelling.

4. Accessory dwellings, whether attached to the principal structure or contained within an accessory structure, shall maintain the appearance of the principal dwelling, including colors, materials, and style, and shall not create additional entrances toward the front of the property.

§7.18. Bed and Breakfasts

Bed and breakfasts shall only be permitted in single-family detached dwellings, shall only be operated by the owner and resident of the dwelling, and shall comply with the following provisions:

7.18.1. Use Regulations.

1. Intensity of Use. All guest rooms shall be located within the principal structure.

2. Length of stay. The maximum length of stay shall be limited to two (2) consecutive weeks.

3. The only meal provided to guests shall be breakfast, which may be served only to registered guests. Individual guest rooms shall contain no cooking facilities, and no food preparation or cooking shall be allowed.

7.18.2. Parking. For each and every guest room as approved by the City, there shall be provided one (1) parking space, in addition to the spaces required for the residence. Such additional required parking spaces shall be screened from adjacent properties and arranged so that each space has direct access to a driveway, whether from a public street or an alley. Such parking areas shall be designed and arranged on the site so as to not detract from the character of the neighborhood. Recreational vehicle parking shall be prohibited.

7.18.3. Signs. Only one (1) non-illuminated sign, attached to the front facade, shall be allowed. Such signs shall not exceed eight (8) sf in size.

7.18.4. Building Design Standards.

1. Interior. Only minimal interior modifications shall be allowed whenever it is necessary to meet Building Code or Health Department requirements.

2. Exterior. Aside from any alterations necessary to ensure the safety of the structure, no exterior modifications shall be allowed (other than provision for a separate entrance). Approved exterior modifications should not detract from the residential character of the dwelling or the neighborhood.

§7.19. Conservation Subdivision/Development

7.19.1. Intent.

1. To provide flexibility to achieve the most effective development on lands constrained by natural hazards or by environmental regulations, which may limit the amount or type of development;

2. To enhance quality of life by promoting the creation of accessible green space;

3. To protect sensitive, environmental land features to protect the health and safety of residents and neighboring property owners;

4. To reduce erosion, sedimentation, land disturbance, and removal of vegetation;

5. To encourage interaction within the community by allowing clustering of homes and orienting them closer to the street, thereby providing gathering places as focal points within the community;

6. To encourage street systems that tend to reduce traffic speeds and reliance on main arteries.

7. 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

8. To reduce perceived density by providing access to and views of open space.

7.19.2. Applicability. The Conservation Subdivision/Development option is available as a use by right for any residential development of ten (10) or more acres. The applicant shall comply with all other provisions of this Ordinance and all other applicable regulations, except those incompatible with the provisions herein.

7.19.3. Ownership of Development Site. The tract to be subdivided and/or developed may be held in single, separate, or multiple ownership. If held in multiple ownership, the site shall be developed according to a single plan with common authority and common
7.19.4. Density Determination. The maximum number of lots shall be determined by dividing the total area of the proposed subdivision by the most restrictive of the following: minimum lot size of the applicable district or by regulations as determined by City and/or County Health Department standards for septic tanks, or by other density limitations, such as watershed protection requirements, as applicable to the site. In making this calculation, the following shall not be included in the total area of the parcel:

1. The 100-year floodplain;
2. Bodies of open water over 5,000 sf of contiguous area; and
3. Wetlands, as defined by the Army Corps of Engineers pursuant to the Clean Water Act.

7.19.5. Application Requirements.

1. Site Analysis Map. Concurrent with the submission of a Site 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 herein. The preliminary Site Plan shall include the following:

a. Property boundaries;
b. All streams, rivers, lakes, wetlands, flood hazard boundaries, and other hydrologic features;
c. All boundaries of applicable regulated buffer areas, easements, and ROWs;
d. Topography at 5-ft or smaller intervals;
e. All Primary and Secondary Conservation Areas labeled by type, as described in §7.19.6;
f. General vegetation characteristics;
g. General soil types;
h. Planned location of protected Open Space;
   i. Existing roads and structures; and
   j. Potential connections with existing greenspace and trails.

2. Conservation Subdivision Plan. The developer shall prepare a conservation subdivision plan which yields no more lots than identified under §7.19.4. The conservation subdivision plan shall identify open spaces to be protected in accordance with §7.19.6 and may include lots which do not meet the size and setback requirements of the applicable district. The Conservation Subdivision Plan shall include an open space management plan, as described in §7.19.6, and shall be prepared and submitted prior to the issuance of a grading permit.

3. Instrument of Permanent Protection. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in §7.19.7, shall be placed on the open space at the time of issuance of a grading permit.

4. Other Requirements. The Applicant shall adhere to all other applicable requirements of the applicable district and the Subdivision Regulations.

7.19.6. Open Space Management Plan. For the purposes of Conservation Subdivisions, "open space" is defined as the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of a legal instrument approved by the City Attorney.

1. Standards to Determine Open Space.

a. The minimum restricted open space shall comprise at least twenty-five (25) percent of the gross tract area.
b. 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:
   (1) The 100-year floodplain;
   (2) Riparian zones of at least seventy-five (75) ft width along all perennial and intermittent streams;
   (3) Slopes above twenty-five (25) percent of at least 10,000 sf contiguous area;
   (4) Wetlands, as defined by the Corps pursuant to the Clean Water Act;
   (5) Existing trails that connect the site to neighboring areas; and
   (6) Archaeological sites, cemeteries and burial grounds.
c. The following are considered Secondary Conservation Areas and should be included within the open space to the maximum extent feasible:
   (1) Important historic sites;
   (2) Existing healthy, native forests of at least one acre contiguous area;
   (3) Individual existing healthy trees greater than eight (8) inches caliper; and
2. Permitted Uses of Open Space:
   a. Conservation of natural, archeological or historical resources;
   b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
   c. Walking or bicycle trails constructed of porous paving materials;
   d. Passive recreation areas, such as open fields;
   e. Active recreation areas, provided that they are limited to no more than ten (10) percent 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.
   f. Landscaped stormwater management facilities, community and individual wastewater disposal systems located on soils particularly suited to such uses. Such facilities shall be located outside of Primary Conservation Areas;
   g. Easements for drainage, access, and underground utility lines;
   h. Other conservation-oriented uses compatible with the purposes of this Section.

3. Prohibited Uses of Open Space:
   a. Golf courses;
   b. Roads, parking lots and similar impervious surfaces, except as specifically authorized in the previous subsections;
   c. Agricultural and forestry activities not conducted according to accepted best management practices;
   d. Impoundments; and
   e. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.


7.19.7. Legal Instrument for Protection of Open Space. The open space shall be protected in perpetuity by a binding legal instrument recorded with the deed. The instrument for permanent protection shall include clear restrictions on use of the open space, including all restrictions contained in this Section, and any restrictions the applicant chooses to place on the open space. The instrument shall be one of the following:

1. A permanent conservation easement in favor of either:
   a. 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
   b. a governmental entity with an interest in pursuing goals compatible with the purposes of this Section, and 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.

2. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

3. An equivalent legal tool that provides permanent protection, as approved by the City Attorney.

7.19.8. Tax Assessment of Open Space. Once a legal instrument for permanent protection has been placed upon the open space, the County Tax Assessor shall be requested to reassess the open space at a lower value to reflect its more limited use.
§7.20. Cottage Subdivision

Cottage Subdivisions shall only be permitted on sites served by public water and sewer and in accordance with the following:

7.20.1. Number of Units. Cottage Subdivisions shall include a minimum of four (4) to a maximum of twelve (12) homes.

7.20.2. Frontage Conditions. Lots within Cottage Subdivisions are exempt from the requirement for each lot to have street frontage, as follows:

1. Each Lot shall front on and have a main entry facing the Common Open Space, except those Lots, nearest the fronting street, may front on the street and/or Common Open Space. In no case shall the rear of a unit front on a street.

2. Where a Cottage Subdivision is to be developed on an existing reverse frontage lot, the rear of cottage lots may face the street of higher classification provided that such lots are separated from the street by one of the following: 1) an Alley/Driveway and a twenty (20) ft Buffer or 2) a forty (40) ft Buffer.

7.20.3. Area and Dimensional Requirements.

1. Minimum Common Open Space: 250 sf per unit and not less than forty (40) ft in width at any point.

2. Permitted Total Floor Area per Dwelling.
   a. One-Story units: 800 - 1,000 sf
   b. Two-Story units: 1,200 - 1,400 sf

3. Maximum Height: two (2) stories

   a. No unit shall be less than twenty (20) ft from an exterior lot line nor less than the contextual setback from any street ROW.
   b. No setback is required between a unit and the Common Open Space; however, no building projections may extend into or over the Common Open Space.

5. Minimum Parking Setback. Forty (40) ft from a street ROW and twenty (20) ft from exterior Lot Lines.

6. Alley Setback. Where located along an existing Alley, structures and parking shall be set back from the alley centerline no less than twelve (12) ft. Where a new alley is constructed for the Cottage Subdivision, there shall be a minimum setback of twenty (20) ft between the alley and any rear or side lot line of abutting properties. Within this setback shall be provided a natural buffer consisting of evergreen trees spaced no greater than twenty-five (25) ft on center and a continuous, evergreen hedge. Existing natural vegetation may be counted toward this requirement.

7.20.4. Ownership and Management of Open Space. See §8.11.

7.20.5. Parking. Parking shall be required as per single-family detached dwellings. Parking shall be accessed by a common driveway or alley of a width necessary to accommodate turning into parking spaces. Parking spaces shall:

1. be clustered together or provided individually at the rear of each home;

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

3. be screened from streets and adjacent residential uses by landscaping, wall or architectural screen.

§7.21. Day Care Facilities

Day care facilities, operated within a residence, are not subject to the requirements for home occupations but shall comply with the following requirements:

7.21.1. Application of Regulations. The provisions of this Section shall apply to day care facilities providing service for part of a twenty-four (24) hour day for children under sixteen (16) years of age, for the aged, or for persons who are disabled, by persons giving care (excluding care provided by relatives). Day care facilities shall include family day care homes, group day care homes, and day care centers. This Section does not apply to baby-sitting or child day care service furnished in places of worship during religious services or related activities.


1. State regulation. All child day care facilities shall comply with all applicable State regulations.

2. Inspections. The Building Official shall have the right to enter and inspect the premises for compliance purposes after advance notice to the property owner.

3. Hours of outside play shall be limited to between the hours of 8:00 a.m. and sunset, as defined by the National Weather Service and an outdoor play area shall be provided for child day care facilities and shall not be located in the front yard.

4. Sewage facilities. Day care facilities using, or proposing to use, an on-site sewage disposal system shall obtain a written statement from the County Health Department certifying that the
system is properly designed to accommodate the use and that there are no apparent signs of system failure.

5. Fencing shall be provided to restrict children from hazardous areas, such as open drainage ditches, wells, holes, and adjacent streets. Natural or physical barriers may be used in place of fencing so long as such barriers functionally restrict children from these areas.

6. Expansion to Day Care Center. The care of more than twelve (12) individuals at a time constitutes a Day Care Center, which may require, in the case of expansion of a Family Day Care Home, to a district in which Day Care Centers are permitted. When applying for rezoning, the applicant shall submit a plan showing any existing or proposed outdoor play areas, outdoor play equipment, fencing, access drives, adjacent streets, adjacent hazardous land uses, on-site hazardous areas (as previously defined), on-lot sewage disposal facilities, parking spaces, and the drop-off circulation pattern.

7. Application and permitting procedure. Any individual proposing a family day care home shall submit an application for a Day Care Home Permit to the Building Official. If the application demonstrates compliance with this Section, the Building Official shall grant the permit. Group day care homes shall only be permitted as Special Exception Uses in accordance with §7.21.3.

7.21.3. Family Day Care Homes and Group Day Care Homes.

1. Family Day Care Homes shall:
   a. only be permitted in single-family detached dwellings
   b. have a current State registration certificate (proof of registration renewal must be supplied to the City every two (2) years)
   c. have no external signage
   d. be limited to the care of no more than six (6) children
   e. not receive children for care before 7:00 am nor continue care after 7:00 pm.

2. Group Day Care Homes shall be permitted only by Special Exception and shall be limited to no more than twelve (12) individuals receiving care in accordance with applicable state regulations.

7.21.4. Day Care Centers. In addition to the other provisions of this Section, Day Care Centers shall comply with the following:

1. The facility shall have an approved and currently valid State license. Proof of State annual license renewal must be supplied to the City every year.

2. A fence with a minimum height of four (4) ft shall physically contain the children within the outdoor play area. Natural or physical barriers may be used in place of fencing so long as such barriers functionally contain children.

3. On corner lots, access shall only be from the street of lesser classification.

4. Play equipment shall be located at least ten (10) ft from all lot lines.

5. All pedestrian pathways shall be adequately lit for safety if utilized during non-daylight hours. Specific areas for lighting are entranceways, pedestrian access to the outdoor play areas, sidewalks, drop-off areas, and all parking lots. Such lighting shall not produce objectionable glare on adjacent properties.

§7.22. Upper-story Dwellings

Upper-story dwellings in mixed-use buildings shall be located on a floor level above a use of another type and no non-residential use shall be located on the same floor in the same building. In all cases, provision of emergency egress and fire separation shall comply with all requirements of the Building and Fire Codes.

7.22.1. Live-Work. Single-family dwellings in mixed-use buildings are normally intended for the occupancy of the proprietor of the associated use(s) within the building. In such cases, the dwelling unit may be accessible from within the associated use. If the dwelling is to be occupied by other than the proprietor of the associated use, the dwelling shall have an entrance separate from the associated use.

7.22.2. Multi-family Dwellings in a Mixed-Use Building. Multi-family dwelling units shall be accessible from a shared exterior entrance or one interior entrance commonly shared between the different uses housed in the upper floors of the building. Dwelling units shall not be accessible directly from another unit or use within the building.