

**ZONING ORDINANCE**  
for the  
**City of Rainbow City, Alabama**



**Ordinance #360**  
**Adopted June 28, 1999**

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**ZONING \***  
**ARTICLE I. IN GENERAL**

**Sec. 1. Short Title.**

This ordinance shall be known as the *Rainbow City Zoning Ordinance*.

**Sec. 2. Authority.**

The City Council hereby enacts this ordinance according to the authority granted to the City of Rainbow City by the Legislature of the State of Alabama in Title 11, Chapter 52, Code of Alabama, 1975, as amended. (Ord. 247, 3-86, Ord. 87)

**Sec. 3. Applicability.**

- (a) The City Council hereby divides the territory within its corporate limits into business, industrial, and residential zones or districts and may provide the kind, character, and use of structures and improvements that may be erected or made within the several zones or districts established and may, from time to time, rearrange or alter the boundaries of such zones or districts and may also adopt such ordinances as necessary to carry into effect and make effective the provisions of this ordinance.
- (b) The City Council may divide the City into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this ordinance, and within such districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in any one district may differ from those in other districts.
- (c) For the purpose of promoting the health, safety, morals, or general welfare, this ordinance may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

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\* **State law reference** - Zoning authority, Code of Ala. 1975, § 11-52-70 et seq.



- (d) The City Council shall provide for the manner in which these regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced and from time to time amended, supplemented, or changed and may adopt such ordinances as may be necessary to carry into effect and make effective the provisions of this ordinance.

**State law references** - Establishment, etc. of districts, Code of Ala. 1975, § 11-52-70. Number, etc. of districts; uniformity, Code of Ala. 1975, § 11-52-71. Regulation of height, etc., of buildings, etc., Code of Ala. 1975, § 11-52-73. Manner of establishment, etc., Code of Ala. 1975, § 11-52-76.

#### **Sec. 4. Non-discrimination as to Housing.**

For the promotion of public peace, order, safety, or general welfare, the City may, within residential districts established by this ordinance, regulate as to the housing or residence therein of the different classes of inhabitants, but such regulations shall not discriminate in favor of or against any class of inhabitants.

**State law reference** - Regulation as to housing, etc., Code of Ala. 1975, § 11-52-75.

#### **Sec. 5. Purposes and Considerations.**

- (a) This ordinance shall be prepared in accordance with a comprehensive plan and be designed to:
- (1) lessen congestion in the streets;
  - (2) secure safety from fire, panic, and other dangers;
  - (3) promote health and the general welfare;
  - (4) provide adequate light and air;
  - (5) prevent overcrowding of land;
  - (6) avoid undue concentration of population; and
  - (7) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public improvements.
- (b) This ordinance shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City of Rainbow City.

**State law reference** - Purposes & considerations of zoning, Code of Ala. 1975, § 11-52-72.

**Sec. 6. Conflicting Requirements.**

- (a) Wherever this ordinance requires a greater width or size of yards or courts or other open spaces or requires a lower height of buildings or a lesser number of stories or requires a greater percentage of lot to be left unoccupied or imposes other higher standards than are required in any other statute or local ordinance or regulation, the provisions of this ordinance shall govern.
- (b) Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces or require a lower height of buildings or a lesser number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than this ordinance, the provisions of such statute or local ordinance or regulation shall govern.

**State law reference** - Conflict between regulations, Code of Ala. 1975, § 11-52-82.

**Sec. 7. Severability.**

The provisions of this ordinance are severable, and should any provision be held by a court of competent jurisdiction to be invalid, this ordinance in its entirety and remaining parts thereof, other than the part so held to be invalid, shall still be valid.

**Sec. 8. Saving Provision.**

These regulations shall not be construed as abating any existing or pending action; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person, firm, or corporation; or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations; or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the City, except as shall be expressly provided for in these regulations.

**Sec. 9. Repeal.**

On the effective date of this ordinance, all local ordinances or parts of ordinances in conflict with this ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

**Secs. 10-19. Reserved.**



## ARTICLE II. ZONING DISTRICT REGULATIONS

### DIVISION 1. GENERALLY

#### Sec. 20. Zoning Districts.

The City Council hereby divides the City of Rainbow City into zoning districts, which shall be known by the designations and titles which follow:

(1) *Agricultural districts.*

AG Agricultural District

(2) *Residential districts.*

R-1 Single Family Residential District  
R-2 Patio Home and Townhouse District  
R-3 Multi-Family Residential District  
MHP Manufactured Home Park District

(3) *Business districts.*

NS Neighborhood Shopping District  
HC Highway Commercial District

(4) *Industrial districts.*

M-1 Manufacturing District

(5) *Special purpose districts.*

PUD Planned Unit Development District  
FHZ Flood Hazard Zone District  
L General Purpose Liquor Sales District

#### Sec. 21. Zoning Map.

- (a) The zoning districts established by this ordinance are bounded and defined by an official zoning map which shall be known as the Rainbow City Zoning Map and which, together with all explanatory materials contained therein, is hereby made a part of this ordinance.
- (b) The official zoning map shall be drawn on durable transparent material from which prints can be made and shall be kept in the office of the Zoning Administrator.

- (c) The Zoning Administrator shall update the official zoning map within ninety to one hundred twenty days after amendments to it are adopted by the City Council.
- (d) Should the official zoning map or any portion thereof be lost, destroyed, damaged, or difficult to interpret because of the nature or number of revisions, the Zoning Administrator shall have a new map drawn and adopted by resolution of the City Council. The new map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the maps. Any map amendment shall follow rezoning amendment procedures contained in this ordinance.

**Sec. 22. Zoning District Boundaries.**

The rules of this section shall be used to determine the precise locations of any district boundary shown on the Rainbow City Zoning Map.

- (1) Boundaries shown as following or approximately following any jurisdictional limits shall be construed as following such limits.
- (2) Boundaries shown as following or approximately following streets, alleys, or rights-of-way shall be construed as following such streets, alleys, or rights-of-way.
- (3) Boundary lines which follow or approximately follow platted lot lines or other property lines as shown on the Etowah County Tax Maps shall be construed as following such lines.
- (4) Boundaries shown as following or approximately following railroad lines shall be construed to lie midway between the main tracks of such railroad lines.
- (5) Boundaries shown as following or approximately following shorelines of any lakes or ponds shall be construed to follow the mean high water lines of such lakes or ponds. In the event of a change in the mean high waterline, the boundaries shall be construed as moving with the actual mean high waterline.
- (6) Boundaries shown as following or approximately following the centerline of streams, rivers, or other continuously flowing water courses shall be construed as following the channel of such water courses taken at mean low water. In the event of a natural change in the location of such streams, rivers, or other water courses, the district boundary shall be construed as moving with the channel centerline.
- (7) Boundaries shown as separated from, and parallel or approximately parallel to, any of the features listed in paragraphs (1) through (6) above shall be construed to be parallel to such features. In the absence of specific dimensions, the scale of the map shall determine the distance from such features.

**Sec. 23. District Use Regulations.**

Unless otherwise provided, no building, structure, or land shall be used except in the zoning districts indicated by this article and according to the regulations of this ordinance and other applicable codes and ordinances.

**Sec. 24. Use Limitations Due to Zoning Standards.**

A use may be permitted only if it can meet all of the standards of this ordinance and other applicable codes and ordinances.

**Sec. 25. Combined Principal and Accessory Uses.**

- (a) Unless otherwise prevented by this ordinance, more than one permitted principal use may be combined on a lot if all of the combined uses are commonly associated with and integrally related to one another. Further, all zoning regulations for each of the combined uses shall be met.
- (b) Whenever an activity, which may or may not be separately listed in the district, is conducted in conjunction with a permitted use in the district as an incidental or insubstantial part of the total activity on a lot, the incidental activity shall be permitted as an accessory use if the combined uses are commonly associated with and integrally related to one another.
- (c) For the purpose of this section, “commonly associated” means that the association of such combined uses takes place with sufficient frequency that there is common community acceptance of their relatedness.

**Sec. 26. Interpretation of Uses.**

This ordinance recognizes the limitations of the district use listings, given the infinite variations of essentially similar uses. Therefore, the Zoning Administrator is empowered to make interpretations so as to classify any questioned use as falling within a listed use of similar impact and characteristics. However, in no case shall the Zoning Administrator interpret a use as falling in one listed use when the use in question is more similar in impact and characteristics to another listed use. Appeal of the Zoning Administrator's use interpretation may be filed with the Zoning Board of Adjustment.

**Sec. 27. Unclassified Uses.**

In the event the Zoning Administrator finds a new or unusual use that cannot appropriately fit a listed use in any district, the following procedures shall be followed:

- (1) If compatible with the existing zoning district intent, the unclassified use shall be permitted by special exception upon approval of and subject to the conditions set by the Zoning Board of Adjustment.
- (2) If the unclassified use is not compatible with the intent of the existing zoning district, the Zoning Administrator shall determine the most appropriate district classification and require the property in question to be rezoned. In addition, the unclassified use shall be permitted in the new district by special exception if granted approval by the Zoning Board of Adjustment.
- (3) Following the final action on the unclassified use, as (1) or (2) above may require, the Planning Commission shall initiate an amendment to this ordinance to list the newly permitted use into the most appropriate district(s).

**Sec. 28. Minimum Standard for All Dwellings.**

(1) *Minimum Dwelling Unit Gross Floor Area:*

(a) One thousand, two hundred and fifty square feet (1,250) in R-1 and one thousand square feet (1,000) in all other zoning districts that allow residential construction.

(2) *Minimum Exterior Width of Dwelling:*

(a) Twenty (20) feet.

(3) *Foundation/Slab Requirements:*

(a) All dwellings shall be placed or constructed on a poured concrete slab or foundation in compliance with all applicable building code requirements.

**Secs. 29-39. Reserved.**

## DIVISION 2. AGRICULTURAL DISTRICTS

### Sec. 40. AG Agricultural District.

- (a) *AG District intent.* This district consists primarily of undeveloped lands where agricultural and related pursuits may occur within the City and where agricultural support centers may serve outlying rural areas beyond the City. Further, the intent of the AG District is to hold these lands in agricultural, forest, outdoor recreational, rural residential, and other limited yet compatible uses until City services can be expanded to accommodate a higher intensity of development.
- (b) *AG District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
- (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
- a. Agricultural uses.
    - farm, subject to § 108
    - kennel
  - b. Residential uses.
    - duplex
    - group care residence, subject to § 102
    - single family residence (excluding manufactured homes)
  - c. Institutional uses.
    - cemetery
    - club
    - community center
    - community facility
    - country club
    - domiciliary care or assisted living facility
    - home instruction
    - park
    - place of worship
    - public utility facility
    - public utility service
    - school



- d. Commercial uses.
    - cottage industry, subject to § 106
    - home occupation, subject to § 106
  - e. Temporary uses.
    - garage or yard sales
    - seasonal sales
    - special event
- (2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:
- a. Agricultural uses.
    - farm support business
    - livestock sales
  - b. Residential uses.
    - manufactured home, subject to § 109
  - c. Institutional uses.
    - animal shelter
    - boarding house
    - day care home
    - penal institution
    - public assembly center
  - d. Commercial uses.
    - broadcast studio
    - campground, subject to § 105
    - open air market
    - recreation, outdoor
    - garden or nursery center
  - e. Industrial uses.
    - resource extraction
    - transmission tower

(c) *AG District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	1 acre
Minimum lot width:	250 feet
Minimum front yard:	45 feet
Minimum side yard:	15 feet
Minimum rear yard:	45 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 35 feet.

(d) *AG District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Secs. 41-49. Reserved.**



### DIVISION 3. RESIDENTIAL DISTRICTS

#### Sec. 50. R-1 Single Family Residential District.

- (a) *R-1 District intent.* This district consists of areas suitable for conventional single family residences. The R-1 District allows for certain accessory uses customarily associated with single family dwellings. Further, the district provides for institutional uses which are integrally related to residential neighborhoods.
- (b) *R-1 District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
  - (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
    - a. Residential uses.
      - single family residence (excluding manufactured homes)
    - b. Institutional uses.
      - park
      - public utility service
    - c. Commercial uses.
      - home occupation, subject to § 106
    - d. Temporary uses.
      - garage or yard sales
      - special event
  - (2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:
    - a. Residential uses.
      - group care residence, subject to § 102

- b. Institutional uses.
  - cemetery
  - community facility
  - day care home
  - home instruction
  - place of worship
  - public utility facility
  - school

(c) *R-1 District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	12,750 square feet with sewer (15,000 sq. ft. with septic)*
Minimum lot width:	85 feet (with sewer, 100 ft. without sewer)*
Minimum front yard:	30 feet
Minimum side yard:	10 feet
Minimum rear yard:	30 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 35 feet.

(d) *R-1 District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.
- (4) \*Subject to §141, page 52.

**Sec. 51. R-2 Patio Home and Townhouse District.**

- (a) *R-2 District intent.* This district consists of areas suitable for a mix of single family attached and detached dwellings. The district permits a wide range of single family housing alternatives - single family residences, patio or garden homes, and townhouses - at a controlled density. These permitted housing developments are most appropriate on large undeveloped tracts. Further, the district provides for residential accessory uses and institutional uses which are integrally related to residential neighborhoods.
  
- (b) *R-2 District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
  - (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
    - a. Residential uses.
      - patio or garden home, subject to § 103
      - single family residence (excluding manufactured homes)
      - townhouse, subject to § 104
  
    - b. Institutional uses.
      - park
      - public utility service
  
    - c. Commercial uses.
      - home occupation, subject to § 106
  
    - d. Temporary uses.
      - garage or yard sales
      - special event
  
  - (2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:
    - a. Residential uses.
      - group care residence, subject to § 102

b. Institutional uses.

- cemetery
- community facility
- day care home
- home instruction
- place of worship
- public utility facility
- school

(c) *R-2 District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	10,250 square feet
Minimum lot width:	55 feet
Minimum front yard:	30 feet (20 feet if no septic tank required)
Minimum side yard:	10 feet
Minimum rear yard:	30 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 35 feet.

(d) *R-2 District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Sec. 52. R-3 Multi-Family Residential District**

- (a) *R-3 District intent.* This district consists of areas suitable for multi-family housing, institutional living facilities, and a variety of other housing types. The intent of the R-3 District is to encourage the development of high density housing that efficiently serves the varied residential needs of the community. The R-3 District allows for customary accessory uses which are integrally related to residences. Further, the district provides for institutional uses which are integrally related to residential neighborhoods.
  
- (b) *R-3 District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
  - (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
    - a. Residential uses.
      - apartment, subject to § 101
      - duplex
      - group care residence, subject to § 102
      - patio or garden home, subject to § 103
      - single family residence (excluding manufactured homes)
      - townhouse, subject to § 104
  
    - b. Institutional uses.
      - park
      - public utility service
  
    - c. Commercial uses.
      - home occupation, subject to § 106
  
    - d. Temporary uses.
      - garage or yard sales
      - special event
  
  - (2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:



a. Institutional uses.

- boarding house
- cemetery
- community facility
- day care home
- domiciliary care or assisted living facility
- home instruction
- nursing care facility
- place of worship
- public utility facility
- school

(c) *R-3 District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	7,920 square feet
Minimum lot width:	75 feet
Minimum front yard:	30 feet
Minimum side yard:	10 feet
Minimum rear yard:	30 feet
Maximum building height:	40 feet, or the maximum height allowed under the International Building Code (IBC) for the particular building.

(d) *R-3 District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Sec. 53. MHP Manufactured Home Park District.**

- (a) *MHP District intent.* This district consists of areas suitable for manufactured homes within parks or on lots within a subdivision. The underlying intent of this district is to encourage affordable home ownership alternatives in select locations within the city. The MHP District allows for certain accessory uses customarily associated with single family dwellings. Further, the district provides for institutional uses which are integrally related to residential neighborhoods.
- (b) *MHP District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
- (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
- a. Residential uses.
    - manufactured home, subject to § 109
    - manufactured home park, subject to § 110
    - patio or garden home, subject to § 103
    - single family residence
  - b. Institutional uses.
    - park
    - public utility service
  - c. Commercial uses.
    - home occupation, subject to § 106
  - d. Temporary uses.
    - garage or yard sales
    - special event
- (2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:
- a. Residential uses.
    - group care residence, subject to § 102

b. Institutional uses.

- cemetery
- community facility
- day care home
- home instruction
- place of worship
- public utility facility
- school

(c) *MHP District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	12,750 square feet
Minimum lot width:	85 feet
Minimum front yard:	30 feet
Minimum side yard:	10 feet
Minimum rear yard:	30 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 35 feet.

(d) *MHP District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Secs. 54-59. Reserved.**

## DIVISION 4. BUSINESS DISTRICTS

### Sec. 60. NS Neighborhood Shopping District.

- (a) *NS District intent.* This district consists of areas where a limited range of commercial and institutional uses may serve the needs of a small neighborhood. The objective of the district is to encourage the development of small-scale neighborhood centers for a variety of activities.
  
- (b) *NS District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
  - (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
    - a. Institutional uses.
      - cemetery
      - club
      - community center
      - community facility
      - country club
      - day care center
      - domiciliary care or assisted living facility
      - hospital
      - nursing care facility
      - park
      - place of worship
      - public utility service
      - school
  
    - b. Commercial uses.
      - animal hospital
      - bank or financial service
      - broadcast studio
      - business or professional office
      - business support service
      - clinic
      - commercial school
      - convenience store
      - entertainment, indoor
      - garden center or nursery

- general retail business, enclosed
- laundry service
- medical support service
- personal service
- recreation, indoor
- restaurant, standard
- shopping center, neighborhood
- tourist home
- vehicle repair service
- vehicle service station

c. Temporary uses.

- seasonal sales
- special event

(2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:

a. Residential uses.

- upper story residential uses

b. Institutional uses.

- public utility facility

(c) *NS District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	none
Minimum lot width:	100 feet
Minimum front yard:	45 feet
Minimum side yard:	10 feet (one side may be reduced to zero, subject to IBC & IFC)

Minimum rear yard: 5 feet

Maximum building height: As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 45 feet.

(d) *NS District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Sec. 61. HC Highway Commercial District.**

- (a) *HC District intent.* This district consists of areas where the widest range of commercial uses are permitted at the highest degree of intensity. The district encourages commercial centers to serve the community or region at-large. Commercial activity may be conducted either indoors or, with few exceptions, outdoors. The HC District also allows for institutional uses which are compatible with commercial activities.
  
- (b) *HC District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
  - (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
    - a. Agricultural uses.
      - farm support business
      - kennel
  
    - b. Residential uses.
      - single family residence (excluding manufactured homes)
  
    - c. Institutional uses.
      - animal shelter
      - cemetery
      - club
      - community center
      - community facility
      - country club
      - day care center
      - hospital
      - park
      - place of worship
      - public assembly center
      - public utility service
      - school

- d. Commercial uses.
  - animal hospital
  - bank or financial service
  - broadcast studio
  - business or professional office
  - business support service
  - car wash
  - clinic
  - commercial school
  - convenience store
  - entertainment, indoor
  - entertainment, outdoor
  - funeral home
  - garden center or nursery
  - general retail business, enclosed
  - general retail business, unenclosed
  - home improvement center
  - hotel or motel
  - laundry service
  - medical support service
  - mini-warehouse, subject to § 107
  - open air market
  - personal service
  - recreation, indoor
  - recreation, outdoor
  - restaurant, fast food
  - restaurant, standard
  - shopping center, community or regional
  - shopping center, neighborhood
  - tourist home
  - vehicle repair service
  - vehicle sales or rental
  - vehicle service station
  
- e. Industrial uses.
  - construction service
  - maintenance service
  - transmission tower
  - vehicle and equipment sales, major
  
- f. Temporary uses.
  - seasonal sales
  - special event

(2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:

- a. Residential uses.
  - upper story residential uses
- b. Institutional uses.
  - public utility facility
- c. Industrial uses.
  - manufacturing, light
  - research lab
  - vehicle and equipment repair, major
  - warehousing, wholesaling, and distribution, enclosed

(c) *HC District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	none
Minimum lot width:	100 feet (subject to § 332(4))
Minimum front yard:	45 feet
Minimum side yard:	10 feet (one side may be reduced to zero, subject to IBC & IFC)
Minimum rear yard:	5 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 45 feet.

(d) *HC District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Secs. 62-69. Reserved.**





## DIVISION 5. INDUSTRIAL DISTRICTS

### Sec. 70. M-1 Manufacturing District.

- (a) *M-1 District intent.* This district consists of areas where industrial uses are permitted. The district encourages the development of industrial employment centers. Principal industrial activities include manufacturing, warehousing, and distribution. The M-1 District also allows for commercial and institutional uses which are supportive of industrial activities.
- (b) *M-1 District use regulations.* Accessory and combined uses and structures may be permitted subject to § 25 Combined Principal and Accessory Uses, and similar uses to those listed below may also be permitted subject to § 26 Interpretation of Uses. All uses listed in this district are defined by § 385 Uses Defined.
  - (1) *Permitted uses.* The following uses shall be permitted subject to appropriate permits being issued in accordance with this ordinance:
    - a. Agricultural uses.
      - farm, subject to § 108
      - farm support business
      - livestock sales
    - b. Institutional uses.
      - animal shelter
      - community facility
      - military installation
      - park
      - public utility facility
      - public utility service
    - c. Commercial uses.
      - broadcast studio
      - business or professional office
      - business support service
      - car wash
      - commercial school
      - home improvement center
      - laundry service
      - medical support service
      - mini-warehouse, subject to § 107
      - open air market
      - personal service
      - vehicle repair service
      - vehicle service station

d. Industrial uses.

- construction service
- maintenance service
- manufacturing, general
- manufacturing, light
- research lab
- transmission tower
- vehicle and equipment repair, major
- vehicle and equipment sales, major
- warehousing, wholesaling, and distribution, enclosed
- warehousing, wholesaling, and distribution, open

e. Temporary Uses.

- seasonal sales
- special event

(2) *Conditional uses.* The following uses shall be permitted subject to a conditional use permit being granted by the Rainbow City Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance:

a. Industrial uses.

- heavy industry
- resource extraction
- salvage yard
- sanitary landfill

(c) *M-1 District dimensional regulations.* Except as provided in Art. III. Supplemental District Regulations, the following dimensional standards shall be required:

Minimum lot area:	none
Minimum lot width:	100 feet
Minimum front yard:	45 feet
Minimum side yard:	10 feet (one side may be reduced to zero, subject to IBC & IFC)
Minimum rear yard:	5 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 45 feet.

(d) *M-1 District site development regulations.* The following additional regulations shall be required:

- (1) Off-Street Parking and Loading Regulations, in accordance with §§ 170-189.
- (2) Screening and Buffer Yard Regulations, in accordance with §§ 190-209.
- (3) Sign Regulations, in accordance with §§ 210-299.

**Secs. 71-79. Reserved.**



## DIVISION 6. SPECIAL PURPOSE DISTRICTS

### Sec. 80. PUD Planned Unit Development District.

- (a) *PUD District intent.* This district permits a tract to be planned and developed as an integral unit under single ownership or control, consisting of a combination of residential and non-residential uses. The district intent is to provide a living, working, and shopping environment within the development that contributes to a sense of community and a coherent living style. Further, the PUD District seeks to provide a development framework that: obtains commercial and industrial business activity that significantly improves the economic development of the community; encourages the preservation and enhancement of the natural amenities of land and protects natural features; and reduces improvement costs through more efficient arrangement of varied land uses, buildings, circulation systems, and infrastructure.
- (b) *PUD approval process.* Approval of a PUD requires a three step approval process, as follows:
- (1) *Rezoning and concept plan approval.* A concept plan shall accompany each application for rezoning to the PUD District. Development of the PUD shall be in substantial accord with the approved concept plan. The concept plan shall be drawn to scale and display accurate dimensions, prepared by a professional engineer, land surveyor, architect, or landscape architect licensed to practice in the State of Alabama. The concept plan shall show, in schematic detail, the concept for use and development of the entire PUD tract.
- (2) *Preliminary site plan approval.*
- a. Following rezoning and concept plan approval, the developer shall submit to the Planning Commission a preliminary site plan for each phase of the development.
- b. The preliminary site plan shall be drawn to scale and dimensioned, prepared by a professional engineer, land surveyor, architect, or landscape architect licensed to practice in the State of Alabama.
- c. The preliminary site plan shall show information necessary for the Planning Commission to adequately assess the suitability of the proposed development, including at a minimum the following items:
- the location of proposed uses;
  - proposed building areas and heights;
  - proposed residential development density and housing types;
  - lots with proposed sizes, widths, and yards;

- proposed screening and buffer yards;
- proposed off-street parking and loading areas;
- layout of streets, pedestrian facilities, and drives;
- location of all entrances to the tract; and
- layout and configuration of common open space.

- d. A narrative text and supplemental drawings shall accompany the preliminary site plan, describing the general design and construction policies for the PUD; the proposed design and construction standards for streets; the treatment of environmentally-sensitive land located in the project tract (areas of flooding, severe slope, woodlands, streams, lakes, and ponds); the proposed time frame for phased development; and such other conditions for use and development proposed by the applicant.
- e. All preliminary site plans shall be in substantial accord with the approved concept plan. Any deviation in the preliminary site plan from the approved concept plan shall require resubmitting the PUD rezoning and concept plan approval application.

(3) *Final site plan approval.* Before each phase of the development is constructed, a final site plan shall be required, in accordance with § 314 Site Plan Review. Final site plan approval shall be coordinated with the approval of subdivision plats and construction plans, as required by the Rainbow City Subdivision Regulations. All final site plans shall be in substantial accord with the approved preliminary site plan. Any deviation in the final site plan from the approved preliminary site plan shall require resubmitting the preliminary site plan application.

(c) *PUD District use regulations.* A Planned Unit Development District may be established for any tract. The Planned Unit Development (referred to as PUD) shall consist of a combination of uses planned and developed as an integral unit under single ownership or control. Specific use limitations shall be established in the process of concept plan approval.

(d) *PUD District dimensional regulations.* In any PUD, the developer may create lots and construct buildings without regard to the conventional minimum lot size, lot width, or yard restrictions of this ordinance except that:

- (1) A 50 foot lot boundary setback shall apply where and to the extent that the development abuts land that is not part of the PUD, and
- (2) Each lot must be of sufficient size and dimensions that it can support the structure proposed to be located on it, consistent with all other applicable requirements of this ordinance, as approved by the Planning Commission in the preliminary and final site plans.

- (e) *PUD District design and construction standards.* Where the design and construction standards approved in the preliminary and final site plans conflict with the subdivision regulations and any other requirements of this zoning ordinance, the standards approved in the PUD approval process shall control.
  
- (f) *Issuance of permits within a PUD subdivision.* Permits may be issued in any phase of a PUD subdivision with public improvements under construction, following completion of final site plan and subdivision plat approval, provided:
  - (1) No building permits for a subdivision with public improvements under construction shall be issued unless the extent of street improvements is adequate for vehicular access by the prospective builder and by police and fire equipment. Further, no building permit shall be issued for the greater of two or the final 10% of lots within the subdivision until all public improvements and dedications have been completed by the developer and accepted by the City.
  
  - (2) No certificate of occupancy for any building in the subdivision shall be issued prior to the completion and dedication of required public improvements and posting of a maintenance bond for public improvements.





**Sec. 81. FHZ Flood Hazard Zone District.**

- (a) *FHZ Flood Hazard Zone District intent.* This district intends to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions.
- (b) *FHZ Flood Hazard Zone District provisions.* The provisions of this district shall be overlay provisions to the existing underlying zoning districts. All properties within the district shall be designated by the *F* suffix added to the underlying district prefix, i.e., R-1F. As overlay provisions, the requirements of this district shall serve as a supplement to the underlying zoning district provisions. Where there happens to be any conflict between the provisions of this overlay district and the provisions of the underlying district, the more restrictive provisions shall apply.
- (c) *Uses and activities.* All uses and activities in the Flood Hazard District shall comply with the requirements of Ordinance 327, Flood Damage Prevention Ordinance, of the City of Rainbow City, as amended.



**Sec. 82. L General Purpose Liquor Sales District.**

- (a) *L General Purpose Liquor Sales District intent.* This district intends to promote the public health, safety, and general welfare and to localize liquor sales and consumption.
- (b) *Provisions for the Liquor Sales (L) District.* The provisions of this district shall be overlay provisions to the existing HC Highway Commercial and NS Neighborhood Shopping zoning districts. All properties within the district shall be designated by the *L* suffix added to the underlying district prefix, i.e., HC-L. As overlay provisions, the requirements of this district shall serve as a supplement to the underlying zoning district provisions. Where there happens to be any conflict between the provisions of this overlay district and the provisions of the underlying district, the more restrictive provisions shall apply.
- (c) *L General Purpose Liquor Sales District approval process.* A concept plan shall accompany each application for rezoning to the L District. Development of the L District shall be in substantial accord with the approved concept plan. The concept plan shall be drawn to scale and dimensioned, prepared by a professional engineer, land surveyor, architect, or landscape architect licensed to practice in the State of Alabama.
- (d) *L General Purpose Liquor Sales District application.* Any establishment wishing to conduct a business in alcoholic beverages shall be required to initiate the L overlay zone. This requirement shall apply to any business selling alcoholic beverages for on or off-premise consumption (examples: restaurant with bar, tavern, lounge, liquor store). Package sales of beer and wine are excluded from this requirement. Any pending L designation is dependent upon the applicant providing a valid State of Alabama permit for liquor sales.



**Secs. 83. RL General Purpose Restaurant Liquor Sales District.**

- (a) *RL General Purpose Restaurant Liquor Sales District intent.* This district intends to promote the public health, safety and general welfare and to localize restaurant liquor sales and consumption.
- (b) *Provisions for the Restaurant Liquor Sales (RL) District.* The provisions of this district shall overlay provisions to the existing HC Highway Commercial and NS Neighborhood Shopping zoning districts. All properties within the district shall be designated by the *RL* suffix added to the underlying district prefix, i.e. HC-RL. As overlay provisions, the requirements of this district shall serve as a supplement to the underlying zoning district provisions. Where there happens to be any conflict between the provisions of this overlay district and the provisions of the underlying district, the more restrictive provisions shall apply.
- (c) *RL General Purpose Restaurant Liquor Sales District approval process.* A concept plan shall accompany each application for rezoning to the RL District. Development of the RL District shall be in substantial accord with the approved concept plan. The concept plan shall be drawn to scale and dimensioned, prepared by a professional engineer, land surveyor, architect, or landscape architect licensed to practice in the State of Alabama.
- (d) *RL General Purpose Restaurant Liquor Sales District application.* Any establishment wishing to conduct a business in restaurant and alcoholic beverages shall be required to initiate the RL overlay zone. This requirement shall apply to any business with 60% of total sales coming from food sales.

**Secs. 84-89. Reserved.**



## **ARTICLE III. SUPPLEMENTAL DISTRICT REGULATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 90. Compliance with Supplemental District Regulations.**

Unless otherwise provided by this ordinance, all uses and activities established after the effective date of this ordinance shall comply with the supplemental requirements established by this article.

#### **Secs. 91-99. Reserved.**





## **DIVISION 2. SUPPLEMENTAL USE REGULATIONS.**

### **Sec. 100. Purpose of Supplemental Use Regulations.**

This division assigns supplemental standards over and above those imposed by other sections of this ordinance. Although permitted in certain districts, some uses have unique characteristics that require these supplemental standards.

### **Sec. 101. Apartment.**

- (a) The minimum site area shall be 32,000 square feet. The maximum density shall be 16 dwelling units per acre of site area.
- (b) All buildings shall be set back at least 15 feet from all parking areas.
- (c) Not more than 16 dwelling units shall be permitted per building.
- (d) Buildings shall be spaced front to front, front to rear, front to side, and rear to rear at least to a distance equal to twice the tallest building height. Buildings shall be spaced side to side and side to rear at least to a distance equal to the tallest building height.
- (e) At least 10% of the site area, but not less than 2,500 square feet, shall be improved for recreational use by the apartment residents.

### **Sec. 102. Group Care Residence.**

- (a) The use shall be conducted within a single family residence.
- (b) The building shall maintain the exterior appearance of a single family residence, with no separate outside entrances to individual bedrooms.
- (c) The group care residence must be sponsored by a public or non-profit organization. State licensing requirements shall be met.

### **Sec. 103. Patio or Garden Home.**

- (a) Subdivision of lots for patio or garden homes shall be restricted to tracts with a minimum site area of three acres. The maximum density shall be seven dwelling units per acre. Dwelling units are figured on total acreage, which includes roads and rights-of-way.
- (b) The patio or garden home shall meet the following dimensional requirements:

Minimum lot area:                      5,500 square feet

Minimum lot width:	55 feet
Minimum front yard:	30 feet (if septic tank is required, 20 feet if not septic tank is required)
Minimum side yard:	8 feet
Minimum rear yard:	15 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 35 feet.

- (c) Patio or garden homes on adjacent lots to the rear or sides may own and maintain common party fences.
- (d) To permit zero lot-line development, one side yard may be reduced to zero, provided a five foot easement of maintenance is reserved on the adjoining lot, buildings are separated by at least 20 feet, and the adjoining lot is reserved for a patio or garden home, subject to IRC.
- (e) When two patio or garden homes are located on adjacent lots, their attached garages may share a common party wall at the lot line.
- (f) All utilities shall be placed underground.
- (g) All lots shall be served by public water and sewer.

**Sec. 104. Townhouse.**

- (a) Subdivision of lots for townhouses shall be restricted to tracts with a minimum site area of three acres. The maximum density shall be 10 dwelling units per acre of site area.
- (b) Each townhouse shall meet the following dimensional requirements:

Minimum lot area	
- interior unit:	1,600 square feet
- end unit:	3,600 square feet
Minimum lot width	
- interior unit:	16 feet
- end unit:	36 feet
Minimum front yard:	30 feet
Minimum side yard	
- end unit:	30 feet
Minimum rear yard:	15 feet
Maximum building height:	As may be determined by the International Building Code (IBC). For all other structures not addressed by the IBC, the maximum height shall not exceed 35 feet.

- (c) Not more than eight dwelling units shall be permitted per building.
- (d) All utilities shall be placed underground.
- (e) All lots shall be served by public water and sewer.

**Sec. 105. Campground.**

- (a) *Uses and activities.* The campground shall include individual campsites for travel trailers or tents but may also include the following uses and activities:
  - (1) hotel, motel, or similar guest accommodations;
  - (2) facilities designed to serve only the park guests, such as restaurants, cafeteria, retail concession sales, laundromats, bathing facilities;
  - (3) recreational facilities, and similar guest facilities; and
  - (4) accommodations for resident personnel employed by the campground management.
- (b) *Site area.* The minimum site area shall be five contiguous acres.
- (c) *Density.* The maximum number of campsites per acre shall be 15.
- (d) *Perimeter yards.* No campsite or building shall extend into any required yards along the perimeter of the park, as listed below. The perimeter yards shall be reserved for screening and buffer yards and may also be used for common streets, walkways, and passive recreation areas (without structures). The screening and buffer yard standards of this ordinance (§§ 190-209) may require wider perimeter yards, depending on the adjacent uses of land, and may place additional restrictions on the use of the perimeter yards.
 

Front yard:	50 feet
Rear yard:	30 feet
Side yard:	30 feet
- (e) *Dimensions.* The minimum area for each campsite shall be 1,500 square feet, with a minimum width of 40 feet. Boundaries shall be clearly marked on the ground by permanent flush stakes.
- (f) *Streets.* One or two-way private streets shall be provided to furnish access to each campsite and other park facilities. The street surface may be graveled or paved. Surface widths of streets shall be twelve feet per travel lane.

- (g) *Parking.* One and one-half parking spaces shall be provided in the park for each campsite. One 9 foot by 19 foot space shall be provided on each campsite.
- (h) *Utilities.* All utility lines shall be placed underground.
- (i) *Refuse disposal.* Refuse collection and disposal shall be the responsibility of campground management. Dumpsters shall be provided in centralized locations.

**Sec. 106. Home Occupations and Cottage Industries.**

- (a) *Home occupations.* A home occupation may consist of any accessory business use that fully complies with all of the standards contained in this section. No home occupation shall be allowed in any multi-family dwelling.
- (b) *Cottage industries.* A cottage industry may consist of any accessory business use, except solid waste facilities, junk or scrap metal shops, automobile repair shops or garages, or food processing/packing operations, that fully complies with all of the standards contained in this section. Cottage industries may be permitted only within the Agricultural Zoning District.
- (c) *Standards applicable to home occupations and cottage industries.* The following standards shall apply to both home occupations and cottage industries.
  - (1) The home occupation or cottage industry must be owned and operated by the owner of the dwelling within which or property upon which such business use is to be located, or the business owner must have written approval of the owner of the premises, if the applicant is a tenant.
  - (2) The home occupation or cottage industry shall be operated only by the members of the family residing in the principal dwelling located on the lot upon which such business use will be located.
  - (3) The home occupation or cottage industry shall not involve the use of or result in the production of any hazardous materials or hazardous waste.
  - (4) The home occupation or cottage industry shall not generate smoke, glare, vibrations, electrical disturbance, radioactivity, or other conditions that will be a nuisance to the surrounding area.
  - (5) The home occupation or cottage industry shall not generate any business traffic (either by the business operators or business customers) between the hours of 8:00 p.m. and 6:00 a.m.

- (6) At least three (3), but no more than five (5), off-street parking spaces shall be provided for the cottage industry.
  - (7) No home occupation or cottage industry shall require the use of more than one vehicle for exclusive use of the business.
  - (8) Only one non-illuminated accessory sign not exceeding two square feet in area may be placed on the premises in conjunction with any home occupation or cottage industry.
- (d) *Standards applicable to home occupations.* The following standards shall apply to only home occupations.
- (1) All business operations, activities, and transactions associated with the home occupation shall be conducted entirely within the dwelling unit. No business operations, activities, or transactions shall be conducted in any portion of the dwelling not approved for home occupation use by the City.
  - (2) The home occupation shall not occupy more than 30% of the total dwelling unit floor area in the agricultural zoning district or 25% of the total dwelling unit floor area in the residential and business zoning districts. In no instance shall a home occupation exceed 750 square feet.
  - (3) The home occupation shall not cause or result in any change in the outside appearance and residential character of the dwelling unit.
  - (4) The home occupation shall not generate more than two (2) trips per day in R1 districts; ten (10) trips per day in Agricultural Districts; and twenty (20) trips per day in all other districts.
  - (5) The home occupation shall not produce any vibrations, noises, or odors that may be discernable by the average person outside of the dwelling unit.
  - (6) All equipment, materials, and products of the home occupation, with the exception of one vehicle intended for business use, shall be safely and securely stored inside the dwelling unit at all times.
  - (7) The home occupation and dwelling unit shall comply with all applicable building and fire codes. Home occupations will not be permitted in any dwelling unit in which the primary residential use does not fully comply with the applicable requirements for the zoning district within which it is located.

- (e) *Standards applicable to cottage industries.* The following standards shall apply to only cottage industries.
- (1) No cottage industry shall be permitted on a lot smaller than three (3) acres in area, and no activities associated with a cottage industry, including materials storage, shall be located or conducted within 50 feet of an adjoining property line.
  - (2) All business operations, activities, and transactions associated with the cottage industry shall be conducted entirely within the primary dwelling unit and/or in an accessory building on the same lot. No business operations, activities, or transactions shall be conducted in any portion of the dwelling or lot not approved for cottage industry use by the City.
  - (3) The cottage industry shall not occupy a total area greater than 50% of the total dwelling unit floor area or 1,000 square feet, whichever is less.
  - (4) The cottage industry shall not cause or result in any change in the outside appearance or character of any structure on the lot.
  - (5) The cottage industry shall not generate more than 25 average daily trips, according to the latest available edition of the Institute of Traffic Engineer's Trip Generation Manual.
  - (6) The cottage industry shall not produce any vibrations, noises, or odors that may be discernable by the average person beyond the boundaries of the lot.
  - (7) All equipment, materials, and products of the cottage industry, with the exception of one vehicle intended for business use, shall be safely stored inside a secured structure on the lot.
  - (8) The cottage industry and dwelling unit shall comply with all applicable building and fire codes. Cottage industries will not be permitted in any structure which does not fully comply with all applicable requirements for the zoning district within which it is located.
- (f) *Expiration of permit.* A permit for a home occupation or cottage industry shall expire under the following conditions:
- (1) Whenever the applicant ceases to occupy the structure or lot for which the home occupation or cottage industry permit was issued. No subsequent occupant of such premises shall engage in any home occupation or cottage industry until a new permit has been issued for the proposed business activity. A permit to operate a home occupation or cottage industry is not transferable to a new residence or lot.

- (2) Whenever the holder of a home occupation or cottage industry permit ceases operation of the permitted business activity for any period of 90 consecutive days.
- (3) When the owner of a permitted home occupation or cottage industry is issued a notice of violation of this ordinance, the owner shall cease and desist from all business operations until such time as the enforcing officer has verified, through on-site inspection, that the violation has been remedied. Failure to cease and desist from all business operations, in accordance with this provision, shall constitute a separate violation. If the owner fails to comply with a cease and desist order, or the violation has not been remedied within 15 days of the date that the notice of violation was issued, the home occupation or cottage industry permit and business license shall expire and no resumption of business activities associated with such business may occur without first obtaining a new permit and business license.

**Sec. 107. Mini-warehouse.**

- (a) No individual storage space shall exceed 400 square feet in area and one story in height.
- (b) Each storage space shall be served by a paved driveway of 20 feet minimum width for each direction of travel.
- (c) The entire site shall be enclosed by security fencing of 8 feet minimum height and be kept lit with security lighting throughout.
- (d) The entrance, perimeter, driveways, and walkways between building(s) must have adequate security lighting and be approved by the Planning Board.

**Sec. 108. Farm.**

- (a) The minimum lot area shall be 10 acres.
- (b) Livestock, dairy animals, small animals, and poultry shall be housed not less than 200 feet from any adjacent lot not zoned AG.
- (c) Temporary sawmills and chippers used in connection with commercial forestry operations shall be set back at least 200 feet from any lot line.
- (d) Temporary or permanent living accommodations for farm tenants performing agricultural labor (farm tenant housing) shall be permitted.
- (e) A booth or stall (farm stand) from which produce and farm products are sold to the general public shall be permitted subject to the following limitations:



- (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.
- (f) Offensive animal odors shall not be detectable at the property line.

**Sec. 109. Manufactured Home.**

Manufactured homes shall meet the following requirements:

- (1) The manufactured home shall bear a seal certifying compliance with the Manufactured Home Construction and Safety Standards Act promulgated by the U.S. Department of Housing and Urban Development. Any existing manufactured home not bearing such seal shall be deemed a nonconforming structure and shall be subject to the regulations established in §§ 330-339.
- (2) The manufactured home shall be installed according to the tie-down requirements of the Standard Building Code or the rules of the Alabama Manufactured Housing Commission, whichever is more restrictive, as permitted in section 24-5-34 of the Code of Alabama 1975, as amended.
- (3) The unit shall be either placed on a permanent foundation or skirted with a weather-resistant material which resembles a permanent foundation commonly found on a single family dwelling. Skirting shall be adequately vented.

**Sec. 110. Manufactured Home Park.**

- (a) *Uses and activities.* The manufactured home park shall be limited to the following uses and activities:
- (1) manufactured home, subject to § 109;
  - (2) management office;
  - (3) manager's residence;
  - (4) service facilities, such as laundromats, household storage buildings, outdoor storage yards, refuse disposal areas, and similar common service facilities designed and intended to serve only the residents of the park;
  - (5) recreational facilities designed and intended to serve only the residents of the park;

- (6) retail convenience sales for residents of the park;
  - (7) residential accessory uses and structures; and
  - (8) public utility structures, provided that there is no outside storage area and a buffer is provided for the side and rear yards.
- (b) *Site area.* The minimum site area for the manufactured home park shall be five contiguous acres.
  - (c) *Drainage.* The manufactured home park shall be located on a site properly graded to insure rapid drainage and freedom from standing water.
  - (d) *Density.* The maximum density shall be eight manufactured home spaces per acre of site area, as calculated on the total gross area within the manufactured home park. If not served by public water and sewer, the maximum density shall be two manufactured home spaces per gross acre, or a lower density may be set by the County Health Department.
  - (e) *Perimeter yards.* No manufactured home space or buildings shall extend into any required yards along the perimeter of the park, as listed below. The perimeter yards shall be reserved for screening and buffer yards and may also be used for common streets, walkways, and passive recreation areas (without structures). The screening and buffer yard standards of this ordinance (§§ 190-209) may require wider perimeter yards, depending on the adjacent uses of land, and may place additional restrictions on the use of the perimeter yards.

Front perimeter yard:	25 feet
Rear perimeter yard:	15 feet
Side perimeter yard:	10 feet

- (f) *Area of manufactured home spaces.* Each manufactured home space shall meet the following area requirements, which depend on the size of the unit to be placed on the space. The boundaries of each space shall be clearly marked on the ground by permanent flush stakes.

- (1) *With public sewer and water:*

Minimum area:	4,000 square feet
Minimum width at front setback line:	40 feet

- (2) *Without public sewer and water:*

Minimum area:	15,000 square feet
Minimum width at front setback line:	100 feet

- (g) *Setbacks and distancing of manufactured homes.*
- (1) Each manufactured home on a space shall be set back the following distances from the boundaries of each space:
 

Minimum front yard:	20 feet
Minimum side yard:	10 feet
Minimum rear yard:	10 feet
  - (2) Accessory buildings, such as storage units, shall not be permitted within the required front yard of each space and shall not be permitted within seven and one half (7.5) feet of the rear and side boundaries of each space. Carports shall be permitted within the front yard but shall not be permitted within seven and one half (7.5) feet of the rear and side boundaries of each space.
  - (3) No manufactured home shall be closer than 20 feet to any other manufactured home on an adjacent space.
- (h) *Parking.* On each manufactured home space, there shall be provided at least one off-street parking space for vehicles other than a manufactured home. Each parking space shall be not less than 10 feet wide by 20 feet long, connected by a paved 12 foot drive to a common driveway or street.
- (i) *Access.* All manufactured home spaces shall abut a public street, or a paved driveway of not less than 20 feet in width having unobstructed access to a public street, alley, or highway.
- (j) *Paving and lighting.* All driveways and walkways within the park shall be paved and adequately lighted.
- (k) *Power supply.* Electrical outlets supplying at least 110 volts each shall be provided for each manufactured home space.
- (l) *Sanitary facilities in manufactured homes.* Each manufactured home shall contain at least one shower or tub, a flush toilet, a lavatory, hot and cold running water and source of heat for the occupants thereof.
- (m) *Water supply.* All buildings and manufactured home spaces within the park shall be connected to the public water supply system.
- (n) *Sewage and refuse disposal.* Waste from showers, bath tubs, flush toilets, urinals, lavatories, and laundry facilities in a manufactured home, and any other building within the park, shall be discharged into the public sewer system in compliance with applicable ordinances or into a private disposal system approved by the County Health Officer, who may require soil

percolation tests to be performed within the disposal area as a guide to the size, location, and arrangement of the system.

- (o) *Garbage receptacles.* Refuse collection and disposal shall be the responsibility of the park management. Common refuse disposal areas shall be provided and be screened to the full height of such facilities. The manufactured home licensee will be responsible to see that all garbage and rubbish is placed in these facilities.
- (p) *Fire protection.* Every park shall be equipped at all times with fire hydrant equipment in good working order, of such type, size, and number and so located within the park as to satisfy applicable regulations of the city. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time.
- (q) *Minimum park density.* A manufactured home park may not accept manufactured homes unless and until such time as at least eight of its lots have been completely developed, together with facilities, as required by this ordinance, the regulations of the State of Alabama, and other ordinances.
- (r) *Visible numbering.* All manufactured home spaces shall have a number visible in daytime and nighttime.
- (s) *Utilities.* All utility lines shall be placed underground.
- (t) *MHP District design and construction standards.* Where the design and construction standards approved in the preliminary or final site plans of the manufactured home park development conflict with the subdivision regulations or any other requirements of this zoning ordinance, the standards approved in the MHP approval process shall control.
- (u) *MHP approval process.* Approval of a Manufactured Home Park requires a three step approval process, as follows:
  - (1) *Rezoning and concept plan approval.* A concept plan shall accompany each application for rezoning to the MHP District. Development of the Manufactured Home Park shall be in substantial accord with the approved concept plan. The concept plan shall be drawn to scale and dimensioned, prepared by a professional engineer, land surveyor, architect, or landscape architect licensed to practice in the State of Alabama. The concept plan shall show, in schematic detail, the concept for use and development of the entire MHP tract.

- (2) *Preliminary site plan approval.*
- a. Following rezoning and concept plan approval, the developer shall submit to the Planning Commission a preliminary site plan for each phase of the development.
  - b. The preliminary site plan shall be drawn to scale and dimensioned, prepared by a professional engineer, land surveyor, architect, or landscape architect licensed to practice in the State of Alabama.
  - c. The preliminary plan shall show information necessary for the Planning Commission to adequately assess the suitability of the proposed development, including at a minimum the following items:
    - the location of proposed uses;
    - proposed building areas and heights;
    - proposed residential development density and housing types;
    - lots with proposed sizes, widths, and yards;
    - proposed screening and buffer yards;
    - proposed off-street parking and loading areas;
    - layout of streets, pedestrian facilities, and drives;
    - location of all entrances to the tract; and
    - layout and configuration of common open space.
  - d. A narrative text and supplemental drawings shall accompany the preliminary site plan, describing the general design and construction policies for the Manufactured Home Park; the proposed design and construction standards for streets; the treatment of environmentally-sensitive land located in the project tract (areas of flooding, severe slope, woodlands, streams, lakes, and ponds); the proposed time frame for phased development; and such other conditions for use and development proposed by the applicant.
  - e. All preliminary site plans shall be in substantial accord with the approved concept plan. Any deviation in the preliminary site plan from the approved concept plan shall require resubmitting of the MHP District rezoning and concept plan approval application.
- (3) *Final site plan approval.* Before each phase of the development is constructed, a final site plan shall be required, in accordance with § 314 Site Plan Review. Final site plan approval shall be coordinated with the approval of subdivision plats and construction plans, as required by the Rainbow City Subdivision Regulations. All final site plans shall be in substantial accord with the approved preliminary site plan.

Any deviation in the final site plan from the approved preliminary site plan shall require resubmitting of the preliminary site plan application.

- (v) *Issuance of permits within a MHP District subdivision.* Permits may be issued in any phase of a MHP development with public improvements under construction, following completion of final site plan and subdivision plat approval, provided:
  - (1) No building permits for a subdivision with public improvements under construction shall be issued unless the extent of street improvements is adequate for vehicular access by the prospective builder and by police and fire equipment. Further, no building permit shall be issued for the greater of two or the final 10% of lots within the subdivision until all public improvements and dedications have been completed by the developer and accepted by the City.
  - (2) No certificate of occupancy for any building in the subdivision shall be issued prior to the completion and dedication of required public improvements and posting of a maintenance bond for public improvements.

**Secs. 111-139. Reserved.**



### DIVISION 3. SUPPLEMENTAL DIMENSIONAL REGULATIONS

#### Sec. 140. Purpose of Supplemental Dimensional Regulations.

This division assigns supplemental dimensional standards over and above those imposed by the district dimensional regulations. Unique characteristics and conditions of development require these supplemental standards.

#### Sec. 141. Minimum Standards for Un-sewered Lots.

Any lot not served by public water and sewer shall have a minimum lot area of 15,000 square feet and a minimum lot width of 100 feet and meet the requirements of the "Rules of Onsite Sewage Disposal and Subdivision Onsite Sewage Systems", State Board of Health, July 20, 1988, as amended. The County Health Department may set a larger minimum lot area requirement to accommodate private wells or septic systems. Where the district dimensional regulations or the supplemental use regulations require a lot area greater than 15,000 square feet, the more restrictive regulations shall apply.

#### Sec. 142. Minimum Yard Exceptions.

- (a) *Projections into required yards.*
  - (1) Architectural features, chimneys, eaves, and the like may project up to two feet into any required yard, but no closer than three feet to any lot line.
  - (2) Terraces, steps, uncovered porches, and similar features less than three feet above the floor level of the ground story may project into any required yard, but no closer than three feet to any lot line.
  - (3) Covered entry porches, balconies, fire escapes and similar features may project up to four feet into any required yard.
- (b) *Fences, walls, and hedges.* Fences, walls, and hedges that are substantially opaque may not exceed thirty inches in height within a required front yard, subject to the traffic visibility provisions of this article (§ 145).
- (c) *Satellite dish antennas.* Satellite dish antennas and other ground mounted antennas shall not be permitted in the front yard. Setbacks from all property lines shall be a distance equal to the height of the antenna. The setback of a satellite dish antenna shall be the minimum distance measured from the closest edge of the dish to the property line. Satellite dishes are subject to the district maximum building height limitations.



- (d) *Elimination of non-residential yards.* For any non-residential buildings, the side or rear yard may be eliminated to accommodate attached buildings sharing a common party wall at the lot line, subject to meeting all building codes.
- (e) *Side yard along street lines.* In the case of a corner lot, the side yard which extends along one of the street lines shall in no event be less than 15 feet, regardless of the district minimum or the yards set by supplemental use regulations (§§ 100-139).

**Sec. 143. Maximum Building Height Exceptions.**

- (a) The maximum building height limitations do not apply to spires, belfries, cupolas, antennas (except satellite dishes), water tanks, ventilators, chimneys, or other appurtenances customarily placed above the roof and not intended for human occupancy.
- (b) Any principal building may be erected to a height in excess of the maximum building height for the district, provided each required yard is increased one foot for each one foot of excess height.

**Sec. 144. Frontage Exceptions.**

All subdivided lots shall front on a public street, except within the following residential developments:

- (1) Lots of less than 7,000 square feet within a townhouse or patio or garden home subdivision. All such lots may be served by private streets, constructed in accordance with the City Engineer's standards, and owned and maintained in common by a homeowners' association or equivalent legal entity.
- (2) Family subdivisions involving the conveyance of a one acre or larger lot from a five acre or larger parcel for the purpose of constructing a single family residence as the primary habitat of an immediate family member. For the purpose of this provision, immediate family member shall include any naturally or legally-defined offspring. Such subdivision shall provide a 50 foot access easement from a public street to the lot.

**Sec. 145. Traffic Visibility at Intersections.**

- (a) On any corner lot, nothing shall be erected, placed, planted, or allowed to grow which would impede traffic visibility at intersections. No obstruction shall be placed within a clear sight triangle between a height of two feet and seven feet above the centerline grades of the intersecting streets. This clear sight area on the two lot lines forms a triangle. The triangle is bounded by the two lot lines along the street, each measured twenty-five feet from their intersection; a straight line connects the legs of the triangle. This shall be a twenty-five foot clear sight triangle.

- (b) When one or both of the intersecting streets is an arterial street, the clear sight triangle shall be 50 feet.
- (c) Where a private driveway intersects a public street, a clear sight triangle of 10 feet shall be maintained. The legs of the triangle shall be measured from the intersection of the street line and the edge of the driveway.

**Sec. 146. Dimensional Requirements for Accessory Buildings.**

- (a) *Non-residential accessory buildings.* Non-residential accessory buildings up to 12 feet in height shall be permitted within 7.5 (seven & one-half) feet of any side or rear property line but not occupy any portion of a front yard.
- (b) *Residential accessory buildings.* Residential accessory buildings and attached and detached carports, garages, and boat houses on residential lots shall meet the following dimensional requirements:
  - (1) The maximum floor area shall be 25% of the habitable floor area of the principal building.
  - (2) The maximum height shall be in no case greater than the principal building height.
  - (3) Such structures and additions shall be subject to the district front yard requirement.
  - (4) Such structures shall be no closer than 7.5 feet to any property line.

**Sec. 147. Dimensional Requirements for the Keeping of Chickens, Cows, Exotics, Horses, Oxen, and Sheep.**

- (a) *Definitions:*

*enclosure.* An enclosed or fenced in area including, but not limited to, barns, stables, structures, sheds, or corrals of any type.

*exotics.* Animals or plants introduced from another country, not native to the southeastern United States, which are domesticated and raised for commercial purposes.

- (b) *Limitations on location.*

- (1) *Without public sewer:*

It shall be unlawful for any person, firm, corporation, or association to keep any horses, cows, sheep, chickens, or exotics in an enclosure of any type or on any portion of real property which is within 300 feet of a residence, school, church, hospital, public building, public park, public playground or public thoroughfare.

(2) *With public sewer:*

A barn, stable, building, structure, or shed provided with concrete floors and drains connected to the public sewer, or other sewerage disposal facilities satisfactory to the Etowah County Health Officer, may be located within 100 feet of a residence or public thoroughfare; provided further that such concrete floors are cleaned daily with water, under pressure, with the waste from such cleaning being discharged to the public sewer or other approved sewerage facility.

- (c) *Enforcement.* It shall be the duty of the appropriate administrative official to administer and enforce the regulations prescribed herein.

**Secs. 148-159. Reserved.**

## **ARTICLE IV. SITE DEVELOPMENT REGULATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 160. Compliance.**

All uses and activities shall comply with the provisions of this article.

#### **Secs. 161-169. Reserved.**



## DIVISION 2. OFF-STREET PARKING AND LOADING REGULATIONS

### Sec. 170. Purpose of Off-street Parking and Loading Regulations.

The primary purpose of these provisions is to reduce traffic congestion on public streets by requiring that certain minimum parking and loading areas be provided off-street. Further, these provisions insure safe and convenient access to and from each site, insure safe and efficient on-site traffic circulation, and encourage the design of attractive and harmonious facilities.

### Sec. 171. Off-street Parking and Loading Terms Defined.

The following off-street parking and loading terms, when used in this article, shall have the meanings defined by this section.

*access driveway.* That portion of the parking area that consists of a travel lane bounded on either side by an area that is not part of the parking area.

*BR.* Bedroom or guest accommodations.

*DU.* Dwelling unit.

*employee.* The maximum number of persons employed at the facility, regardless of the time period during which this occurs or whether the persons are full-time employees. The major shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

*GLA.* Gross leasable area. The total floor area of a building designed for both tenant occupancy and exclusive use. GLA includes both owned and leased areas but does not include shared or common areas among tenants. Where the total floor area of a building is occupied or where a building has no shared or common area, GLA is the gross floor area measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

*inoperative motor vehicle.* An unlicensed motor vehicle or any motor vehicle which, due to disrepair or dismantling, is incapable of being driven safely upon a public street.

*loading area.* That area used to satisfy the requirements of this ordinance for truck loading and unloading.

*loading space.* An off-street space or berth used for the unloading or loading of commercial vehicles.

*occupancy load.* The maximum number of persons which may be accommodated by the use, as determined by its design or by fire code standards.

*parking aisle.* That portion of the parking area consisting of lanes providing access to parking spaces.

*parking area.* An improved area on a lot exclusively used or designed for use as a temporary storage area for motor vehicles, containing access driveways, parking aisles, and parking spaces.

*parking space.* That portion of the parking area set aside for the parking of one vehicle.

*sf.* Square feet.

**Sec. 172. Required Off-street Parking Spaces.**

Unless otherwise provided for, all uses shall conform with the minimum parking space requirements in Table VI. Required Off-Street Parking Spaces below. In situations where the required number of parking spaces is not readily determinable by the below table, the Zoning Administrator is authorized to determine the parking space requirements, using the table as a guide.

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**Table VI. Required Off-Street Parking Spaces**

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<i>agricultural uses</i>	<i>required parking spaces</i>
farm	1 per 1.5 employees
farm stand	1 per 100 sf of display area
<i>residential uses</i>	
duplex, manufactured home, patio or garden home, single family residence, townhouse	2 per DU
elderly apartment	1 per DU
day care home	1 per resident manager plus 1 per 3 children at occupancy load
apartments	2 per DU

*industrial uses*

general industry and manufacturing	1 per 1.5 employees plus 1 per company vehicle, but not less than 1 per 1,000 sf of GLA
warehouse, distribution, and wholesale business	1 per 1.5 employees plus 1 per company vehicle, but not less than 1 per 1,000 sf of GLA

*institutional uses*

boarding house	1 per BR
community center	1 per 300 sf of GLA
community service club	1 per 100 sf of GLA
country club	1 per 3 persons at occupancy load
day care center	1 per employee plus 1 stacking or parking space per 8 persons enrolled at occupancy load
hospital	1 per 2 patient beds plus 1.5 per emergency room bed plus 1 per employee
nursing care, domiciliary care, assisted living, or rehabilitation facility	1 per 2 residents at occupancy load plus 1 per employee
place of worship	1 per 3 persons seated in the main sanctuary at occupancy load
post office	1 per 300 sf of GLA plus 1 per 1.5 employees
public assembly center	1 per 3 persons at occupancy load
public facility	1 per 300 sf of GLA



school - college or university	1 per 3 students at occupancy load plus 1 per 1.5 employees
school - elementary or jr. high	1 per 8 students at occupancy load or 2 per classroom, whichever is greater
school - high school or vocational	1 per 6 students at occupancy load plus one per 1.5 employees
<i>commercial uses</i>	
appliance store	1 per 400 sf of GLA
auto parts	1 per 400 sq. ft. of GLA
bank	1 per 250 sf of GLA plus 4 stacking spaces per drive-in window
billiard room, pool hall	1 per table
barber or beauty shop	1 per 100 sf of GLA
bowling alley	4 per alley
farm support business	1 per 1.5 employees plus 1 per company vehicle
flower shop	1 per 400 sq. ft. of GLA
home improvement center	1 per 400 sf of GLA
car wash	1 per 1.5 employees plus 4 stacking spaces per bay
clinic	6 per practitioner
commercial school	1 per 3 students at occupancy load plus 1 per 1.5 employees
convenience store	1 per 150 sf of GLA
dance hall	1 per 100 sf of GLA

funeral home	1 per 1.5 employees plus 1 per 3 chapel seats at occupancy load plus 1 per company vehicle
furniture store	1 per 1,000 sf of GLA
furniture repair shop	1 per 1,000 sf of GLA
general retail business or service establishment	1 per 200 sf of GLA
gasoline service station	2 per service bay plus 1 per company vehicle plus 1 per 1.5 employees plus 2 stacking spaces per fuel island
general retail business or service	1 per 200 sf of GLA
hardware store	1 per 500 sf of GLA
hotel or motel	1 per room plus 1 per 1.5 employees
laundromat, dry cleaning establishment	1 per 2 machines or 1 per 200 sf of GLA, whichever is greater
mini-warehouse	1 per 20 units
motor vehicle sales	1 per 400 sf GLA plus 1 per 1.5 employees plus 2 per service bay plus 1 per 2,500 sf of outdoor display area
motor vehicle service	1 per 200 sf of sales area plus 1 per employee plus 2 per service bay
office, business or professional	1 per 250 sf of GLA
open air market	1 per 100 sf of display area
outdoor recreation	
- golf course	5 per hole
- carpet golf	2 per tee
- golf driving range	1 per tee
- other	1 per 3 persons at occupancy load

restaurant	1 per 100 sf of GLA plus 1 per delivery vehicle plus 4 stacking spaces per drive-in window
shopping center	
- under 25,000 sf of GLA	1 per 200 sf of GLA
- 25,000 or more sf of GLA	1 per 250 sf of GLA
- add for restaurants	1 per 100 sf of GLA
- add for movie theaters	1 per 3 persons at occupancy load
stable	1 per 3 persons at occupancy load plus 1 per 1.5 employees
tourist home	1 per guest bedroom

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**Sec. 173. Off-street Parking Design Requirements.**

- (a) The minimum parking space dimensions are as follows:
- (1) Each parking space shall contain a minimum rectangular area of 9 feet in width and 19 feet in length, except as provided in (2) and (3) below.
  - (2) In large parking areas of 20 or more parking spaces, up to 20 percent of the parking spaces may be reserved for compact cars. Such spaces shall contain a minimum rectangular area of 8 feet in width and 16 feet in length. These spaces shall be conspicuously marked “for compact cars only”.
  - (3) Parallel parking spaces shall contain a minimum rectangular area of 9 feet in width and 22 feet in length.
  - (4) Stacking spaces shall contain a minimum rectangular area of 10 feet in width and 20 feet in length and be separated from parking aisles and spaces.
  - (5) Handicapped parking spaces shall be designed in accordance with the Standard Building Code, as amended.
- (b) Parking aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

**Table VII. Minimum Parking Aisle Widths**

<i>traffic direction</i>	<i>angle of parking (degrees)</i>				
	parallel	30°	45°	60°	90°
one-way	13'	11'	13'	18'	24'
two-way	19'	20'	21'	23'	24'

- (c) Parking areas shall be designed so that vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas that serve one or two dwelling units, although backing onto arterial streets shall be prohibited.
- (d) All parking areas adjoining a public right-of-way shall be physically separated from the right-of-way.
- (e) All lighting fixtures used to illuminate parking areas shall not direct lights on adjoining streets or properties.
- (f) Parking areas for all developments shall be so designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous turning movements. Fire lanes may be required by the fire code.
- (g) All parking areas in new construction and existing buildings if remodel and remodeling cost exceeds 50% of the value of the structure shall be surfaced with dust-free materials (asphalt or concrete), except that parking areas designated for employee use only and not accessible to the general public may be surfaced with crushed stone or an equivalent material.
- (h) Parking spaces (except those serving one or two dwelling units) shall be demarcated with painted lines or other markings.
- (i) All parking areas shall be maintained in good condition, i.e., free of pot holes, weeds, trash, etc.
- (j) Drainage in parking areas shall be addressed in the Stormwater Management Plan, as required by § 315 of this ordinance.
- (k) Large parking areas of 40 or more spaces, except for those parking lots that are 70 feet or less in width and have landscaping on each side, shall provide, for each parking space, 12 square feet of landscaping within the parking area interior. One canopy (two inch caliper minimum at planting) for each 10 parking spaces shall be planted within the required landscaped area.

Those parking lots that are 70 feet or less in width and have landscaping on each side shall provide, for each parking space, 6 square feet of landscaping per parking space.

#### **Sec. 174. Location of Required Parking.**

All required parking spaces shall be located on the same lot as the use served by the parking, except as provided below:

- (1) Required parking within planned residential developments may be provided in common parking areas.
- (2) If the number of required parking spaces cannot reasonably be provided on the same lot as the served use, satellite parking may be provided on an adjacent lot. The satellite parking spaces shall be located within 400 feet of the nearest public entrance to the building housing the served use. If the use is not housed within a building, satellite parking spaces shall be located within 400 feet of the lot. A satellite parking exception requires satisfactory written legal documentation that the user of such satellite spaces has the right to such spaces.
- (3) A joint parking area may contain required parking spaces for more than one use, provided the combined number of spaces complies with the required parking for all uses. If, however, the combined uses wish to make use of the same spaces at different times, the same spaces may be credited to each separate use. The applicant for a combined use facility must present satisfactory legal documentation of a combined parking agreement and, if sharing the same spaces, a time schedule for allocation of such spaces.

#### **Sec. 175. Parking Prohibitions.**

- (a) The keeping of an inoperative motor vehicle in a residential district shall be within a fully enclosed building or structure or be completely screened or shielded from public view.
- (b) No vehicle exceeding 7,500 pounds gross weight and no boats, trailers, recreational vehicles, campers, and similar equipment, regardless of weight, shall be kept within a residential district unless such vehicle is parked behind the front building line.

#### **Sec. 176. Parking Inside Structures.**

Required parking spaces may be provided in parking garages, roof parking on buildings, parking within buildings, and underground parking. Such parking spaces shall meet the parking space and aisle width requirements of this ordinance.

**Sec. 177. Access Controls.**

- (a) Access to streets within the City shall be approved by the Zoning Administrator. The proposed location, width, drainage structure, traffic conditions, site distances, and surfacing shall be addressed in the request for approval.
- (b) Entrances shall be held to a minimum and be located at points affording maximum sight distances, minimum grades, and maximum separation. Combined or shared driveways and entrances or marginal access streets may be required for highway service uses along major streets.
- (c) Entrances to detached residential lots shall not be less than ten feet nor more than twenty feet in width. Entrances to all other developments shall be no more than thirty five feet, or eighteen feet per lane of travel, and no less than twenty four feet, or twelve feet per lane of travel, in width, measured at the right-of-way line. The radius to increase the opening shall be not be less than fifteen feet but not more than twenty five feet. A larger radius to accommodate truck traffic may be required.
- (d) The maximum number of entrances for each site shall be limited on the basis of street frontage as follows:

<b>Table VIII. Entrance Limitations</b>	
<i>street frontage width</i>	<i>maximum number of entrances</i>
less than 150 feet	one
150 to 300 feet	two
300 to 500 feet	three
500 to 1,000 feet	four
more than 1,000 feet	five

- (e) Property which has frontage on two or more streets may be allowed entrances on each street in accordance with the above criteria.
- (f) The distance between openings shall be at least 150 feet, except for single family detached lots and lots in the M1 district. The distance between openings in the M1 district shall be at least 75 feet.
- (g) Entrances shall be located so that the curb openings are a minimum of five feet from the nearest edge of a street drainage inlet and fifty feet from the corner radius.
- (h) Turning lanes or pavement widening at approaches to entrances may be required if deemed necessary by the City Engineer to provide safe turning movements.

- (i) Each parking area on a lot shall be physically separated from an adjoining street right-of-way by a curb or equivalent barrier to control vehicular access to and from the lot. Such barrier shall be located at or along the front lot line, unless suitable barriers are located within the street right-of-way. Except for permitted access ways, such barriers shall be continuous.

**Sec. 178. Required Off-street Loading Spaces.**

Any use with a gross leasable area (GLA) of 6,000 square feet or more which requires deliveries and shipments must provide off-street loading spaces in accordance with the following table. In situations where the required number of loading spaces is not readily determinable by the table, the Zoning Administrator is authorized to determine the loading space requirement, using the table as a guide.

**Table IX. Required Off-Street Loading Spaces**

Every retail establishment, industrial use, storage warehouse, freight terminal, hospital, nursing home, or similar use shall provide off-street loading spaces, as follows:

<i>GLA of building (square feet)</i>	<i>required number of loading spaces</i>
6,000 - 24,999	1
25,000 - 79,999	2
80,000 - 127,999	3
128,000 - 198,999	4
199,000 - 255,999	5
256,000 - 319,999	6
320,000 - 391,999	7
each additional 72,000 square feet	1

Every public assembly use, auditorium, convention hall, exhibition hall, stadium, office building, funeral home, multi-family apartment buildings of 20 or more units, restaurants and hotels of 30,000 square feet or more, and similar uses shall provide off-street loading spaces, as follows:

<i>GLA of building (square feet)</i>	<i>required number of loading spaces</i>
6,000 - 29,999	1
30,000 - 44,999	2
45,000 - 119,999	3
120,000 - 197,999	4
198,000 - 290,999	5

291,000 - 389,999	6
390,000 - 488,999	7
489,000 - 587,999	8
588,000 - 689,999	9
each additional 105,000 square feet	1

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**Sec. 179. Off-street Loading Design Standards.**

- (a) Each loading space shall have a minimum rectangular area of 12 feet in width and 55 feet in length, exclusive of driving and maneuvering space. Each space shall allow vertical clearance of 14 feet in height.
- (b) No loading space shall be located within the required front yard or within five feet of any property line.
- (c) No loading space shall be used to meet the parking space requirement, interfere with the on-site circulation of traffic, nor allow a truck to extend into any right-of-way or over any property line.
- (d) All lighting fixtures used to illuminate loading areas shall not direct light on adjacent streets or properties.
- (e) All required loading spaces shall be located on the same lot as the principal use served by the spaces, unless a satellite or joint use loading facility is secured as per the guidelines established for satellite and joint use parking facilities in § 174 Location of Required Parking.

**Sec. 180. Change in Parking and Loading Requirements.**

Whenever there is an alteration of a structure, an expansion of a use, or a change in use which increases the parking and loading requirements, the use shall conform with the off-street parking and loading standards of this ordinance to the furthest practicable extent.

**Secs. 181-189. Reserved.**





### **DIVISION 3. SCREENING AND BUFFER YARD REGULATIONS**

#### **Sec. 190. Purpose of Screening and Buffer Yard Regulations.**

The intent of this division is to set minimum standards that reduce common conflicts associated with incompatible adjacent land uses and to protect natural boundaries. These standards seek to promote visual harmony, reduce noise, divert emissions, restrict passage, and enhance the natural environment, thereby providing for a compatible mix of otherwise conflicting uses of adjacent properties.

#### **Sec. 191. Administration.**

- (a) These standards are intended to encourage, not hamper, innovation in landscape and architectural design and shall be administered flexibly so as to give reasonable consideration to this objective.
- (b) These standards shall apply to all developments subject to site plan review. Where screening and buffer yards are required, the site plan shall explicitly describe proposed compliance with these standards.
- (c) Screening and buffer yard standards imposed by § 346 Conditional Rezoning shall take precedence over the provisions of this division.

#### **Sec. 192. Screening and Buffer Yard Specifications.**

- (a) Acceptable screening materials include any combination of solid fencing (weather-resistant wood, brick, or decorative masonry), evergreen shrubs, or earth berms of a specified height. Planting of evergreen trees may also be required. Screening shall be continuously maintained, present an attractive exterior appearance, and in the case of fencing, be of durable construction.
- (b) The buffer yard shall be reserved solely for screening. No buildings or structures, except for necessary access driveways, shall be permitted.

#### **Sec. 193. Required Screening and Buffer Yard.**

- (a) Where a patio or garden home, townhouse, apartment, institutional, or office development adjoins a single family residential lot, such development shall require a minimum screening height of eight feet and a minimum buffer yard width of 25 feet along the adjoining property line.
- (b) Where a commercial or industrial development adjoins a single family residential lot, such development shall require a minimum screening height of eight feet and a minimum buffer yard width of 50 feet along the adjoining property line.

**Sec. 194. Modification or Waiver of Screening and Buffer Yard.**

These screening and buffer yard standards shall be applied equally to all similarly-classified and situated properties but may be modified or waived by the Planning Commission in certain cases where a site is subject to any of the following circumstances:

- (1) Natural land characteristics would achieve the same intent of this division.
- (2) Innovative landscape or architectural design is employed to achieve an equivalent screening and buffer yard effect.
- (3) Impending development of adjacent property would make these standards unreasonable or impractical.
- (4) The adjacent property is physically separated by an arterial street right-of-way.

**Secs. 195-209. Reserved.**

## DIVISION 4. SIGN REGULATIONS

### Sec. 210. Purpose of Sign Regulations.

The public has a legitimate interest and concern in the construction, maintenance, and regulation of outdoor advertising within the City. While Rainbow City acknowledges the legitimate public need for business visibility, local businesses must also recognize the legitimate public need for a beautiful and uncluttered community and the City's legitimate need to ensure safe traffic circulation on City streets. Local experience within Rainbow City, Gadsden, Atlanta, and Birmingham generally supports the contention that excessive, competing signage along public streets can create visual clutter, which makes it difficult for motorists to see traffic control and highway safety signs and to know where entrances to adjoining businesses are located. The City also has determined that excessive, competing signage can divert motorist attention from the highway, which contributes to traffic accidents. Therefore, Rainbow City has determined that it is desirable to prescribe the manner of sign construction and to compel the use of safe materials; limit the number, type, surface area, height, and location of signs; and require clean and sanitary maintenance of signs in order to protect and promote the public health, safety, and welfare of the community. Further, these sign regulations are intended to lessen hazards to pedestrian and vehicular traffic; preserve property values; prevent unsightly and detrimental development which has a blighting influence upon the community; and, in general, preserve the character and aesthetic quality of the various zones within the city.

### Sec. 211. Sign Terms Defined.

The following sign terms, when used in this chapter, shall have the meanings defined by this section.

*advertiser.* Any person, corporation, or other entity that seeks to convey a visual or audio message to the public.

*animated sign.* Any sign which all or any part thereof visibly moves, imitates movement, or changes appearance in any fashion whatsoever.

*balloon sign.* Any device which is inflated by gas or air and intended to serve as a sign or to direct attention to a specific property or location.

*banner.* A temporary sign intended to be hung either with or without a frame or suspended from wires, cables, or rope. Banners generally possess letters, characters, illustrations, or ornamentations applied to paper, plastic, or fabric. Banners shall include pennants, but shall not include official flags of a government entity or political subdivision.

*beacon or searchlight.* Any light with one or more beams, which may be stationary, moving, or rotating, directed into the atmosphere or directed at one or more points not on the same property as the light source.

*building nameplate.* A small memorial plaque, usually composed of metal or wood, affixed flush to an exterior wall near the main entrance of a building and bearing the name of the building or occupant, the date of construction, and/or the persons, entities, or corporations that financed its construction.

*billboard.* Any sign owned by a person, corporation, or other entity that is erected for the purpose of selling, leasing, or donating the display space on that sign to an advertiser.

*canopy.* Any permanent roof-like structure projecting from the wall surface of a building or structure, generally located at or below the roof line and designed to provide shelter from the elements. A canopy shall include all structures commonly known as awnings and marquees.

*canopy sign.* Any sign attached to or made part of the front, top, or side of a canopy.

*copy.* The permanent or removable wording and/or graphics placed upon, painted upon, or bonded to the display surface of a sign.

*erect a sign.* To build, construct, attach, hang, place, suspend, paint, or affix a sign.

*exempt sign.* A sign made exempt from a sign permit, in accordance with § 213 Signs Exempt from Sign Permits.

*face.* That portion of a sign upon which the copy is placed, attached, bonded, or painted.

*flashing sign.* Any lighted sign or sign containing a reflective surface which changes color, twinkles, or flashes regularly or intermittently. Flashing signs shall not include signs displaying the current time and temperature, as permitted by the City Council, or traffic control signs.

*freestanding sign.* Any permanent sign that is either mounted independently upon the ground or supported by one or more columns or poles, and independent of support from any other building or structure on the site. Freestanding signs shall include, but shall not be limited to, all signs commonly known as ground signs, pole signs, pylon signs, A-frame signs, sandwich signs, and billboards.

*hanging sign.* Any sign which is attached to and projects down or dangles from a roof, canopy, or projecting brace that is attached to the face of an exterior building wall.

*historic marker.* A sign prepared in accordance with National Trust for Historic Preservation guidelines and approved by the City Council which identifies an historic landmark or district on the property. Such sign may contain a narrative describing the historic significance of the landmark or district.

*number of signs.* For the purpose of determining the number of signs, each sign shall be considered a single display surface or display device containing elements organized, related, and composed to form a unit. Where copy is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign. A multi-sided sign shall be considered one sign.

*permanent sign.* Any sign, other than a temporary sign, designed with a permanent display face. If a sign face is permanent but the copy displayed is subject to periodic changes, that sign shall still be regarded as permanent.

*portable sign.* Any sign that is not attached to a stationary object or structure that has a footing or that is not implanted beneath the surface of the soil. Such signs are commonly mounted on wheels or a frame that rests upon the ground. Portable signs shall include vehicles or portions of vehicles upon which signs or sign copy have been affixed that are permanently parked or displayed in one or more locations to serve exclusively as a business advertisement.

*projecting sign.* Any sign containing not more than two (2) faces, that is affixed directly to the exterior wall of a building or structure or to a solid brace or frame that is attached to the exterior wall of a building or structure in such a manner that the sign face extends outward from the wall surface.

*roof sign.* Any sign that is mounted upon, affixed to, or painted upon the roof of a building or structure or that extends above the building or structure roof line.

*sign.* Any identification, structure, illustration, or device, illuminated or non-illuminated, that is visible to the general public and directs attention to a product, message, service, place, activity, person, institution, business, or solicitation. A sign shall also include any emblem, painting, flag, statue, banner, pennant, balloon, or placard designed to advertise, identify, or convey information to the public.

*sign area.* That gross area, in square feet, of the advertising copy surface of a sign, as delineated by one continuous perimeter line, enclosing the extreme limits of the writing, representation, or other display. Where a sign contains multiple faces, only one (1) face of the sign shall be used in computing the sign area.

*sign structure.* Any construction used or designed to support a sign.

*snipe sign.* A sign of any material that is attached in any way to a utility pole, tree, fence, rock, or other similar object located on public or private property. Snipe signs shall not include real estate, political, yard sale, “beware,” “keep out,” “posted,” “private property,” or “no trespassing” signs.

*temporary sign.* Any sign fabricated of paper, plywood, fabric, window whitewash, or other light, impermanent material and intended to be displayed for a limited duration. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

*traffic control sign.* A sign or electronic device, such as a traffic signal or signs denoting stop, danger, handicap parking, one-way traffic, no parking, fire lane, etcetera, for the purpose of directing or regulating the movement of traffic and/or pedestrians.

*wall sign.* Any sign displaying only one (1) face that is mounted flat upon, affixed flat to, or painted upon an exterior wall surface of a building or structure and is located entirely below the roof line.

*window sign.* A temporary sign placed inside or upon a building or structure window and intended to be seen from the exterior of the building or structure.

## **Sec. 212. Required Permits, Fees, and Inspections.**

- (a) Except where this chapter explicitly exempts a sign, all signs erected shall require a sign permit issued by the Zoning Administrator. In addition, whether a sign is exempt or not, city building and electrical codes may require additional permits.
- (b) Each application for a sign permit shall include the following items:
  - (1) Name, signature, and address of the property owner, authorized agent of the property owner, if any, and sign contractor.
  - (2) Address of the property where the sign is to be erected.
  - (3) Lot area, zoning, and principal land use(s) on the lot subject to erection of a sign.
  - (4) A complete description of the sign(s) to be erected, including, but not limited to number, type, freestanding or attached, method of illumination, on or off-premises display, and setbacks.
  - (5) A dimensioned sketch of the sign and a plot plan showing the location of each sign on the lot.

- (6) Other details sufficient for the Zoning Administrator to determine compliance with the requirements of this chapter.
- (7) Application fee.
- (c) A \$25 fee (for the first sign and \$10 for each additional sign) shall accompany each application for a sign permit.
- (d) The Zoning Administrator shall inspect each sign authorized by permit to determine compliance with the permit application.

**Sec. 213. Signs Exempt from Sign Permits.**

The following signs are exempt from required sign permits and all associated fees, and are permitted in accordance with the standards contained within this section and any other applicable provisions of these sign regulations. All exempt signs are permitted in any district if related to a permitted activity on a lot.

- (1) *Historic markers.* Where approved by the City Council.
- (2) *Traffic control signs.* Such sign may include legal notices required by law; warning signs and no trespassing signs; identification, informational, or directional signs erected by any governmental agency or public utility.
- (3) *Directional signs.* Such sign may indicate bus stops, taxi stands, off-street parking or loading facilities; other signs required for the control of vehicular or pedestrian traffic; restroom identification and direction; drive-thru window direction; telephone identification; and similar directional information. Such signs shall not exceed four (4) square feet in total sign area.
- (4) *Flags.* Any official flag of a government entity and banners of a religious, charitable or fraternal organization. This exemption shall include the supporting device or flag pole. However, no property shall display more than four (4) flags without prior approval from the City Council.
- (5) *Artistic displays.* Such display may include decorative or architectural features of a building; public art works or displays; and similar artistic displays.
- (6) *Real estate or rental signs.* Each property may have up to one (1) non-illuminated real estate or rental sign, containing a maximum of two (2) sign faces in compliance with the following requirements:



- a. The maximum sign area shall not exceed six (6) square feet for signs in a residential zone or twenty-four (24) square feet for signs in a non-residential zoning district.
  - b. Multiple listing strips, sale pending, and sold signs shall be allowed when attached to the real estate sign, as long as the combined sign area does not exceed the maximum allowed in subparagraph “a” above.
  - c. One (1) on-premise ‘open house’ or ‘open for inspection’ sign, not exceeding two (2) square feet in sign area, may be allowed per property. Similar off-premise signs for directional purposes may be allowed at street intersections on other private properties with the consent of the property owner. These signs may not be erected within or upon a public right-of-way, and they must be removed when the premises are no longer open for inspection.
  - d. All real estate signs shall be removed when ownership or occupancy of the property has changed and the property is no longer listed for sale, lease, or rent.
- (7) *Construction site identification sign.* Each construction site shall be allowed to erect not more than one (1) non-illuminated, single face, temporary construction sign on a property which has been authorized for construction by the issuance of a building permit. Construction site signs shall not be allowed on properties where only one (1) single family or duplex home is to be constructed. Said sign shall be freestanding, and the sign area shall not exceed twenty (20) square feet within any residential zone or thirty-two (32) square feet within any non-residential zoning district. Construction signs must be set back at least ten (10) feet from all property lines. The sign may include the names of the persons and firms performing services or labor, or supplying materials for the construction project. Any temporary construction sign shall be removed before a certificate of occupancy may be issued for any building or structures built on the property. Temporary construction signs for residential developments shall be allowed to remain erect until seventy-five (75) percent of the total residential lots have been sold, or until a permanent identification sign has been erected, whichever occurs first.
- (8) *Window signs.* Properties not located within a residential zoning district (R-1, R-2, R-3, and MHP) may display window signs, provided that the sign area of any individual window sign shall not exceed fifteen (15) square feet and no more than thirty (30) percent of the total surface area of any window may be obscured by window signs.
- (9) *Political signs.* A temporary political sign advertising campaigns of candidates for political offices or advertising, proposing, opposing, or relating views or positions

upon a political question appearing or to appear upon an official election ballot may be erected in connection with elections or political campaigns. No political signs shall be allowed within or upon a public property. Political signs shall not be erected more than ninety (90) days prior to the date of the election, whether general or special, for which the person or issue advertised, will appear on the ballot. Such signs must be removed within fifteen (15) days after the date of the election or run-off election (if necessary) has occurred.

- (10) *Garage or yard sale sign.* A temporary sign advertising the sale of personal property on a lot may be erected on the lot where the sale is to take place. Such signs shall not exceed four (4) square feet in sign area.
- (11) *Special event sign and decorations.* A temporary or permanent sign indicating a special event such as a grand opening, traveling public exhibits, fair, carnival, circus, festival, personal announcements of births, marriages, birthdays, or similar events may be erected on the lot where the event is to take place, provided that such signs do not exceed the maximum applicable height and surface area requirements for the type of sign used and the sign is installed not more than thirty (30) days prior to the event and removed not more than ten (10) days after the event has occurred. Decorative flags, banners, and bunting shall be allowed only for city-wide celebrations, conventions, and commemorations when specifically authorized by the Mayor and City Council. This exemption also shall apply to decorative lights and displays celebrating any legal holiday.
- (12) *Entrance/exit signs.* Entrance and/or exist signs which have a maximum sign face length of three (3) feet, a maximum sign face height of one-and-one-half (1.5) feet, and a total maximum sign height of two (2) feet. Only one (1) entrance/exit sign shall be allowed per curb cut. Entrance/exit signs shall not be allowed in residential zones or for any single or two-family residential uses located within any zoning district.
- (13) *Farm information sign.* Such sign may include farm logos or product information affixed to vehicles, equipment, buildings, silos, and tanks, and similar non-freestanding agricultural displays.
- (14) *Vehicle signs.* Such sign may depict identifying name, business, product, service, logo, and similar information painted or otherwise affixed to a registered vehicle that is in operating condition and is used regularly for business transportation. This exemption shall not apply to vehicles or portions of vehicles that are permanently parked in one or more locations to serve exclusively as a business advertisement. Such vehicles or portions thereof shall constitute a portable sign under the context of these regulations.

- (15) *Building nameplates.* Not more than one (1) nameplate per non-residential building, which shall not exceed two (2) square feet in total sign area.
- (16) *Legal notices and official instruments.* Legal notices and instruments required by a government or public regulatory entity to be posted or displayed shall be exempt from all aspects of these regulations.

#### **Sec. 214. Sign Prohibitions.**

Except where qualified below, the following signs are specifically prohibited throughout the city:

- (1) Any sign or advertising structure which, by reason of location, position, shape, or color, interferes with, obstructs the view of, resembles, or can be confused with an authorized traffic control sign, signal, or device, or which incorporates the words “stop,” “look,” “danger,” “turn back,” or any other word, phrase, or symbol or character that would interfere with, mislead, or confuse motorists.
- (2) Any sign incorporating any noisy mechanical device (whistles, horns, sirens, or any other noisy audible devices) or emitting smoke or steam.
- (3) Any sign of any type or support thereof placed, extending, or projecting into or upon a public right-of-way, except as expressly authorized.
- (4) Revolving signs.
- (5) Any sign located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private drives.
- (6) Any sign with illegal, obscene, or prurient words, scenes, or graphics.
- (7) Any sign that blocks another sign, fire escape, door, window, parking or loading aisle or space.
- (8) Any sign that is damaged or not in a structurally safe condition and good state of repair.
- (9) Roof signs.
- (10) Snipe signs.

- (11) Portable signs, unless approved by the Zoning Administrator for a grand opening or other special event, to be displayed only for the duration of the event.
- (12) Flashing signs.
- (13) Billboards.

**Sec. 215. Treatment of Abandoned Signs and Signs Advertising Abandoned Uses, Products, or Services.**

- (a) Any sign or billboard copy identifying or announcing a use or business activity that has been abandoned, closed, or relocated, or which advertises a product, service, or entertainment the production, sale, or provision of which has been discontinued or canceled, shall be removed within six (6) calendar months of the date of abandonment or discontinuance.
- (b) If a sign face is left blank for a continuous period of 30 days, that sign shall be considered abandoned, and within 30 days after abandonment the owner of the property where the sign is located shall cause the sign to be removed or replace the sign face or copy with an appropriate display or advertisement.

**Sec. 216. Nonconforming Signs.**

- (a) *Grandfather status.* Any permanent sign legally existing on or before the date of adoption of these regulations, or any future amendment thereto, that does not conform with the requirements of these regulations may be continued and maintained. All nonconforming portable or temporary signs shall be removed or replaced with a conforming sign within one (1) year of the date of adoption of these regulations.
- (b) *Alterations.* A nonconforming sign shall not be rebuilt, expanded, or altered in a way that would increase the degree of nonconformity as it existed at the time the grandfather status was conferred. This requirement shall not be interpreted so as to prohibit proper maintenance of a nonconforming sign or changes to the copy of the sign that do not increase the existing degree of nonconformity.
- (c) *Expiration.* A nonconforming sign shall not be rebuilt or re-established after its use has been discontinued for a period of one (1) calendar year, unless approved by the City Council.
- (d) *Damage repair.* A nonconforming sign shall not be reconstructed or repaired to a nonconforming status if it has sustained damage exceeding sixty (60) percent of the fair market value of the sign immediately prior to damage, unless approved by the City Council. Fair market value shall be determined by the City Council.

- (e) *Notification.* As soon as possible after the effective date of this ordinance, the Zoning Administrator shall make reasonable effort to notify the person responsible for each such sign and inform such person of the nonconformity, required corrections to bring such sign into conformity, by what date the corrections need to be completed, and the consequences of failure to make the necessary corrections.

**Sec. 217. Dimensional Requirements for Permitted Signs.**

- (a) *Canopy signs.* In zoning districts where permitted, canopy signs shall be allowed on the vertical faces of any canopy, awning, or marquee that is located directly above a building entranceway. Under no circumstances shall the sign face or copy of any canopy sign be allowed to extend beyond the edges of the vertical face of a canopy, awning, or marquee. In addition, the following absolute dimensional requirements shall apply.
  - (1) *Maximum sign area per single canopy face:* 24 square feet or 12% of building canopy square footage, whichever is larger but not to exceed 250 square feet.
  - (2) *Maximum sign face or copy height:* one-half the height of the canopy or two (2) feet, whichever is larger, but not to exceed six (6) feet.
- (b) *Freestanding signs.* In zoning districts where freestanding signs are permitted, each lot of record may have not more than one (1) freestanding sign. Freestanding signs shall be securely fastened to the ground or to some other metallic or concrete supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property. The City Council may approve one (1) additional freestanding sign for any existing lot of record that is accessed by more than one collector or arterial street on opposing sides of the property. Furthermore, if a development is located on a corner lot that has at least 100 feet of frontage on each of the two intersecting public streets, then, the City Council may allow not more than one freestanding sign along each side of the development bordered by such streets. Freestanding signs shall be located as close a possible to the main traffic access to the property, but shall not be located closer than four (4) feet to the right-of-way of a public street. In addition, no freestanding sign shall be located less than thirty (30) feet from another freestanding sign on the same side of the street. All freestanding signs shall comply with the following dimensional requirements.
  - (1) *Maximum sign area:* one (1) percent of the building's floor area or eighty (80) square feet, whichever is larger, but not to exceed two hundred fifty (250) square feet. However, the maximum sign area for a freestanding sign that will serve all businesses in a shopping plaza may be increased by an additional ten (10) square feet per business.
  - (2) *Maximum sign height, including the supporting structure and sign face:* twenty-five (25) feet. However, the City Council may increase the maximum height of a

freestanding sign to ensure sign visibility from an adjoining public street, where the elevation of the street exceeds the elevation of the property by more than five (5) feet at the point where the freestanding sign will be erected. In no instance shall the increased height allow the top of the freestanding sign face or copy to extend more than twenty (20) feet above the nearest surface elevation of the paved street.

- (3) *Maximum sign face or copy height:* eight (8) feet.
- (c) *Hanging and projecting signs.* In zoning districts where hanging and/or projecting signs are allowed, each building may have not more than one (1) hanging or projecting sign per building wall that has a building entrance. Hanging or projecting signs may extend into a public right-of-way, but shall not extend any closer than four (4) feet to the inside face of a street curb or the outer edge of the paved travel lane of a street, whichever is applicable. Hanging or projecting signs shall be located as close as possible to said building entrance in accordance with the following requirements:
- (1) *Maximum sign area:* twelve (12) square feet.
  - (2) *Maximum sign face or copy height:* four (4) feet.
  - (3) *Maximum sign face or copy width:* three (3) feet.
  - (4) *Minimum elevation from the bottom of the sign face or copy (including all supporting frames or braces) to the finished ground level directly beneath the sign:* eight (8) feet.
- (d) *Wall signs.* In zoning districts where wall signs are allowed, no portion of a wall sign shall extend above the building roof line or beyond the edges of the wall. In addition, no portion of a wall sign shall obscure any portion of a window or entranceway to the building. Each wall sign shall be affixed flush to the wall, and shall not project more than four (4) inches away from the wall surface, exclusive of any approved lighting fixtures. The following dimensional requirements also shall apply to all permitted wall signs:
- (1) *Maximum sign area of any individual wall sign:* 7.5% for square footage of the wall where the sign is to be located or twenty-four (24) square feet, whichever is larger, but not to exceed two hundred fifty (250) square feet.
  - (2) *Maximum sign face or copy height:* four (4) feet.

**Sec. 218. Signs Allowed Within Residential Zoning Districts.**

Within residential zoning districts (R-1, R-2, R-3, and MHP) the only signs that shall be allowed are those classified as exempt from these regulations under § 213 and residential subdivision entrance signs in accordance with the following requirements:

- (1) Permanent freestanding ground signs to residential subdivision developments may be erected at principal entrances to the project. One sign shall be permitted at each principal entrance to the development.
- (2) Entrance signs shall not exceed twenty (20) square feet in sign area and five (5) feet in height as measured from the base of the sign.
- (3) Entrance signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be accidentally toppled or moved by the wind or other forces of nature and cause injury to persons or property.
- (4) Residential subdivision entrance signs shall not be illuminated, unless indirect illumination is afforded by a street light positioned at the entranceway.
- (5) Development entranceways, and, specifically, the area adjoining the entrance sign, should be appropriately landscaped and maintained to provide an attractive and inviting entrance to the subdivision.

**Sec. 219. Signs Allowed Within Non-residential Zoning Districts.**

All signs that are exempt from these regulations shall be permitted in any non-residential zoning district in accordance with the conditions specified in § 213 of these regulations. In addition, owners of land within a non-residential zoning district may erect any sign identified in § 217 of these regulations in accordance with all dimensional requirements prescribed therein. However, in no instance shall the cumulative total sign area for all signs permitted under § 217 that are erected on a single lot of record exceed the limits specified below for the applicable non-residential zoning district. Where a lot of record is divided by two or more non-residential zoning districts, the cumulative total sign area limitation of the more restrictive zoning district shall apply to the entire non-residentially zoned area of the subject lot of record.

- (1) *AG - Agricultural District.* Sixty (60) square feet of cumulative total sign area.
- (2) *NS - Neighborhood Shopping District.* Three hundred (300) square feet of cumulative total sign area.

- (3) *HC - Highway Commercial District.* Three hundred (300) square feet of cumulative total sign area, (exception: May be increased for shopping centers.)
- (4) *M-1 - Manufacturing District.* Two hundred (200) square feet of cumulative total sign area.
- (5) *PUD - Planned Unit Development District.* Seventy-two (72) square feet of cumulative total sign area.
- (6) *FHZ - Flood Hazard Zone & L - General Liquor Sales District.* The total permitted cumulative sign area allowed shall be determined by the underlying zoning district requirements.

**Sec. 220. Traffic Visibility Provisions.**

No permanent or temporary sign exceeding four square feet in area shall be permitted within the clear sight triangle of an intersection, as defined in § 146 Traffic Visibility at Intersections, or within fifteen feet from the front lot line. This limitation may be waived if such sign does not obstruct visibility between a height of 30 inches and eight feet above the nearest street grade level or otherwise does not interfere with traffic visibility for entrance onto and exit from the lot and adjacent lots and the visibility of traffic flow through nearby intersections, as determined by the Zoning Administrator. In any event, no sign, regardless of size, height, or design shall extend into any right-of-way, except as expressly authorized.

**Sec. 221. Construction and Maintenance of Signs.**

- (a) All signs shall conform with city building codes, which provide a comprehensive set of construction standards for signs. These specifications include wind loads, vibration resistance, seismic loads, acceptable supports, allowable stresses, materials, and electrical wiring.
- (b) All signs and all components thereof, including structural supports, shall be kept in a state of good repair.
- (c) The area surrounding the base of any freestanding sign shall be kept clear of all debris and undergrowth.
- (d) No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation within any right-of-way (unless express written authorization is obtained from the agency having jurisdiction over the right-of-way) or on any area where landscaping is required by this chapter.

**Secs. 222-229. Reserved.**





## DIVISION 5. TELECOMMUNICATION TOWERS, ANTENNAS, AND SATELLITE DISHES

### Sec. 230. Purpose of Regulations.

The public has a legitimate interest and concern in the placement and appearance of telecommunication towers, antennas, and satellite dishes under the Telecommunications Act of 1996, where such control does not conflict with or unreasonably constrain the legitimate right of businesses to exercise free trade. Rainbow City desires access to advanced technology to serve its businesses and citizens, but not at the expense of the community's overall appearance and public image. Rainbow City seeks to impose sensible controls on telecommunication facilities, in order to maintain the aesthetic character and charm of the community and its neighborhoods against the insensitive and uncontrolled proliferation and placement of wireless facilities. New telecommunications towers should not create a cluttered landscape or dominate the community's skyline as it is viewed from the primary highway entrances to Rainbow City. To that end, the City desires to partner with telecommunications firms to ensure expansion of the existing telecommunications infrastructure that will provide effective advanced communications services throughout the City and surrounding environs, commensurate with local needs, with a minimal visual impact on the character and charm of the community, and without creating impediments to free competition among wireless telecommunications providers seeking to serve the City. These regulations have been developed by the City to achieve the aforementioned objectives.

### Sec. 231. Definitions.

The following sign terms, when used in this Ordinance, shall have the meanings defined by this section.

- (a) **Antenna.** An electromagnetic device which conducts radio signals, through an attached cable or wave guide, to or from a radio transmitter or receiver. "Antenna" includes devices commonly known as "whips," "panels," and "parabolic dishes." "Antenna" shall include an antenna used in conjunction with microwave, cellular, or personal communication service systems and any other type of telecommunications systems now or hereafter in use.
- (b) **Applicant.** A party or parties who apply for a permit to construct a tower, to install an antenna on a proposed or existing tower, or to locate equipment on a proposed or existing tower compound.
- (c) **Co-Location Site.** A parcel of land or other site on which the antennas and related equipment of more than one party are located.
- (d) **Communication Facilities.** Towers, antennas, and associated equipment collectively.

- (e) **Equipment.** All equipment and facilities used in conjunction with one (1) or more towers and/or antennas, including, but not limited to, electronic systems, generators, fuel tanks, and fuel.
- (f) **FAA.** The U.S. Federal Aviation Administration.
- (g) **FCC.** The U.S. Federal Communications Commission.
- (h) **Fiber-Optics.** Light transmissions through very fine flexible glass, by internal reflection.
- (i) **Monopole.** Any self-supporting wooden pole, metal, or concrete pole designed to support an antenna; provided, that the word “monopole” shall not include a latticed steel or metal tower, a tower which requires guy wires for support, or a tower which has more than one (1) source of support, such as a tower with more than one (1) leg.
- (j) **Residential Property.** Any land which is located in a Residential Zoning District--R-1, R-2, R-3, or MHP.
- (k) **Surveyor.** A person who is registered with, and licensed by, the State of Alabama as a surveyor.
- (l) **Tower.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and any other like structure used to support wireless telecommunications transmission facilities now or hereafter in use. As used in this Section, “tower” shall include any telecommunication tower installed or constructed within the City prior to the effective date of this ordinance, regardless of whether such tower is a monopole or another type of tower.
- (m) **Tower Compound.** A parcel of land or a building on which communication facilities are located.

### **Sec. 232. Jurisdiction of Regulations.**

All communication facilities or structures greater than one (1) meter in size, including but not limited to those facilities known as “cellular”, “personal communication system (PCS)”, “paging services”, and similar services, shall comply with these regulations. However, the following shall be exempt from these regulations under the specified conditions:

- (a) *Public Property.* Antennas or towers located on property owned, leased, or otherwise controlled by the City of Rainbow City, provided a license or lease authorizing such antenna or tower has been approved by the City Council.
- (b) *Amateur Radio or Receive-Only Antennas.* Any tower, or the installation of any antenna that does not exceed the maximum height restriction of the applicable zoning district or seventy (70) feet—whichever is less—and is owned and operated by a federally-licensed amateur radio station operator, or is exclusively for receive-only antennas.
- (c) *Pre-Existing Communication Facilities or Towers.* Any communication tower or antenna which was constructed prior to the effective date of these regulations and which complied with all applicable State, Federal, and Local codes, laws, and regulations in effect at the time of construction, provided, however, that all pre-existing communication facilities or towers shall submit a written request of exemption to the Enforcement Officer within six (6) months of the effective date of these regulations. The written request shall state the name, mailing address, business and home telephone numbers of the owner, the street address and tax parcel identification number of the property upon which the communication facilities are located, and the date upon which construction of the facilities was complete. All written requests containing the required information shall be automatically approved if received within the above specified deadline.

### **Sec. 233. Basic Requirements and Design Considerations.**

All proposed communication facilities (towers and antennas) governed by these regulations shall comply with the following requirements and guidelines.

- (a) *Compliance with FAA Regulations.* All proposed communication facilities shall comply with all applicable FAA requirements, including but not limited to, Part 77 of the Federal Aviation Regulations (FAR), as amended.
- (b) *Compliance with FCC Regulations.* All proposed communication facilities shall comply with all applicable FCC requirements, including but not limited to, the Telecommunications Act of 1996, as amended.

- (c) *Structural Safety.* All proposed communication facilities shall comply with wind loading and other applicable structural standards contained in local building and technical codes, as they may be in effect and amended from time to time, including, without limitation, the Southern Standard Building Code and the Electronic Industries Association Code and any amendments thereto or replacements thereof, as may be adopted by the City Council. The City's Building Inspector or his/her designee shall determine whether a proposed communication facility will comply with this requirement.
- (d) *Appearance and View Protection.* All proposed communication facilities with the exception of proposed antennas that will be co-located on a pre-existing tower shall be attractively camouflaged, disguised, or hidden in a manner that it will blend into the surrounding environment to the greatest extent possible. Examples of proper camouflaging include: designing a tower to resemble a tree, designing a monopole to look like and function as a flag pole or freestanding sign support, hiding an antenna within a church steeple, or any other effective means of disguising the appearance of a tower or antenna that may be appropriate for the setting in the area surrounding the proposed communication facility site. It shall be the burden of the applicant to document and prove that a proposed communication facility cannot be effectively camouflaged, before approval of a non-camouflaged structure may be permitted by the City. In such instances, the applicant shall explore alternative means of minimizing the visual impact of the antenna, such as installing it onto an existing telephone pole, streetlight, or building rooftop, rather than erecting a new tower specifically for the proposed antenna. However, in no instance shall a non-camouflaged communication facility be approved for a residential property.
- (e) *Signs prohibited.* No signs or other forms of advertising, including signs displaying the name of the owner or user of the tower or antenna, may be attached to or depicted on a communication facility, unless the proposed facility is a new monopole specifically camouflaged and approved to serve as a permitted freestanding sign support. This prohibition shall not apply to any required warning or private property posting signs.
- (f) *Construction materials.* Where applicable building codes, technical codes, and federal regulations permit flexibility in the choice of construction materials and where the selection of alternative construction materials will not compromise the structural integrity of the proposed communication facility, proposed new towers and monopoles shall be constructed of materials that have a composition, texture, and color that will most closely resemble structures and natural features that exist on and adjoining the facility site.
- (g) *Health Effects.* All proposed communication facilities shall comply with all applicable FCC regulations and requirements in effect to prevent detrimental health

effects from the proposed communication facilities. Under the Telecommunications Act of 1996, the City cannot deny a request to construct a communication facility on the grounds that its radio frequency or electromagnetic emissions would be harmful to the environment or the health of residents, if those emissions meet FCC standards.

- (h) *Interference with Existing Communication Facilities.* All proposed communication facilities shall comply with all applicable FCC regulations and requirements in effect to prevent interference with existing communication facilities serving the area.
- (i) *Siting Requirements for Whip Antennas.* Whip antennas shall not be allowed on a wall mounted antenna structure.
- (j) *Co-location.* No new tower or monopole shall be erected on a proposed communication facility site unless the applicant can document and prove that an existing co-location site is not available or is not technically capable of serving the specific telecommunication need in the area of the proposed site. This co-location requirement may be waived by the City where the proposed antenna would create an excessively cluttered appearance on the available co-location site (thereby drawing greater visual attention to the existing antenna site or creating a more imposing obstruction to scenic views and vistas from the area) *and* the proposed new antenna would be less visible or intrusive on the surrounding area if effectively camouflaged on an alternate site.
- (k) *Setback Requirements.* All proposed communication facilities and structures, including guys and accessory facilities shall satisfy the minimum setback requirements of the zoning district in which they will be sited. However, all proposed tower compounds that will be located on a residential property shall be subject to an additional setback from all property boundaries of the site equal to the height of the tower structure as measured from the finished ground level at the base or pad surface to the tallest point of the structure. If the tower compound abuts a property with an existing or approved (but not yet constructed or completed) residential use, the residential property setback requirement shall be satisfied for all property boundaries of the site that abut said existing or approved residential uses.
- (l) *Lighting.* Towers may not be artificially lighted, except where required to satisfy applicable FAA regulations. Lights for security and to assist in making emergency repairs may be installed on buildings within the tower compound which contain equipment essential to the operation and maintenance of the tower. Such lights shall be shielded and directed in a downward direction from a height of not more than ten (10) feet, and no such light may exceed a maximum of one hundred fifty (150) watts. Such lights shall be located and directed so that they do not shine, reflect, or generate excessive glare onto or toward any residential property or adjoining property upon which a residential use exists or has been approved for construction.

- (m) *Security Fence.* All communication facilities to be located within a proposed tower compound shall be secured by the construction of an eight (8) foot high security fence or wall constructed, at a minimum, using chain link fencing.
- (n) *Landscaping.* All proposed tower compounds must be surrounded by a landscaped buffer which shall provide an effective year-round screen to a height of at least eight (8) feet upon planting in order to screen views of the tower compound from adjacent public ways, residential properties, and properties upon which a residential use exists or has been approved for construction. The buffer shall include a landscaped strip at least four (4) feet in depth located outside of the security fence or wall. The landscaped strip shall be planted with a combination of trees, shrubs, vines, and grown covers which are capable of attaining, at maturity, a height as high as the security fence or wall and which will enhance and screen the outward appearance of the security fence. The use of native species of plants and trees are encouraged to the extent that they will satisfy the requirement for adequate year-round screening. The applicant shall provide documentation to show what forms of vegetation will be planted within the landscaped area and how the area will be effectively maintained to ensure the long-term health of the plantings. Such documentation shall include the name, mailing address, and business telephone number of the party who shall be responsible for the maintenance and repair of the communication facilities and any fences, walls, and landscaped buffer areas. If the person or party responsible for such maintenance and repair changes any time after approval has been issued, the owner of the tower must provide the City's Enforcement Officer with written notice of the new party's name, mailing address, and business telephone number and the date upon which the change will become effective.
- (o) *Communication Facility Siting Priorities.* When selecting sites within the City to locate proposed communication facilities or tower compounds, priority shall be given to locations in non-residential zoning districts. Residential property sites shall be given the lowest possible consideration for new sites.
- (p) *Access and Parking.* A driveway and parking area with a surface appropriate for the intensity of use shall be provided for each proposed tower compound to provide adequate access to the tower compound for the maintenance and repair of the communication facilities and for vehicle providing emergency services. Subject to the approval of the City Council and to an appropriate agreement with the owner thereof, access and parking for the tower compound may be provided on an adjoining property or along one or more public streets adjoining the tower compound.

#### **Sec. 234. Levels of Review and Approval.**

In recognition of the high standards for proposed communication facilities established by this Ordinance, allowances have been made for an efficient and, in certain instances, expedited

review process, where the applicant can demonstrate that a good faith effort to embrace and comply with the spirit and intent of these guidelines has been made in the design of the proposal. The three levels of review and approval and the types of projects that can be considered within each level are as follows:

- (a) *Review and Approval by Enforcement Officer.* The following types of communication facilities shall be reviewed and approved by the Enforcement Officer without the need for a public hearing, provided the proposed improvements fully complies with all requirements specified in Section 233 of this Article:
  - (1) Any antenna (and associated cables and equipment) that will be co-located on an existing approved or registered pre-existing tower, as long as the proposed antenna(s) will not protrude at any point from the exterior surface of said tower by a distance of more than four (4) feet and the tower will contain no more than five (5) antennas if the application is approved. In addition, the supporting equipment for the proposed antenna(s) shall not require the construction of any new freestanding structures on the tower compound.
  - (2) Any antenna (and associated cables and equipment) that will be sited in an existing structure that fully conforms with all applicable requirements of this Ordinance (not a non-conforming structure) and where, after installation, the antenna and all supporting equipment will be completely enclosed by the exterior walls of the structure or completely screened from public view at any point on the land within two (2) thousand feet of the proposed antenna. An example of such a scenario would be the placement of an antenna within the steeple of a church or the dome of a farm silo. The addition of the antenna and supporting equipment to the existing conforming structure shall not require the construction of an addition to house the communication facilities. However, interior modifications to the structure may be permitted as part of the approval by the Enforcement Officer.
- (b) *Review and Approval Exclusively by City Council.* The City Council shall have the authority to review and approve the following specific types of communication facilities and tower compounds, subject to the conduct of a public hearing, but without the need for a formal recommendation from the Planning Commission:
  - (1) Any antenna (and associated cables and equipment) that will be installed on a co-location site that does not fall within the approval authority of the Enforcement Officer, as specified in Subparagraph (a) (1) of this Section.
  - (2) Any new antenna (not including a tower) that will be attached to an existing structure that fully conforms with all applicable requirements of this Ordinance (not a non-conforming structure), but that would not otherwise fall



within the approval authority of the Enforcement Officer as specified in Subparagraph (a) (2) of this Section.

- (3) Any new monopole not greater than thirty (30) feet in height and located in a non-residential zoning district that is camouflaged or disguised in such a way that it cannot be immediately recognized as an antenna support.
  - (4) Any new antenna or tower to be located on property owned, leased, or otherwise controlled by the City of Rainbow City and located within a non-residential zoning district.
- (c) *Review and Approval by City Council Upon Recommendation From Planning Commission.* All applications not subject to review and approval by the Enforcement Officer in accordance with Subparagraph (a) of this Section or review and approval exclusively by the City Council in accordance with Subparagraph (b) of this Section shall be subject to review and public hearings by both the Planning Commission and the City Council. The Planning Commission shall review the application and issue a recommendation for approval or denial to the City Council. Final review and approval or denial of the application shall be issued exclusively by the City Council.

#### **Sec. 235. Approval Procedures.**

Review and approval of an application shall be conducted in accordance with the following procedures.

- (a) *Pre-Application Consultation.* Any applicant seeking to develop communication facilities or tower compounds that fall within the jurisdiction of these regulations may request an informal consultation with the Enforcement Officer and/or Building Inspector prior to the preparation and submission of a formal application. The purpose of this voluntary consultation shall be to answer specific questions about the process or applicable design requirements, discuss possible camouflaging or co-location options, or discuss application format options and/or potential supporting documentation submission needs. Any such consultation discussions must occur before a formal application is submitted to the City, shall be non-binding on the applicant and the City, and shall not in any way constitute or be interpreted to constitute a decision to approve or deny an application.
- (b) *Receipt of Application.* All required applications shall be submitted to the Enforcement Officer. Upon submission, the Enforcement Officer shall determine that the application contains all submission requirements specified in Section 236 of this Article and is, therefore, complete. No incomplete application shall be received by the City for review and approval. Once the Enforcement Officer determines the

application is complete, the application shall be determined to have been received by the City on that date.

- (c) *Enforcement Officer Review.* The Enforcement Officer and/or Building Official shall review a complete application within thirty-one (31) days of the date of receipt. At the end of that review, the Enforcement Officer shall issue approval or denial for those aspects of the application that fall within the approval authority of the Enforcement Officer, as specified in Section 234, Subparagraph (a) of this Article. If the application or any part of the application is denied, the Enforcement Officer shall provide the applicant with a written letter of denial outlining the specific findings of fact used by the City as the basis of the denial. Such denial shall be based on the unwillingness of the applicant to comply with the requirements of the regulations and/or the failure of the application to satisfy specific basic requirements and design considerations outlined in Section 233 of these regulations. If the Enforcement Officer fails to render a decision on the application within the required thirty-one (31) days, then aspects of the application subject to review and approval by the Enforcement Officer shall be deemed to be automatically approved without further consideration by the City. However, the City Council may grant an extension to the thirty-one (31) day deadline not to exceed an additional thirty-one (31) days, due to extended illness or absence of the Enforcement Officer during the required review and approval period or the submission of an application that is too large or extensive to be reviewed by existing staff resources within the prescribed time frame. On the date that the Enforcement Officer's review period ends, any remaining portions of the application not subject to approval or denial by the Enforcement Officer shall be submitted to the City Council and/or Planning Commission for action, as may be applicable. The forwarded application shall be accompanied by a written report from the Enforcement Officer regarding his/her assessment of the proposed communication facility(ies) or tower compound(s) with the applicable requirements specified in Section 233 of this Article.
- (d) *Planning Commission and City Council Review.* All applications or portions of applications requiring review and approval of the City Council and/or Planning Commission in accordance with Section 234, Subparagraphs (b) or (c) of this Article shall follow the same general guidelines as for an amendment to this Ordinance as specified in Article VIII (Amendments) of this Ordinance, with the specific exception that Planning Commission review shall not be required for applications that may be approved exclusively by the City Council, in accordance with Section 234, Subparagraph (b) of this Article.
- (e) *Public Hearing.* The City Council and, if necessary, Planning Commission shall each conduct one public hearing on the application at the earliest regular meeting date that will satisfy the public hearing notice requirements following the date of submission by the Enforcement Officer. The required public hearing shall be noticed

in the same manner prescribed in the applicable Sections of Article V, Division 4, Section 345 of this Ordinance (Subparagraph [b] for the Planning Commission and Subparagraphs [a] and [c] for the City Council). At the hearing, the presiding body shall entertain a report from the Enforcement Officer regarding his/her assessment of the proposed communication facility(ies) or tower compound(s) with the applicable requirements specified in Section 233 of this Article. A written copy of the Enforcement Officer's report shall be incorporated into the minutes of the public hearing, along with a written synopsis of all public comments received and an attendance sheet identifying the names and mailing addresses of every person who attended the public hearing.

- (f) *Decision.* The presiding body shall render a decision on the application within thirty-one (31) days from the date that the public hearing is closed. For the Planning Commission, such decision shall be in the form of a written recommendation, along with a list of the findings of fact upon which the recommendation was based, to the City Council for final action. If the Planning Commission fails to render a formal recommendation on the application within the required thirty-one (31) days, then the application shall be transmitted to the City Council for final decision with an automatic or implied recommendation of approval. If the City Council fails to render a decision on the application within the required thirty-one (31) days, then the application shall be deemed to be automatically approved without further consideration by the City. If the application or any part of the application is denied, the City Council shall provide the applicant with a written letter of denial outlining the specific findings of fact used by the City Council as the basis of the denial. Such denial shall be based on the unwillingness of the applicant to comply with the requirements of the regulations or specific basic requirements and design considerations outlined in Section 233 of these regulations that the application fails to satisfy.

#### **Sec. 236. Submission Requirements.**

All applications to construct communication facilities that fall within the jurisdiction of these regulations shall provide adequate documentation to demonstrate compliance with all applicable basic requirements and design considerations specified in Section 233 of these regulations. A single application may include any number of proposed tower compounds that will be located within the jurisdiction of this Ordinance, even though some of the proposed tower compounds may be subject to expedited review procedures as provided in Section 234 of this Article. Where an application includes tower compounds subject to different levels of review, the application may be divided into sections for each review category, within which all necessary supporting information for each proposed tower compound shall be provided. Whenever portions of an application have been approved or denied through an expedited review process, that information and any terms of said approval or denial shall be noted and considered in the subsequent review procedures for the

remaining portions of the application. The Enforcement Officer shall determine the number of application copies that must be submitted by the applicant, based on the number of parties who must review the application. One (1) copy of the application shall be required for each of the following review agents, as may be required: the Enforcement Officer, Building Inspector (if such person is not the Enforcement Officer), Planning Commission (as a body), and the City Council (as a body). At a minimum, each required application shall contain the following:

- (a) A completed ***zoning permit application form***, including the required *application fee*.
- (b) A ***site plan*** of the tower compound, prepared by a surveyor, at a scale not less than one (1) inch to fifty (50) feet, showing the location, street address, tax parcel identification number, and dimensions of the parcel of land that will contain the tower compound, the location of all required setback lines, driveways, parking areas, buffers, fencing, landscaping, storm water management improvements, fuel tanks (both above and below ground), and structures that exist or will be constructed on the property. If the property upon which a proposed tower compound will be located exceeds one hundred (100) acres in size, then the scale of the site plan shall be increased to one (1) inch to one hundred (100) feet, or the Enforcement Officer may grant authority to the applicant to limit the site plan coverage to a specified area around the proposed tower compound.
- (c) ***Written proof of ownership*** of the proposed tower compound or authorization to use it.
- (d) A ***written report*** including a description of the proposed tower or antenna with the technical reasons for its design, a certificate from the project engineer documenting the structural integrity of the tower or antenna support for its proposed use including any co-located communication facilities that may already exist at the site, and an affidavit signed by the owner of the proposed communication facilities and the project engineer attesting compliance of the proposed communication facilities with all applicable FCC requirements with regard to any potential detrimental health effects that could be generated by the proposed facilities.
- (e) A ***silhouette and elevation view*** of the proposed tower (or the existing tower, if the applicant is seeking permission to install an antenna on an existing tower) and all other communication facilities, and the tower compound, describing colors and materials to be used for the communication facilities and any security fence, decorative fence, and decorative wall. The configuration of proposed antenna arrays must be shown on the silhouette. The proposed location of future, additional antenna arrays must be shown on the silhouette by dashed lines. The elevation view shall portray the general context and compatibility of the proposed facilities with respect to surrounding structures and natural features.

- (f) Copies of any proposed *easements*, where applicable to the project.
- (g) Documentation of the *frequency band and wattage* of the proposed communication facilities.
- (h) For each new monopole, tower, or antenna that is not otherwise located on a co-location site, a *written report* documenting the attempts made by the applicant to secure a suitable co-location site both within the city and in the adjoining unincorporated areas and any supporting technical reasons supporting the need for a new independent site.

**Sec. 237. Inspection/Fee.**

To determine whether tower compounds are in compliance with the requirements of this Ordinance, the City shall make, or have made on its behalf, an annual inspection of the communication facilities on each tower compound and the walls, fences, and landscaping around each tower compound, for which an annual inspection fee of \$200.00 shall be imposed. If more than one antenna is located on a tower, the annual inspection fee shall be \$300.00. The fee shall be due on January 1 of each year and shall be delinquent if not paid by January 31 of such year. To help defray the cost of collecting delinquent fees, an additional fee, in the amount equal to ten (10) percent of the fee shall be payable for each month, or portion of a month, after January in which the fee remains unpaid. If the fee is not paid within three (3) months of its due date, the City may withdraw its permission for the location of communication facilities on the tower compound, in which event, all communication facilities must be removed from the tower compound within three (3) months of the day on which the owner or owners of the tower receive notice of such withdrawal of permission. The fee shall be payable by, and shall be the responsibility of the owner or owners of the tower, even if additional antennas located on the tower are owned by other parties. If there is more than one owner of the tower, each owner shall be jointly and severally liable for the entire amount of the fee and any additional fees due because of delinquency in payment. Any inspection conducted in accordance with these regulations shall not be relate to the safety or structural soundness of the communication facilities or tower. The purpose of the inspection shall be limited to determining whether such communication facilities and tower compound are in compliance with the provisions of this Ordinance. Any violation of the provisions of the Ordinance that are discovered through said inspection shall be processed and resolved in accordance with the procedures specified in Article V, Division 5 of this Ordinance.

**Sec. 238. Removal of Obsolete Towers.**

Any tower that is no longer serving an active communication use shall be removed at the owner's expense. The owner shall provide the Enforcement Officer with a copy of the notice to the FCC of intent to cease operations and remove the tower and all associated

communication facilities from the site within three (3) months from the date that all operations ceased. Where a tower serves as a co-location site, this provision shall not apply until all active users cease operation. If the owner of the tower fails to remove the tower as required, the responsibility for removal shall then apply to the owner of the land upon which the obsolete tower is located. Once the responsibility for removal has shifted to the property owner, the property owner shall remove the obsolete tower within one (1) month of the date that tower owner's removal deadline lapsed. If neither the owner of the tower nor the owner of the land removes the obsolete tower within the time prescribed herein, the City may, but shall not be obligated to, remove the obsolete tower. If the City removes the obsolete tower, it shall be entitled to recover the cost of removal from the owner of the tower and/or the owner of the land upon which the tower is located.

**Sec. 239. Satellite Dishes.**

All satellite dishes exceeding one (1) meter in diameter shall be considered structures required to be installed in accordance with all applicable provisions of this Ordinance, the Standard Building Code, and any other applicable regulations enforced by the City of Rainbow City. All such dishes shall be located in the rear yard of the property, and shall be set back from all property lines a distance equal to the height of the dish.

**Sec. 240. Appeals.**

All appeals from a decision by the Enforcement Officer or City Council shall be to the Superior Court or FCC as prescribed by the Telecommunication Act of 1996.

**Secs. 241-299. Reserved.**



## **ARTICLE V. ADMINISTRATION**

### **DIVISION 1. GENERALLY**

#### **Sec. 300. Zoning Administrator.**

- (a) The City Council shall appoint a Zoning Administrator to administer and enforce the provisions of this ordinance. Also, the Mayor may appoint such Deputy Zoning Administrators as he/she deems necessary to assist in the administration and enforcement of this ordinance.
- (b) These officials shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections necessary to carry out their prescribed duties in the enforcement of this ordinance.

#### **Secs. 301-309. Reserved.**





## **DIVISION 2. PERMITS AND PROCEDURES**

### **Sec. 310. Permit Compliance.**

- (a) No building permit, certificate of occupancy, business license, or any other permit or license shall be issued by any City department, official, or employee except in full compliance with this ordinance.
- (b) Any permit or license issued by any City department, official, or employee, where issued in conflict with or in violation of any terms of this ordinance or other applicable codes or ordinances, shall hereby be declared null and void.

### **Sec. 311. Certificate of Occupancy.**

- (a) No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used or occupied until the Zoning Administrator authorizes the issuance of a certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance.
- (b) Within three days after the owner or his agent has notified the Zoning Administrator that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Zoning Administrator to order a final inspection thereof, and to issue a certificate of occupancy if the building or premises or part thereof is found to conform with the provisions of this ordinance or, if such certificate is refused, to state the refusal in writing with the cause.

### **Sec. 312. Building Permit.**

- (a) It shall be unlawful to obtain a building permit or to commence the excavation or the construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair (except repairs not changing the character of the structure and not exceeding one hundred dollars in value, or painting or wallpapering) of any structure, including accessory structures, until the Zoning Administrator has determined that the plans, specifications, and intended use of such structure in all respects conforms with the provisions of this ordinance.
- (b) If the proposed excavation, construction, moving, or alteration, as set forth in the application, are in conformity with the provisions of this ordinance, a building permit may be issued. If an application for a building permit is not approved, the cause for such disapproval shall be stated in writing on the application. Issuance of a building permit shall in no case be construed as waiving any provision of this ordinance.

- (c) Before issuing a building permit, the Zoning Administrator shall order an inspection of the site and examine the proposed development plans for compliance with this ordinance and shall be provided by the Utilities Board of the City of Rainbow City a completed Utilities Checklist signed by an authorized employee of the Utilities Board of the City of Rainbow City
- (d) Any permit under which no construction work has been done above the foundation walls or other foundation support within ninety days from the date of issuance shall expire by limitation, but shall upon reapplication be renewable for a 12 month term, subject, however, to the provisions of City codes in force at the time of said renewal.

**Sec. 313. Plot Plan.**

It shall be unlawful for the Zoning Administrator to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this ordinance. To this end, the Zoning Administrator shall require that every application for a building permit be accompanied by a plot plan drawn to scale, dimensioned, and showing the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed development is in conformance with this ordinance:

- (1) The actual shape, proportion and dimensions of the lot to be built upon.
- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot, both above and below existing grade.
- (3) The existing and intended use of all such buildings or other structures.
- (4) The setback and side lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining conformance with the provisions of this ordinance.
- (5) The location of flood plains, or a flood hazard certificate prepared by a professional engineer or land surveyor licensed to practice in the State of Alabama.
- (6) A storm water management plan, in accordance with § 315 of this article.

**Sec. 314. Site Plan Review.**

- (a) *Application for site plan review.* New construction and substantial site development expansion of all planned unit developments, patio or garden home developments, townhouse developments, 5 or more multi-family units, manufactured home parks, institutional uses, commercial uses, and industrial uses shall require the approval of a site plan prepared by a professional engineer licensed to practice in the State of Alabama. One reproducible set of

plans and five copies of each set shall be submitted to the Zoning Administrator, with the minimum information described below:

- (1) Cover sheet with:
    - a. Name and location of the development; name, address, and signature of the owner; name, address, and seal of the engineer.
    - b. Vicinity map.
    - c. Zoning and existing and proposed land use of the site.
    - d. Date, scale, north arrow, and number of sheets.
    - e. Legends to be clear for clarity with symbols, item details on construction documents.
  - (2) Site layout, including property dimensions, rights-of-way, easements, location and dimensions of all buildings (existing and proposed), setbacks, driveway access with the proposed size/dimensions of the driveway drainage pipe for each lot shown on the plat, off-street parking and loading, and circulation. Any building on adjacent lots shall be shown with location from property lines.
  - (3) Stormwater management plan, in accordance with § 315 of this article and including paving, grading and excavation, erosion and sedimentation, storm water detention, floodplain management controls.
  - (4) Utilities plan, including sewage disposal system and water system (public and private).
  - (5) Fire control plan, including fire lanes and hydrants.
  - (6) Landscaping plan, including screening, buffer yards, and landscaping of parking areas, as required.
  - (7) Site plans shall be on 24" x 36" sheets and drawn to a scale no smaller than 1 inch = 30 feet, unless approved by the Building Department.
- (b) *Action on site plan.*
- (1) The Zoning Administrator shall forward copies of the plans to the City Engineer, Fire Chief, Police Chief, and other appropriate officials and agencies for their review and written comments on the general completeness and compliance of the plans with this ordinance. The Zoning Administrator shall provide the applicant with all written administrative comments within three days after Staff Review.

- (2) Upon satisfaction of the Zoning Administrator and City Engineer that all administrative concerns are properly addressed by the applicant, the corrected plans shall be forwarded to the Planning Commission for final site plan approval. The Planning Commission shall thereafter decide by resolution to approve, modify, or reject the plan as submitted.
- (3) A reproducible set of the final approved site plan shall be submitted by the applicant and retained on file by the Zoning Administrator.
- (4) All subsequent building permits and subdivision plats submitted by the applicant shall be in substantial accord with the final site plan. Where subdivision plat approval is also required for a development, site plan review shall be conducted simultaneously.
- (5) An approved site plan shall become null and void if significant development does not commence within 12 months of Planning Commission approval.

**Sec. 315. Street Construction Standards.**

(a) *Site Preparation.*

(1) Clearing

- (a) Clearing shall consist of the felling, trimming, and cutting of trees into sections and the satisfactory disposal of the trees and other vegetation designated for removal, including downed timber, snags, brush, and rubbish occurring in the areas to be cleared.
- (b) Trees, stumps, roots, brush, and other vegetation in areas to be cleared shall be cut flush with or below the original ground surface, except such trees and vegetation as may be indicated or directed to be left standing.
- (c) Clearing shall also include the removal and disposal of structures that obstruct, encroach upon, or otherwise obstruct the work. Over excavation required for the removal of subsurface structures shall be replaced with structural fill compacted to specification requirements stated below.

(2) Grubbing

- (a) Grubbing shall consist of the removal and disposal of stumps, roots larger than 3 inches in diameter, and matted roots from the designated grubbing areas.

- (b) Over excavation and depressions made by grubbing shall be replaced and filled with structural fill compacted to specification requirements stated below.
- (3) Topsoil Stripping
  - (a) Where present, all topsoil shall be stripped and removed from all construction areas.
- (4) Proofrolling
  - (a) Fill Areas
    - (1) Any areas that are to receive fill shall be observed and evaluated by a Geotechnical Engineer provided by the developer with a report to the City. The evaluation shall include the proofrolling of the subgrade soils by a fully loaded triaxel dump truck, or other pneumatic tire-mounted construction equipment approved by the Geotechnical Engineer. The air pressure in rubber-tired equipment used for proof-rolling shall be greater than 80 psi. Proof-rolling consists of repeated passes of the equipment over the exposed sub-grade soils. The proof-rolling equipment shall be provided and operated by the Developer.
    - (2) Each area to receive fill shall be proof-rolled immediately prior to fill placement in that area. Areas that have been proofrolled and have been subjected to rain or other wetting shall be inspected by the Geotechnical Engineer prior to fill placement. The Geotechnical Engineer may order an additional proof-roll. The Geotechnical Engineer shall report to The City after each subsequent proofroll or re-inspection after the initial inspection.
    - (3) Disturbed sub-grades resulting from excessive construction traffic, improper construction drainage, or other causes shall be undercut and replaced to the required depth. Areas that have been proofrolled and then disturbed by construction traffic must be re-graded and proof-rolled again.
  - (b) Undercutting
    - (1) Any areas deemed by the Geotechnical Engineer to behave poorly under proofrolling loads shall be undercut to suitable soils prior to placement of any structural fill material. All material deemed unsuitable to substantially support the embankment shall be removed to a suitable depth and replaced with stable material or rock as directed by the Engineer.

(5) Subgrade Stabilization

- (a) In areas where soft soils are encountered to depths of **3 feet or greater**, the Geotechnical Engineer may require subgrade stabilization to reduce the required undercutting. Stabilization could include the use of a woven geotextile (AMOCO 2002 or equivalent) and **8 to 12 inches** of crushed stone, geogrid and **6 inches** of crushed stone, or **18 inches** of crushed stone. The stabilization shall be performed under the guidance of the Geotechnical Engineer provided by the Owner/Developer with a copy of all reports to the City of Rainbow City.

(b) *Fill Soil Testing.*

(1) Suitable Soil Fill Material

- (a) Soil fill material shall be free from organic material and inorganic debris. The fill material shall be free of rocks greater than **6 inches** in diameter.
- (b) Select soil fill shall exhibit a Liquid Limit of less than 50 (as determined by AASHTO T 89), and a Plastic Limit of less than 30 (as determined by AASHTO T 90), and shall have a maximum dry density of no less than **100 pounds per cubic foot** (as determined by AASHTO T 99). Select soils shall be used in the upper **2 feet** of subgrade (as discussed below).
- (c) Proposed soil samples shall be provided to the Geotechnical Engineer for evaluation of the suitability of the material by laboratory testing. Laboratory testing of fill samples should include representative samples for every **500 linear feet** of the proposed roadway. In deep fills, the testing frequency may be increased. Test reports shall be provided to the City of Rainbow City prior to fill placement being started. All testing and reporting shall be done at the Owner's/Developer's expense.

(2) Compaction Requirements

- (a) The following table shows the compaction requirements for fill soils:

DEPTH BELOW FINAL	DENSITY PERCENTAGE*	MOISTURE CONTENT**
<5 feet	95%	Within 2% of OMC
2 to 5 feet	98%	Within 2% of OMC
0 to 2 feet	100%	Within 2% of OMC

\*Density percentage is the percent of maximum dry density, as determined by AASHTO-T-99.

\*\*Optimum Moisture Content (OMG) is moisture content at maximum dry density, as determined by AASTO-T-99.

- (b) Once final subgrade elevation is reached, the developer's Geotechnical Engineer may require field **California Bearing Ratio (CBR)** testing to compare actual CBR values with laboratory CBR values used in design of the roadway. Field CBR testing shall be conducted in accordance with ASTM D 4429 or by using a dual-mass dynamic cone penetrometer (U.S. Army Corps of Engineers Penetrometer) and correlating the dynamic cone penetrometer values to CBR. Field CBR testing shall be performed every **500 feet**.
- (c) The CBR values may require a thicker pavement and base build-up than the minimum thickness contained in these specifications.

(3) Compaction Testing

- (a) Compaction testing of each lift shall be conducted on each drive lane every 100 feet. Adjacent drive lanes shall have compaction test staggered 50 feet. All compaction requirements shall be met prior to placement of subsequent fill lifts. The Geotechnical Engineer or his representative shall conduct compaction testing. The Geotechnical Engineer provided by the Developer shall certify to the **City** that all compaction tests meet these requirements.

(4) Fill Placement

- (a) All fill shall be placed in horizontal lifts, not to exceed **8 inches** loose measure. Any fill being added to widen an existing embankment or slope shall be notched into the existing bank a minimum of **10 feet** (horizontal distance). The benching should begin at the bottom of the slope and then filled from the bottom to the top in horizontally placed lifts.

(c) *Evaluation of Cut Areas.*

(1) Proofrolling

- (a) Cut areas that are at final subgrade elevation shall be observed and evaluated by the Geotechnical Engineer. The Evaluation shall include the proofrolling of the subgrade soils by a fully loaded tandem axle dump truck, or other pneumatic tire-mounted construction equipment approved by the Geotechnical Engineer. The air pressure in rubber-tired equipment shall be greater than 80 psi. Proofrolling consists of repeated passes of the equipment over the exposed subgrade soils. The proofrolling equipment and Geotechnical Engineer shall be provided by the Owner/Developer.



(2) Undercutting of Cut Areas

- (a) Any areas deemed by the Geotechnical Engineer to behave poorly under proofroll loads shall be undercut to suitable soils prior to placement of any structural fill material. In areas where soft soils are encountered to depths of 3 feet or greater, the Geotechnical Engineer may require subgrade stabilization. Stabilization could include the use of geotextile fabric and crushed stone, geogrid and crushed stone, or only crushed stone.
- (b) Cut subgrades shall have **Plastic Indices (PI)** of less than 30. In areas where PI's of 30 or greater are encountered at subgrade elevation, stabilized roadbed shall be constructed. The stabilized roadbed shall be constructed by scarification or otherwise loosening of the upper foot of the exposed subgrade soils, and then blending in approximately **6 inches** of ALDOT #4 crushed stone aggregate. The subgrade soils mixed with the aggregate shall then be compacted.

(d) *Field CBR of Exposed Cut Areas*

- (1) Once final subgrade elevation is reached, the Geotechnical Engineer or the City's representative may require filed California Bearing Ratio (CBR) testing to compare actual CBR values with CBR values used in design of the roadway. Field CBR testing shall be conducted using ASTM D-4429 or by using a dual-mass dynamic cone penetrometer (U.S. Army Corps of Engineers Penetrometer) and correlating the dynamic cone penetrometer values to CBR. Field CBR testing shall be performed every **500 feet**.

(e) *Right-of-Way and Pavement Widths*

- (1) The Rainbow City Planning Commission shall determine the classification of all City Streets. All streets shall meet the following minimum requirements for right-of-way and pavement widths:

STREET CLASSIFICATION	RIGHT-OF-WAY WIDTH	PAVEMENT WIDTH (measured from edge to edge)
Arterial Street	120 feet	As required
Collector Street	60 feet	32 feet
Minor Street	50 feet	24 feet with 2'0" valley gutters or 24 feet with two 2'0" curb & gutter

Alley	20 feet	10 Ft. one way; 20 Ft. two way
Cul-de-sac	100 feet	40' Radius

\* In addition, a ten (10) foot easement on both sides of the street is required for utility easements.

- (2) Subdivisions that adjoin existing roads shall dedicated additional right-of-way to meet the above minimum street width requirements.
  - (3) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the road.
  - (4) When a subdivision is located on only one side of an existing road, one-half of the required right-of-way, measured from the centerline of the existing roadway, shall be provided. The entire roadway width shall be paved unless the Planning Commission gives approval to the contrary.
  - (5) Right-of-way for any street, road or avenue which, in the opinion of the Planning Commission, is or might become a major arterial highway shall be no less than one hundred twenty (120) feet in width.
  - (6) A minimum of four foot shoulders shall be constructed.
- (f) *Base Course Construction*
- (1) Material requirements
    - (a) All roadway base courses shall consist of ALDOT #825 Crushed Aggregate Base, Type A or B. Crushed Aggregate shall be hard, durable crushed limestone, and shall meet requirements stated in ALDOT specifications 301 and 825. Samples of the crushed aggregate material shall be provided to the Geotechnical Engineer for laboratory testing and evaluation for use as crushed aggregate base. Alternatively, the grain size gradation distribution of the proposed material shall be verified by the ALDOT approved crushed aggregate supplier and provided to the Geotechnical Engineer for review.

(2) Compaction Requirements

- (a) Base course layers shall be compacted to **100% of maximum dry density** (as determined by **AASHTO T 180**) with moisture content of **no less than 5%**. Base course compaction testing shall be conducted on each drive lane every **100 feet**. Adjacent drive lanes shall have compaction tests staggered every **50 feet**. All compaction requirements shall be met prior to placement of subsequent fill lifts. The Geotechnical Engineer or his representative shall conduct compaction testing. Crushed aggregate base courses shall be placed in lifts not to exceed **8 inches** loose measure. **A minimum of ninety-five (95%) percent** compaction for **base and subgrade** material is required in accordance with **ASTM 0698 (Standard Proctor Density)**. The City will require compaction test results, as directed by the Planning Commission, performed by a licensed testing laboratory at Owner's/Developer's expense.

(3) Minimum Thickness

- (a) For design and construction purposes, the minimum base course thickness shall be **6 inches** of compacted graded aggregate or approved equivalent on all road beds. **Additional thickness** may be required by the Geotechnical Engineer depending on laboratory determined subgrade PI and/or field CBR. **Eight (8) inches** of compacted graded aggregate shall be required for commercial collector streets.

(g) *Asphalt Layer Construction*

(1) Approved Asphalt Mixes

- (a) Asphaltic pavements shall consist of **ALDOT 429 Improved Bituminous Pavements** sections. This shall include the requirements provided in **ALDOT Specification Section 410 (Bituminous Plant Mix Pavements)**. **Bituminous Concrete Binder Layers** shall meet all requirements **ALDOT Section 429**. Bituminous concrete **Wearing Surface Layers** shall meet all requirements in **ALDOT Section 429**. The Developer will furnish weight tickets from the **asphalt plant** certifying that the plant mix is the type required for each layer.

(2) Compaction Requirements

- (a) All asphalt layers shall be compacted to **94%** of the **Theoretical Maximum Density (AASHTO-209)**.

- (3) Tack Coat
  - (a) A tack coat shall be furnished between consecutive asphaltic concrete layers. Tack coat shall meet all requirements in **ALDOT Section 405**.
  
- (h) *Pavement Thickness*
  - (1) Minimum Pavement Section
    - (a) The minimum pavement section that shall be placed shall be as follows:  
  
Wearing Surface:  
  
**1-1/2 inch thick layer, 3/4 inch maximum** aggregate size Improved Bituminous Concrete Wearing Surface, **ALDOT 429-A**, or other approved mix design.  
  
Binder Layer:  
  
**1-1/2 inch thick layer, 1-1/2 inch maximum** aggregate size Improved Bituminous Concrete Binder layer, **ALDOT 429-B**.  
  
Base Course:  
  
**6 inch** compacted thickness, **ALDOT 825-A** or **825-B** Crushed Aggregate Base Course or an approved soil aggregate base that meets the Alabama Department of Transportation Specifications.
    - (b) The minimum section is based upon a subgrade CBR of no less than 4. The subgrade CBR can either be laboratory or field determined, and shall be determined by the Geotechnical Engineer. If the subgrade CBR is less than 4 as determined by field testing, this minimum section shall be modified by the Geotechnical Engineer.
  
- (i) *Course Aggregate for Binder and Seal Gradation.*
  - (1) **The course aggregate in seal shall be composed of crushed gravel having three (3) or more fractured faces or slag. No limestone shall be allowed.**
  - (2) Course and fine aggregates shall be blended to produce a suitable mix, which will blend with the type and amount of liquid asphalt being used.
  - (3) Bitumen Content will be between 3/5% and 6.5% for binder and 4.7% to 9% for seal.

- (4) Bitumen will be asphalt Cement, Grade AC-20 or AC-30.
  - (5) Gradations and bitumen content of Asphalt plant mix shall be certified by a licensed testing laboratory.
- (j) *Traffic Considerations.*
- (1) The full pavement section should be constructed before being let to traffic. Construction traffic should be limited, and heavily loaded dump trucks shall not pass over incomplete pavement sections. Damaged pavements resulting from construction traffic will require removal and replacement. Replacing pavements damaged by construction traffic shall be the responsibility of the Owner/Developer.
- (k) *Pavement Overlay Sections*
- (1) Prior to the design and/or construction of a pavement overlay section, the Geotechnical Engineer shall conduct a pavement condition survey. The purpose of the survey is to identify and rate the distress of the pavement. The Geotechnical Engineer shall determine the necessary pavement overlay based upon asphalt condition, thickness in-place, and anticipated future traffic.
- (l) *Special Considerations for Trench Backfill*
- (1) Utility trenches that are located beneath pavement sections shall be backfilled using crushed stone.
  - (2) Failure to properly compact trench backfill can result in settlement of trench backfill, resulting in pavement distress. Any settlement shall be repaired prior to acceptance.
- (m) *Drainage Structures*
- (1) Pipes (cross drain and side drain) shall be designed based on the drainage areas affected. Design shall be by an Engineer licensed in the State of Alabama. Drainage pipe shall be **Roadway, Storm Sewer or Side Drain** of a class determined by fill height, with **minimum size being 12 inch**. Certifications will be furnished by the Developer that the pipe meets **ALDOT Specifications** as required by **SEC.530**. No plain cone pipe will be used. Installation will be in accordance with said specifications.
  - (2) Culverts shall be designed by a licensed engineer and constructed in accordance with **ALDOT SEC.524**, latest edition, and **ALDOT Standard Drawings**.

(3) **The City of Rainbow City will not accept any responsibility for damage to adjacent property due to redirection of drainage or inadequate drainage facilities.**

(n) *Slopes*

(1) All rock slopes outside the ditch area may be **1:1**, or as determined by the City Engineer. All soil (dirt) slopes outside the trench area shall be **3:1 or flatter**, or as determined by the City Engineer.

(o) *Grassing*

(1) All graded or bare areas outside the paved roadway will be grassed with a permanent grass mixture in accordance with current **ALDOT SPECIFICATIONS, SECTION 652**. Solid sod may be substituted for seeding. Appropriate amounts of fertilizer and lime will be required.

(p) *Cul-de-sacs*

(1) Streets designed to have one end permanently closed shall be provided with a turn-around having a minimum right-of-way radius of fifty (50) feet and a minimum pavement radius of forty (40) feet. If, in the opinion of the Planning Commission, it is desirable to provide street access to an adjoining property due to the probability of future extension of said street, then said street shall extend by dedication to the boundary of such property. **A temporary turn-around, or cul-de-sac** shall be provided for these streets. The Planning Commission, after consultation with appropriate department head(s), shall determine what type of base and surface materials shall be permitted for such temporary turn-around. In addition, at such time said street may be extended, the temporary turn-around shall be removed and the extension of the street shall conform to the requirements contained within these regulations.

(2) Temporary turn arounds or temporary cul-de-sacs shall be allowed only if they are part of a master plan to develop future roads. All temporary turn arounds and temporary cul-de-sacs shall be constructed to the same design standards and specifications as roads / streets, except for the provisions requiring asphalt.

(q) *Geotechnical Engineering*

(1) All references to Geotechnical services and testing in these standards shall be provided by the Owner/Developer at the Owner's/Developer's expense. Copies of all reports shall be furnished to the City of Rainbow City Building Department. A representative of the City shall be provided the opportunity to observe all testing. Any testing which the City has not been afforded the opportunity to observe will not be accepted. The City reserves the right to verify all testing at its expense.

(f) *Required Improvements*

(1) General

- (a) The Owner/Developer is required to install or construct the improvements hereinafter described prior to having released the bond or other securities which guarantee installation of such required improvements.
- (b) The improvements required shall be constructed in accordance with the standards set forth in these regulations and subject to the inspection of the Building Inspector or his duly authorized representative and the City Engineer.
- (c) All water mains, sanitary sewers and laterals, fire hydrants, and storm sewers shall be installed in such a manner to minimize the probability of the future cutting of the pavement of any street, sidewalk or other required pavement.

(2) Streets and Alleys

- (a) On all streets and alleys within the jurisdiction of these regulations, a suitable hard surface permanent type of pavement shall be constructed in accordance with the City of Rainbow City's design and construction standards outlined in these regulations.

(3) Centerline Striping

- (a) The final wearing surface shall be striped with a permanent traffic stripe in accordance with **ALDOT SPEC. 586 and 857** and applied in accordance with **SEC. 701**. Stop bars shall be placed in accordance with **SEC. 703**.

(4) Sidewalks

- (a) Sidewalks shall be placed on both sides of all streets in a commercial subdivision and may be required in residential subdivisions in the vicinity of community facilities including but not limited to churches, schools, recreational areas, civic centers, etc., as well as in other areas where the Planning Commission deems such necessary to insure public safety and welfare. Sidewalks, when required, shall be a minimum of four feet (4') wide in residential areas and seven feet (7') wide in commercial areas and shall be constructed on 3,000 pound mix concrete and be four (4) inches in thickness.

(5) Curbs and Gutters

- (a) Standard approved type curbs and gutters shall be placed on both sides of all new streets within the corporate limits of the City of Rainbow City in accordance with the City of Rainbow City Specifications for curbs and gutters. (See Appendix for typical illustrations.)

(s) *Guarantee of Completion of Improvements*

- (1) The Owner/Developer shall be responsible for the provision of all required improvements to any subdivision. This may be accomplished by either the full installation of all required improvements by the Developer at the time that the final plat is to be submitted to the Rainbow City Planning Commission or by the provision of a financial guarantee of performance.
- (2) Subdivision Improvement Bond
  - (a) Acceptance of Bond – the bond must be approved by the City Planning Commission and ratified by the Mayor.
  - (b) Value of Bond – the bond shall not be less than 125% of the cost of the improvement.
- (3) Failure to Complete Work
  - (a) If within twelve (12) months after filing said bond the Owner/Developer has not completed all necessary improvements, or if, in the opinion of the Planning Commission, said improvements have not been satisfactorily installed, the bond shall be used by the City of Rainbow City to complete the improvements in satisfactory fashion, or the City may take such steps as it may deem necessary to require performance under the bond.

(t) *Guarantee Against Faulty Material*

- (1) Final approval of street improvements shall be granted only in accordance with one of the following provisions:
  - (a) In any case in which the Planning Commission and/or the City Council may have reasonable doubt concerning the stability or proper construction of any improvement required herein, the Planning Commission subject to the Mayor's ratification, or the City Council may require a maintenance bond for five (5) years for street construction maintenance and one (1) year for sewer lines and facilities. This bond shall be in cash or made by a surety company authorized to do business in the State of Alabama.
  - (b) The Developer shall provide to the City Clerk and the Building Official a letter or statement in which said developer shall agree to maintain backfill to



the level of finished grade and to maintain improvements located thereon or therein of any excavation of fill which has been made in connection with the installation of improvements; and such letter or statement shall be binding to the Developer for a period of one (1) year after the acceptance of such improvements by the City of Rainbow City.

(u) *Waivers*

(1) *Hardship*

- (a) When the Planning Commission finds that unusual hardships or practical difficulties may result from strict compliance with these standards, or that the purposes of these standards may be served to a greater extent by an alternative proposal, the Planning Commission may waive certain provisions required by these regulations so that substantial justice may be done and the public interest secured. Such waiver, however, have the effect of nullifying the intent or purposes of these regulations. The Planning Commission shall not approve a waiver unless it shall make findings based upon the evidence presented to it in each specific case that the following criteria are met:
- (i) The granting of the waiver will not be detrimental to the public health, safety, or general welfare or be injurious to other property.
  - (ii) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property.
  - (iii) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are enforced.
  - (iv) The waiver will not in any manner interfere with the provisions or purposes of the comprehensive development regulations of the City. In approving a waiver, the Planning Commission may impose such reasonable conditions as may be necessary to substantially secure the purpose of these standards. A written request for a waiver shall accompany the application for plat approval.
- (b) Any appeal of the Planning Commission's decision to grant or deny a request for a waiver shall be made to the Rainbow City Board of Adjustment in

accordance with the provisions of Article VI of the Rainbow City Zoning Ordinance.

**Sec. 316. Stormwater Management Plan.**

**Revised by Ordinance # 490** – As required by City of Rainbow City’s Phase II municipal separate storm sewer (MS4) National Pollutant Discharge Elimination System (NPDES Permit, issued by the Alabama Department of Environmental Management (ADEM), the City must develop, implement, and enforce a Stormwater management program designed to reduce the discharge of pollutants from its MS4 to the “maximum extent practicable” to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act (CWA).

**Please see City Engineer for complete Ordinance.**

- (a) *Applicability.* Any person, firm, corporation, or business proposing to construct buildings or develop land within the City of Rainbow City shall apply to the Planning Commission for approval of a “Stormwater Management Plan”. No building permit shall be issued or land developed except upon approval of such plan. The following activities shall be excluded from the requirements of this section:
  - (1) Minor land-disturbing activities such as home gardens, home landscaping, repairs, or related activities.
  - (2) Construction of single family residences, when they are constructed by or under contract with the owner for his own occupancy.
  - (3) Agricultural practices or construction of farm buildings, when conducted in compliance with all applicable Best Management Practices.
  - (4) Private and commercial forestry activities, when conducted in compliance with all applicable Best Management Practices.
  - (5) Construction and/or maintenance projects undertaken and/or financed, in whole or in part, by:
    - a. The Alabama Department of Transportation,
    - b. Any county or municipality of the State of Alabama,
    - c. The Soil Conservation Service,
    - d. The U.S. Department of Agriculture,
    - e. Any public utility under the regulatory jurisdiction of the Public Service Commission.
- (b) *ADEM Permit Required.* For sites one (1) acre and above (or such requirements as subsequently adopted by ADEM), the developer shall furnish proof of obtaining an ADEM

storm water discharge permit and shall be responsible for maintaining said storm water best management practices until the completion of the project.

(c) *Design Criteria.*

- (1) The storm water runoff calculations shall be based on a 25 year storm frequency; however, if the property or drainage structure is located in a 100 year flood plain, the calculations shall be based on a 100 year storm frequency.
- (2) The post-construction runoff shall be less than or equal to pre-construction runoff, based on the required design storm frequency.
- (3) The content of the “Stormwater Management Plan” shall consist of measures that will safely convey runoff to a stable outlet, using storm drain piping, diversions, ditches or swales, retention structures, or similar conservation measures. These measures shall minimize flooding and damage to downstream facilities resulting from increased post-construction runoff from the site. The plan shall also provide provisions to minimize erosion from construction activities by the use of silt fencing, hay bales, check dams, sediment ponds, etc. These measures for conveyance of runoff and erosion control shall be operational as soon as possible after the start of construction.

(d) *Method of Determining Runoff.* Developments where the area contributing runoff is twenty-five (25) acres or less shall be designed using the Rational Method of Calculating Runoff. Developments where the area contributing runoff is between twenty-five (25) and two hundred (200) acres shall be designed using either the Rational Method of Calculating Runoff or other methods as approved by the Planning Commission. For developments where the area contributing runoff is two hundred (200) acres or more, the applicant shall use state regression equations or submit a method of evaluation for the calculation of runoff to the Planning Commission for review and approval. All such development proposals shall be prepared by a licensed professional engineer.

(e) The Planning Commission may request assistance from qualified experts in determining whether the applicant’s proposed measures comply with these requirements.

(f) The Planning Commission may waive any one or all items in this section only if it is recommended by Staff Review to do so.

### **Sec. 317. Permits for Un-sewered Areas.**

An application for a building permit or site plan approval for a development not served by public sewer shall not be submitted unless the applicant submits evidence of a preliminary finding by the Etowah County Health Department which confirms the suitability of soils and provides a valid permit for private septic facilities, as required by the latest edition of the "Rules of Onsite Sewage Disposal and Subdivision Onsite Sewage Systems", State Board of Health, July 20, 1988.

### **Sec. 318. Conditional Use Procedures.**

- (a) *Application for conditional use permit.* All permitted conditional uses, where listed in each district, shall require the submission of an application to the Planning Commission. An application for a conditional use shall be filed with the Zoning Administrator at least 15 days before the scheduled hearing date before the Planning Commission. The application shall be filed by the property owner or the authorized agent of the owner and shall include the following information and materials:
- (1) Name, signature, and address of the property owner and agent of the property owner, if any.
  - (2) Address of the property under consideration.
  - (3) Zoning and land use of the property under consideration.
  - (4) Proposed conditional use.
  - (5) A plot plan, drawn to scale and dimensioned, showing the property boundaries and proposed development layout.
  - (6) A \$100.00 filing fee.
- (b) *Planning Commission action.* The Planning Commission shall review the plot plan and use proposal for compliance with this ordinance and other applicable codes and ordinances. If deemed in compliance, the Planning Commission may still deny any proposal if it concludes, based upon the information submitted at the hearing, that the proposal will adversely affect the public interest and the intent of this ordinance, as contained in the purposes and consideration of this ordinance and the district intent where the proposal would be carried out. In particular, the Planning Commission shall determine that satisfactory provisions have been made concerning the following, among other considerations of this ordinance:

- (1) Ingress and egress to the property and proposed structures or uses, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.
  - (2) Off-street parking and loading areas, with particular attention to the items in (1) above.
  - (3) Refuse and service areas, with reference to availability, location, and potentially adverse effects on surrounding properties.
  - (4) Screening and buffering of potentially adverse views and activities from surrounding properties.
  - (5) Control of noise, glare, odor, excess drainage, and other potentially disturbing effects to surrounding properties.
  - (6) Utilities, with reference to location, availability, capacity, and potentially adverse effects to surrounding properties.
  - (7) Signs and lighting, with reference to glare, traffic safety, and visual harmony with adjoining properties.
  - (8) Building bulk, density, lot coverage, yards and open areas, with reference to the compatibility and harmony with the character of the surrounding area.
- (c) *Imposition of conditions.* The Planning Commission may impose such conditions for approval as it may deem necessary in the particular case to protect the public interest and the intent of this ordinance, in relation to the items listed in (b) above and as may otherwise be reasonably necessary. Such conditions shall apply to the land, structure, or use for which the conditional use was granted and not to a particular person. Violations of conditions lawfully attached to any conditional use shall be deemed violations of this ordinance.
- (d) *Appeal of Planning Commission action.* Appeal of the Planning Commission's decision may be filed by any party affected by the decision. Such appeal shall be filed with the City Council within thirty days of the Planning Commission decision. If said party wishes to appeal after the thirty day time period, a new application for a conditional use permit must first be submitted with the Planning Commission. Within thirty days following receipt of the appeal, the City Council by majority vote shall decide to affirm, modify, or reverse the decision of the Planning Commission. A timely appeal shall suspend all actions on the conditional use permit.

**Secs. 319-329. Reserved.**

### DIVISION 3. NONCONFORMITIES

#### Sec. 330. Purpose of Provisions for Nonconformities.

Within the districts established by this ordinance or by subsequent amendments to this ordinance, lawful uses, lots, buildings, and characteristics of uses existed in conformity to all applicable zoning provisions before this ordinance was adopted or subsequently amended. However, as a result of adoption of or subsequent amendment to this ordinance, such lawful activities no longer conform to all applicable zoning provisions. These activities shall be deemed lawful nonconformities which are permitted to remain under the provisions of this division. It is the intent of this division that the continuation of lawful nonconformities should not be indefinite and that all nonconformities with this ordinance should gradually be removed.

#### Sec. 331. Types of Nonconformities.

- (a) *nonconforming building.* An otherwise legal building that does not conform with the yard, height, or other dimensional requirements for the district in which it is located or that is designed or intended for a nonconforming use.
- (b) *nonconforming characteristics of use.* An otherwise legal characteristic of use, lot, or structure which does not conform with the off-street parking and loading standards, screening and buffer yard standards, sign standards, or any supplemental standards for the district in which it is located or which is designed or intended for a nonconforming use.
- (c) *nonconforming lot.* An otherwise legally platted lot that does not conform with the dimensional requirements for the district in which it is located.
- (d) *nonconforming use.* The otherwise legal use of a building, structure, or lot that does not conform with the permitted uses for the district in which it is located.

#### Sec. 332. Continuation of Nonconformities.

Nonconformities may be continued as provided by this section:

- (1) If any changes in ownership or tenancy occurs, any nonconformity may be continued by the new owner or tenant under the provisions of this division.
- (2) A nonconformity may continue if it does not cease for any reason for a period exceeding six months.
- (3) Plans for nonconforming construction, site development, site alteration, use or occupancy for which a valid building permit, certificate of occupancy, site plan,

special exception, preliminary subdivision plat, or other City license was approved prior to the effective date of this ordinance, or subsequent amendment, may proceed.

However, all construction, site development, or site alteration must be completed within one year, and use or occupancy must be established within 30 days after the effective completion date.

- (4) A lot that was legally platted prior to the effective date of this ordinance that does not meet the lot area, width, or dimensional requirements for the district in which it is located may be developed or used in conformity with all other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.
- (5) Any use in existence prior to the effective date of this ordinance, or subsequent amendment, that results in a nonconforming characteristic of use may continue in nonconformity with the off-street parking and loading, screening and buffer yard, sign, or supplemental standards so long as the kind or extent of such use does not increase the ordinance requirements for such characteristics of use.
- (6) A nonconforming use may occupy any part of a structure or lot that was arranged or designed for such use unless occupancy of that part of the structure or lot has been discontinued for a period exceeding six months.

### **Sec. 333. Repair and Maintenance of Nonconformities.**

- (a) On any structure, devoted entirely or partly to a nonconforming use, work may be done on ordinary maintenance or repair and replacement of walls, fixtures, wiring, or plumbing, provided the cubic content of the structure, as it existed at the effective date of this ordinance or subsequent amendment, shall not be increased. The cost of the work shall not exceed ten percent of the appraised replacement cost of the structure or the part.
- (b) On any lot devoted entirely or in part to any nonconforming use, work may be done on ordinary maintenance or repair and replacement of parking and loading areas, signs, lighting, fences, walls, and related exterior amenities, provided the extent of those amenities shall not be increased or rearranged.
- (c) Nothing in this division shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or exterior amenity declared unsafe by any official charged with protecting the public safety, on order of such official, nor shall anything in this division be deemed to exempt any such structure or amenity from any requirements of any federal, state, or local government regulation.

**Sec. 334. Alteration, Enlargement, or Restoration of Nonconformities.**

- (a) No nonconforming use shall be enlarged within a structure or occupy a greater area of land than at the effective date of this ordinance or subsequent amendment.
- (b) No nonconforming use or structure shall be moved to any portion of the lot other than that occupied at the effective date of this ordinance or subsequent amendment.
- (c) No nonconforming use, structure, or characteristic of use may be altered or enlarged or intensified in any way which increases its nonconformity but may be altered or reduced to decrease its nonconformity.
- (d) If a nonconforming structure is removed or damaged in any manner to the extent that the restoration costs exceed fifty percent of the value of the structure immediately before the damaging occurrence, subsequent use of the lot shall be in full compliance with the district in which it is located.

**Sec. 335. Change in Use.**

- (a) Any nonconforming use which changes to a permitted use within the district in which it is located shall not revert to a nonconforming use.
- (b) A nonconforming use may change to a new nonconforming use, provided the new use is more in keeping with the district in which it is located and is less objectionable and measures less external impact than the existing nonconforming use. In determining whether the new use would be in greater conformity with this ordinance, impact criteria such as, but not limited to, the following shall be evaluated:
  - (1) Traffic generation and congestion, including truck, passenger car, and pedestrian traffic.
  - (2) Noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, or vibration.

**Sec. 336. Appraised Cost or Value.**

For the purpose of this division, appraised cost or value shall refer to an appraised valuation by a board or a professionally certified real estate appraiser.

**Secs. 337-339. Reserved.**





## **DIVISION 4. AMENDMENTS**

### **Sec. 340. Authority to Amend.**

Whenever the public necessity, convenience, or general welfare or good zoning practices warrants such action, the City Council, by favorable vote of a majority of the members, may amend the regulations or zoning district boundaries herein established.

**State law reference** - Amendment, Code of Ala. 1975, § 11-52-78.

### **Sec. 341. Authorized Petitioners.**

A petition for amendment of this ordinance or the zoning district boundaries may be initiated by the City Council, the Planning Commission, or the owner or agent of such property subject to amendment of zoning district boundaries.

### **Sec. 342. Petition for Amendment.**

- (a) A petition for amendment, when initiated by the property owner or authorized agent of such owner, shall meet the application requirements of this section.
- (b) The application for rezoning shall be made on a form available from the Zoning Administrator and be filed with the Zoning Administrator at least 21 days prior to the Planning Commission hearing. The applicant shall provide the following information and materials:
  - (1) Name, signature, and address of the property owner and agent of the property owner, if any.
  - (2) Address and legal description of the property under consideration, accompanied by a copy of the applicable tax maps clearly identifying the property subject to rezoning.
  - (3) Present and proposed zoning and land use of the property under consideration.
  - (4) Reason for the rezoning request.
  - (5) A conceptual site plan showing the property boundaries, public rights-of-way, and the proposed use and development layout.
  - (6) The names and addresses of each property owner adjacent to the property under consideration, including those across the street, as listed in the Etowah County Tax Assessor Office.
  - (7) A \$100 filing fee.

**Sec. 343. Planning Commission Action.**

- (a) In the case of a petition by a property owner, at least 15 days prior to the scheduled Planning Commission hearing, the Zoning Administrator shall give written notice of the rezoning to all adjacent property owners. Such notice shall be deemed given when deposited in the United States mail, first class postage prepaid, addressed to such property owners at their addresses as submitted with the rezoning application. The notice shall state the following information:
  - (1) The name of the petitioner.
  - (2) The location of the property.
  - (3) The current and proposed zoning and land use of the property.
  - (4) The time, date, and location of the Planning Commission hearing of the proposed zoning amendment.
- (b) The Planning Commission shall hold a public hearing at the first regularly scheduled meeting after compliance with the application and notice requirements of this ordinance.
- (c) At least six days' public notice of the hearing shall be given in accordance with the publication or posting requirement in § 345 Public Notice of Hearings. The Planning Commission, by majority vote, shall report its recommendations to the City Council. The Planning Commission report shall be transmitted to the City Council within thirty days of the hearing, unless the City Council grants an extension of such period. Otherwise, the proposed amendment shall be considered to have been recommended by the Planning Commission.

**Sec. 344. City Council Action.**

- (a) Upon receipt of the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment.
- (b) The City Council shall give public notice of the hearing on the proposed amendment in accordance with § 345 Public Notice of Hearings.
- (c) Following notice and hearing, the City Council shall decide by majority vote to accept or reject the proposed amendment.
- (d) If the City Council takes no final action upon the proposed amendment within ninety days after receipt of the recommendation of the Planning Commission, the proposed amendment shall be deemed to have been rejected and overruled by the Council.

### **Sec. 345. Public Notice of Hearings.**

- (a) At least 22 days in advance of the public hearing before the City Council, the Council shall publish the proposed zoning ordinance amendment in full for one insertion in a newspaper of general circulation published within the City, together with a notice stating the time and place that the ordinance is to be considered by the City Council and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such ordinance. One week after the first insertion (no less than 15 days in advance of the public hearing), the City Council shall have published a synopsis of the proposed ordinance, which synopsis shall refer to the date of the newspaper in which the proposed ordinance was first published. If there is no newspaper of general circulation published within the City, then the City Council must cause the ordinance and notice to be posted in four conspicuous places within the City. The Council may both publish and post the hearing notice.
- (b) At least six days in advance of the public hearing before the Planning Commission, the Commission shall publish notice of the proposed zoning ordinance amendment for one insertion in a newspaper of general circulation published within the City, stating the time, place, and object of the hearing and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such ordinance. If there is no newspaper of general circulation published within the City, then the Planning Commission must cause the ordinance and notice to be posted in four conspicuous places within the City. The Commission may both publish and post the hearing notice.
- (c) The applicant for a rezoning shall be responsible for the posting property with signs made available by the Zoning Administrator. Each placard shall note the proposed district change and the time and place of the Planning Commission hearing. Property shall be posted at least 15 days in advance of the public hearing before the Planning Commission and remain posted until the public hearing is completed. The applicant shall place the signs at reasonable intervals along the public street abutting the property.

**State law reference** - Procedure for adoption, Code of Ala. 1975, § 11-52-77.

### **Sec. 346. Conditional Rezoning.**

- (a) In situations where more flexible and adaptable zoning methods are needed, rezoning amendments may be allowed, subject to certain conditions that are not generally applicable to land similarly zoned. Proposed rezoning amendments may include the voluntary proffering in writing, signed by the property owner (and the authorized agent of the property owner, if any), of reasonable conditions in addition to the regulations provided for in the desired zoning district. Any such proffered conditions must be made prior to the public hearing held by the City Council and must adhere to the following criteria:

- (1) The rezoning itself must give rise for the need for the conditions.
  - (2) Such conditions shall have a reasonable relation to the rezoning.
  - (3) Such conditions shall not include a cash contribution to the City.
  - (4) Such conditions shall not include dedication of property for public right-of-way or facilities, unless otherwise required by the Rainbow City Subdivision Regulations.
  - (5) Such conditions shall not include payment for or construction of off-site improvements, unless otherwise required by the Rainbow City Subdivision Regulations.
  - (6) No condition shall be proffered that is not related to the physical development or physical operation of the property.
  - (7) No condition shall allow for the reversion of zoning held previous to the rezoning, unless a new application for rezoning is filed in accordance with this division.
  - (8) All such conditions shall be in conformity with the purposes and consideration of this ordinance.
- (b) The Zoning Administrator shall be vested with all necessary authority, on behalf of the City Council, to administer and enforce conditions attached to a rezoning amendment.
- (c) The official zoning map shall show, by an appropriate symbol, the existence of conditions attaching to the zoning. The Zoning Administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The index shall provide ready access to the ordinance creating conditions, in addition to the regulations provided for in a particular zoning district. The zoning designation of the property shall carry a C suffix in addition to the zoning district designation (for example, R-2C), and the zoning map shall reference the Conditional Zoning Index by ordinance number.
- (d) Any amendment, waiver, or variation of conditions created pursuant to the provisions of this section shall be subject to zoning amendment procedures.

**Sec. 347. Limitations on Rezoning Amendments.**

Should the City Council reject a rezoning amendment proposal by a property owner, the same kind of rezoning of the same tract of land will not be considered by the Planning Commission until a period of one year has elapsed from the date of such action by the City Council. Further, a withdrawal of the application for rezoning after the hearing held by the Planning Commission, but prior to the hearing held by the City Council, shall also require a one year time period before another application may be submitted. However, the Planning Commission may adjust this time period if, in the opinion of a majority of the Commission, an unusual situation or circumstance exists which would warrant another hearing. Each time the zoning amendment application is made, the required filing fee must be paid. Under no condition shall the fee be refunded for failure of such proposed amendment to be enacted into law.

**Sec. 348. Zoning of Annexed Property.**

- (a) *Automatic R-1 zoning.* All land annexed into the City shall be reviewed by the Planning Commission, and said commission shall make a recommendation to the City Council to bring annexed land into the city zoned R-1 Single Family Residential District unless otherwise specified. All annexation ordinances shall reflect the approved zoning for the newly annexed property; such ordinances shall, immediately following annexation, be transmitted to the Secretary of the Planning Commission for Planning Commission action.
- (b) *Planning Commission action.* Within 30 days following annexation, the Planning Commission shall review the R-1 zoning and, if determined necessary, initiate a petition to rezone the property to the most appropriate district. In determining the most appropriate zoning, the Planning Commission shall duly consider the following minimum items:
  - (1) The Rainbow City Land Use Plan, as adopted by the Planning Commission, as well as other relevant land use and planning studies;
  - (2) The desires of the property owner subject to rezoning, as well as concerns of adjacent property owners;
  - (3) The purposes and considerations of zoning, as required by this ordinance and section 11-52-72 of the Code of Alabama.
- (c) *City Council action.* The Council shall, within 30 days of receipt of the Planning Commission recommendation, act to approve, disapprove, or modify the recommended petition of the Planning Commission. In deciding their action, the Council shall follow the public hearing procedures found in this article.

**Sec. 349. Reserved.**



## DIVISION 5. PENALTIES AND REMEDIES

### Sec. 350. Violations and Penalties.

- (a) *Citation for violations.* The Zoning Administrator or any Police Officer of the City shall serve upon the responsible person or owner of the property which is in violation of this ordinance, a citation to appear in the Municipal Court of the City of Rainbow City, at a time and date specified thereon, to answer the charge of such violation(s) of this article. Provided, however, that prior to 12:00 noon on the date this matter is to be set before the Municipal Court, such person, firm, or corporation charged in such citation, if he has not previously settled or been convicted of three or more such violations within twelve months of the date of such citation, may dispose of the citation by settlement in the following manner: pay to the Clerk of the Municipal Court a fine for the offenses charged in the amount of \$25 plus any and all charges otherwise payable to the City pursuant to the terms and conditions of the article. If the offense charged is the third such offense by the owner or person charged within twelve months from the date of such citations, settlement cannot be voluntarily made to the Clerk of the Municipal Court as referred to above. If the settlement of the charges set out in the citation is not made prior to 12:00 noon of the date the case is set for trial in Municipal Court, and if the party charged fails to appear and answer such charge in the Municipal Court at the time or place set out in such citation, or if the citation has not otherwise been disposed of by such court, a warrant shall be issued charging such party with the violation set out in the citation, which warrant shall be obtained, served and tried as provided by law for the arrest and trial of the offenses involving violations of the Ordinances of the City. If a person receiving a citation as herein provided has, within the prescribing twelve months from the date of such citation, settled or been convicted of three or more such violations, he shall not be permitted to settle the instant alleged offense, but shall be required to stand trial in the Municipal Court.
- (b) *Penalty for violation.* Once the warrant has been issued and tried before the Municipal court, a person found guilty of such violations shall be guilty of a misdemeanor and shall be punished as provided by the General Ordinances of the City of Rainbow City, which shall include the payment of any fines levied by the Court plus any court costs as therein provided and issued by the court. Each day such offense continues shall constitute a separate offense.
- (c) *Issuance of citation.*
- (1) All citations shall be signed by the enforcement officer finding such violations and shall be sent by certified mail to the responsible person or to the owner of the property on which the violation is found.
  - (2) A warning of violation may be issued in writing, personal appearance, or telephone by the enforcement officer finding such violations. The warning shall give an opportunity for correction of any violations within 30 or less days before a citation is sent, as provided in (1) above.



**Sec. 351. Remedies.**

In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this ordinance, the Zoning Administrator or any other appropriate authority or any adjacent or neighboring property owner who would be damaged or caused hardship by such violation, in addition to other remedies, 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, to correct or abate such violation, or to prevent occupancy of such building, structure, or land.

**State law reference** - Remedies, Code of Ala. 1975, § 11-52-83.

**Secs. 352-359. Reserved.**

## **ARTICLE VI. ZONING BOARD OF ADJUSTMENT**

### **Sec. 360. Creation.**

The City Council of Rainbow City hereby appoints a Zoning Board of Adjustment. This Board shall, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this ordinance in harmony with its general purposes and interests and in accordance with the rules contained in this article.

### **Sec. 361. Composition and Appointment.**

The Board of Adjustment shall consist of five members, each to be appointed for a term of three years, except that in the first instance one member shall be appointed for a term of three years, two for a term of two years and two for a term of one year, and thereafter each member appointed shall serve for a term of three years or until his successor is duly appointed. In addition to the five regular members provided for in this section, two supernumerary members shall be appointed to serve on such board at the call of the chairman only in the absence of regular members, and while so serving shall have and exercise the power and authority of regular members. Such supernumerary members shall be appointed to serve for three year terms and shall be eligible for reappointment. Appointed members may be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

### **Sec. 362. Meetings.**

The Board shall adopt rules of meeting procedures. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

### **Sec. 363. Powers and Duties.**

- (a) The Board of Adjustment shall have the following powers:
  - (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance or of any ordinance adopted pursuant thereto;

- (2) To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance; and
  - (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.
- (b) In exercising the powers mentioned in this section, such board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and, to that end, shall have all the powers of the Zoning Administrator. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.
- (c) The Board of Adjustment 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.

**Sec. 364. Administrative Appeal Procedures.**

- (a) *Application for administrative appeal.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board. An administrative appeal shall require the submission of an application to the Zoning Board of Adjustment. The application shall be filed with the Zoning Administrator at least 15 days before the scheduled hearing date before the Board of Adjustment. A timely appeal shall suspend all actions on the decision appealed, upon issuance of a restraining order as described in § 11-52-80(c) of the Code of Alabama 1975, as amended. The application shall be filed by the property owner or the authorized agent of the owner and shall include the following information and materials:
- (1) Name, signature, and address of the property owner and attorney for the property owner, if any.
  - (2) Address of the property under consideration.
  - (3) The decision of the Zoning Administrator under appeal.

- (4) A written statement specifying the grounds for appeal.
- (b) *Board of Adjustment action.* The Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board shall take action to uphold, modify, or overturn the decision of the Zoning Administrator.

**State law reference** - Board of Adjustment, Code of Ala. 1975, § 11-52-80.

**Sec. 365. Special Exception Procedures.**

- (a) *Justification for special exception.* The Board of Adjustment may hear and decide only such special exceptions as it is specifically authorized to pass by the terms of this ordinance. In exercising this authority, the Board shall determine whether special exceptions should be granted and grant special exceptions with such conditions and safeguards as are appropriate under this ordinance or deny special exceptions when not in harmony with the purpose and intent of this ordinance.
- (b) *Application for special exception.* An application for a special exception shall be filed with the Zoning Administrator at least 21 days before the scheduled hearing date before the Board of Adjustment. The application shall be filed by the property owner or the authorized agent of the owner and shall include the following information and materials:
  - (1) Name, signature, and address of the property owner and agent of the property owner, if any.
  - (2) Address of the property under consideration.
  - (3) Zoning and land use of the property under consideration.
  - (4) Nature of the special exception, with reference to applicable zoning provisions.
  - (5) The grounds on which the special exception is requested.
  - (6) If applicable, a plot plan, drawn to scale and dimensioned, showing the property boundaries and proposed development layout, with the special exception noted or highlighted.
  - (7) The names and addresses of each property owner adjacent to the property under consideration, including those across the street, as listed in the Etowah County Tax Assessor Office.

- (8) A \$100.00 filing fee.
- (c) *Notice of public hearing.* At least 15 days prior to the scheduled Board of Adjustment hearing, the Zoning Administrator shall give written notice of the special exception to all adjacent property owners. Such notice shall be deemed given when deposited in the United States mail, first class postage prepaid, addressed to such property owners at their addresses as submitted with the application. The notice shall state the following information:
  - (1) The name of the applicant.
  - (2) The location of the property.
  - (3) The nature of the special exception and the applicable zoning provisions.
  - (4) The time, date, and location of the Board hearing.

Public notice shall also be given, stating the time, place, and purpose of the hearing, and additional notice shall be posted on the premises affected.

- (d) *Board of Adjustment action.* In granting approval of a special exception, the Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

### **Sec. 366. Variance procedures.**

- (a) *Justification for variance.* Variances to the terms of this ordinance may be granted in specific cases upon a finding by the Board of Adjustment that the variance will not be contrary to the public interest, that, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and that the spirit of this ordinance shall be observed and substantial justice done. More specifically, the Board shall determine all of the following criteria have been satisfied:
  - (1) The Board should make proper adjustment to prevent unnecessary hardship, even to the extent of authorizing nonconforming uses. Where the Board authorizes a nonconforming use in a district to prevent unnecessary hardship, all relevant factors, when taken together, must indicate that the plight of the premises in question is unique in that they cannot be put reasonably to a conforming use because of the limitations imposed upon them by reason of their classification in a specific zone.
  - (2) Variances should be permitted only under peculiar and exceptional circumstances.
  - (3) Hardship alone is not sufficient; Alabama statutes require unnecessary hardship.

- (4) Mere financial loss of a kind which might be common to all of the property owners in a district is not an unnecessary hardship.
  - (5) Variances should be granted sparingly, and spirit of this ordinance in harmony with the spirit of State law should be carefully preserved, to the end that the structure of this ordinance would not disintegrate and fall apart by constant erosion at the hands of the Board.
  - (6) When a hardship is self-inflicted or self-created, there is no basis for claim that a variance should be granted.
- (b) *Application for variance.* An application for a variance shall be filed with the Zoning Administrator at least 21 days before the scheduled hearing date before the Board of Adjustment. The application shall be filed by the property owner or the authorized agent of the owner and shall include the following information and materials:
- (1) Name, signature, and address of the property owner and agent of the property owner, if any.
  - (2) Address of the property under consideration.
  - (3) Zoning and land use of the property under consideration.
  - (4) Nature of the variance, with reference to applicable zoning provisions.
  - (5) Justification for the variance, in accordance with all of the criteria in (a) above.
  - (6) A plot plan, drawn to scale and dimensioned, showing the property boundaries and proposed development layout, with the variance noted or highlighted.
  - (7) The names and addresses of each property owner adjacent to the property under consideration, including those across the street, as listed in the Etowah County Tax Assessor Office.
  - (8) A \$100.00 filing fee.
- (c) *Notice of public hearing.* At least 15 days prior to the scheduled Board of Adjustment hearing, the Zoning Administrator shall give written notice of the variance to all adjacent property owners. Such notice shall be deemed given when deposited in the United States mail, first class postage prepaid, addressed to such property owners at their addresses as submitted with the application. The notice shall state the following information:

- (1) The name of the applicant.
- (2) The location of the property.
- (3) The nature of the variance and the applicable zoning provisions.
- (4) The time, date, and location of the Board hearing.

Public notice shall also be given, stating the time, place, and purpose of the hearing, and additional notice shall be posted on the premises affected.

**State law reference** - Board of Adjustment, Code of Ala. 1975, § 11-52-80.

**Sec. 367. Appeal of Board Decision.**

Any party aggrieved by any final judgment or decision of such Board of Zoning Adjustment may, within 15 days thereafter, appeal therefore to the circuit court by filing with such Board a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, such 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.

**State law reference** - Appeals to circuit court, Code of Ala. 1975. § 11-52-81.

**Secs. 368-369. Reserved.**

## **ARTICLE VII. DEFINITIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 370. Purpose of Definitions.**

For the purpose of this Zoning Ordinance, certain terms used in this ordinance shall have the meanings defined by this article. In the event a term is not listed in this article or is not defined elsewhere in this ordinance, the conventional meaning of the term shall apply.

#### **Sec. 371. Interpretation.**

The Zoning Administrator is authorized to make a final determination of the meaning of any term used in this ordinance. In case of any dispute, an appeal of the Zoning Administrator's determination may be filed with the Zoning Board of Adjustment.

#### **Sec. 372. Word Usage.**

In the interpretation of the words used in this ordinance, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise.

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) The word “shall” is mandatory, and the word “may” is permissive.
- (5) The word “person” includes an individual, firm, association, organization, partnership, trust, company, or corporation.

#### **Secs. 373-379. Reserved.**





## DIVISION 2. GENERAL TERMS

### Sec. 380. General Terms Defined.

The following general terms, when referred to in this ordinance, shall have the meanings defined by this section:

*abut, adjacent, adjoin, or contiguous.* To physically touch or border upon; or to share a common border with or be separated from the common border by an easement.

*access.* A way or means of approach to provide physical entrance to a property.

*accessory structure.* A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

*accessory use.* A use of land or of a building, or portion thereof, commonly associated with and integrally related to the principal use of the land or building on the same lot, and which constitutes a customarily incidental and insubstantial part of the total activity on the lot.

*acre.* A measure of land area containing 43,560 square feet.

*addition.* A structure added to the original structure at some time after completion of or after a certificate of occupancy has been issued for the original structure.

*alteration.* Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

*applicant.* A person submitting an application for development.

*basement.* A portion of a building located wholly or partially underground, having one-half or more of its floor-to-ceiling height above the average grade of the adjoining ground.

*bedroom.* A room marketed, designed, or otherwise likely to function primarily for sleeping.

*berm.* A grass-covered or landscaped mound of earth with a slope of 1/3 or greater on both sides of the mound, used to screen activities or uses on a lot.

*Board or Board of Adjustment.* The Zoning Board of Adjustment of Rainbow City, Alabama.

*boarder.* An individual, other than a member of the family, occupying the dwelling unit or part thereof, who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

*buffer yard.* A landscaped strip of specified width, along certain segments of the site perimeter, reserved for screening one use or structure from another adjacent use (including those uses on adjoining properties and properties directly across a right-of-way).

*building.* A structure designed to be used as a place of occupancy, storage, or shelter.

*building, accessory.* A subordinate building detached from a principal building on the same lot that is used incidentally to a principal building or that houses an accessory use.

*building, principal.* The primary building on a lot or a building that houses a principal use.

*building front.* The exterior wall of a building which faces a street line on the lot.

*building height.* The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof.

*building line.* A line generally parallel to the street right-of-way line at a distance equal to the depth of the front yard required for the zoning district in which the lot is located.

*building spacing.* The minimum distance between buildings, measured from the outermost projection, excluding bay windows, chimneys, flues, columns, ornamental features, cornices, and gutters.

*carport.* A roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

*City.* The City of Rainbow City, Alabama.

*club.* A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws. Refer to § 385(2), Institutional uses, for use definition.

*Commission or Planning Commission.* The Planning Commission of Rainbow City, Alabama.

*condominium.* An ownership arrangement, not a land use. It is allowed in any district and under the same restrictions as the land uses that it comprises. It is characterized by private

ownership of individual units and undivided common ownership and maintenance of designated exterior and interior spaces by a condominium association of unit owners.

*Council or City Council.* The City Council of Rainbow City, Alabama.

*density.* The minimum required lot area per dwelling unit or the maximum number of dwelling units per acre of site area.

*development.* The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, alteration, relocation, or enlargement of a structure; any mining, dredging, fitting, grading, paving, excavation, drilling, or disturbance of land; and any use or extension of use of land.

*dwelling.* Any building or portion thereof which is designed and used for residential occupancy.

*dwelling, attached.* Three or more dwelling units adjoining one another by a common roof, wall or floor, such as a townhouse or apartment.

*dwelling, detached.* A dwelling designed for and occupied by not more than one family and having no roof, wall, or floor in common with any other dwelling unit, such as a single-family residence, patio or garden home, or manufactured home.

*dwelling, multi-family.* A building containing two or more dwelling units on a commonly shared lot, such as a duplex or apartment.

*dwelling, semi-detached.* Two dwelling units adjoining one another by a common roof, wall, or floor, such as a duplex or twin townhouses.

*dwelling, single family.* A dwelling unit on an individual lot, such as a single family residence, patio or garden home, manufactured home, or townhouse.

*dwelling unit.* An enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use by a single family.

*easement.* Authorization by a property owner for the use of a designated part of his property by another for a specified purpose.

*family.* One or more persons living together as a single housekeeping unit.

*fence.* An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

*floor area, gross.* The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

*improvement.* Any man-made, immovable item which becomes part of, is placed upon, or is affixed to real estate.

*livable or habitable floor area.* Any floor area within a dwelling usable for any combination of sleeping, eating, cooking, recreation, or working purposes.

*lot.* A parcel of land in one ownership used, or set aside and available for use, as the site of one or more buildings and accessory buildings, or for any other purpose. A lot is not divided by a street and does not include any land within the abutting right-of-way of a public or private street, even if the ownership to such right-of-way is in the owner of the lot. A lot for the purpose of this ordinance may or may not coincide with a lot of record.

*lot, corner.* A lot abutting two or more streets at their intersection. Front lot line will be street you egress or ingress from. The other side will be considered a side yard. If egress or ingress is from both streets or if both streets are major streets, then both sides will be considered front lines.

*lot, double frontage or through.* A lot having frontage on two streets but not at their intersection and has egress or ingress from both streets.

*lot, interior.* A lot other than a corner lot.

*lot, reverse frontage.* A double frontage lot having a rear yard on a major street with no egress or ingress and a front yard on and access to a local or marginal access street.

*lot area or lot size.* The minimum area contained within the property boundaries of the individual parcels of land shown on a subdivision plat or survey. Lot area excludes any area within an existing or future street right-of-way or any area devoted to common open space.

*lot frontage or frontage.* Lot width measured at the street line. When a lot has more than one street line, lot width shall be measured, and the minimum lot width required by this ordinance shall be provided at each such line.

*lot line.* A line bounding a lot, which divides one lot from another or from a street or from any other public or private space.

*lot line, front.* In the case of a lot abutting only one street, the street line separating such lot from such streets shall be the front lot line; in the case of a double frontage lot, each street line separating such lot from a street shall be the front lot line; in the case of a corner lot, the street line having the least dimension.

*lot line, rear.* That lot line which is parallel to and most distant from the front line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. In the case of a double frontage lot, there are no rear lot lines but only front and side lot lines.

*lot line, side.* Any lot line other than a front or rear lot line.

*lot of record.* Any validly recorded lot which, at the time of its recordation, complied with all applicable laws, ordinances, and regulations.

*lot width.* The minimum distance measured between the side lot lines at the required building setback line. In the case of only one side lot line, lot width is the distance measured between the side lot line and the opposite lot line.

*manufactured home lot.* A lot that is designed for use by a manufactured home within a manufactured home subdivision.

*manufactured home space.* A space that is designed for use by a manufactured home within a manufactured home park.

*nonconformities.* Lawful uses, lots, structures, or characteristics of uses which, as a result of adoption or subsequent amendment to this ordinance, no longer conform to all applicable zoning provisions.

*open space, common.* Land area within a residential development that is held in common ownership and maintained by a homeowners' association for 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 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 non-residential buildings, 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 storage.* The keeping, in an unenclosed area, of any goods, materials, merchandise, or vehicles in the same place for more than twenty-four hours.

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

*patio or terrace.* A level, landscaped or surfaced area on a lot directly adjacent to or close to a principal building and not covered by a permanent roof.

*perimeter.* The boundaries or borders of a lot, tract, or parcel of land.

*porch.* A roofed open area, which may be windowed or screened, attached to and with direct access to or from a building. A porch becomes a room within the building when heated or air conditioned or when the walled area is less than 50% windowed or screened.

*premises.* A lot, parcel, tract, or plot of land together with the structures thereon.

*property line.* The lot line.

*retail.* The provision of services or the sale of goods and merchandise to the public at large for personal or household use or consumption.

*satellite dish antenna.* An accessory structure designed to receive television broadcasts relayed by microwave signals from earth-orbiting communications satellites.

*screening.* A method of visually shielding or obscuring one use or structure from another adjacent use (including adjoining properties and properties directly across a right-of-way) by opaque fencing, walls, berms, or densely-planted vegetation installed within a buffer yard.

*sidewalk.* A paved, surfaced, or leveled area, paralleling and separated from the street, used as a pedestrian walkway.

*sight triangle.* A triangular-shaped portion of land established at street or driveway intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

*site.* A parcel or parcels of land intended to have one or more buildings or intended to be subdivided into one or more lots.

*site area.* A minimum land area required to qualify for a particular use or development. Site area is taken from an actual site survey and excludes:

- land within an existing or future street right-of-way;
- land which is not contiguous or is cut off by a major barrier;
- land which is part of a previously-approved development; and
- land which is zoned for another use.

*story.* That portion of a building included between the upper surface of a floor and the upper surface of the floor or ceiling next above. A mezzanine or partial floor shall be counted as a story if the vertical distance from the floor next below to the floor or ceiling next above is 24 feet or more. A basement shall be counted as a story if it is used as livable area in the case of dwellings or is used by the principal use in the case of all other uses.

*story, half.* A space under a sloping roof, in which the floor area with head room of five feet or greater occupies no more than two-thirds of the total floor area of the story directly beneath.

*street.* Any vehicular way which has been dedicated to the public for public use, including all land within the right-of-way.

*street, arterial.* A major street intended to move through traffic to and from major activity centers within the City or intended as a major route between communities.

*street, collector.* A major street intended to move traffic from local streets to arterial streets. A collector street serves a neighborhood or large subdivision.

*street, local.* A minor residential street intended to provide access to other streets from individual lots.

*street, major.* A collector or arterial street.

*street, marginal access or service.* A street intended to provide access to a parallel arterial street from adjacent properties.

*street line.* The lot line along the street right-of-way.

*structure.* Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. All buildings are structures but not all structures are buildings.

*subdivision.* The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. Such term includes resubdivision of land and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided.

*this ordinance.* The Rainbow City Zoning Ordinance.

*travel trailer.* A structure that is intended to be transported over the streets, either as a motor vehicle or attached to or hauled by a motor vehicle, and is designed for temporary



recreational use as sleeping quarters but that does not meet the defined criteria of a manufactured home.

*use.* The activity or function that actually takes place or is intended to take place on a lot or site.

*variance.* A relaxation or waiver of the terms of this ordinance (other than use provisions) as will not be contrary to the public interest, 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 this ordinance shall be observed and substantial justice done, as determined by the Zoning Board of Adjustment.

*yard.* A minimum open area, unobstructed from the ground up, on the same lot with a structure, extending along a lot line and inward to the structure. The yard shall be measured as the shortest distance between the structure and a lot line.

*yard, front.* A minimum yard between a structure and a front lot line and extending the entire length of the front lot line. In the case of a double frontage lot, which fronts on more than one street, the yards extending along all streets are front yards. In the case of a corner lot, the yard extending along the street line of least dimension.

*yard, rear.* A minimum yard between a structure and a rear lot line and extending the entire length of the rear lot line. In the case of a double frontage lot, there are no rear yards but only front and side yards.

*yard, side.* A minimum yard between a structure and a side lot line, extending from the front yard to the rear yard. In the case of an odd-shaped lot, any yard that is not a front or rear yard is a side yard. In the case of a double frontage lot, any yard that is not a front yard is a side yard.

*Zoning Administrator.* An official charged with the administration and enforcement of this ordinance.

**Secs. 381-384. Reserved.**

### DIVISION 3. USES

#### Sec. 385. Uses Defined.

The following uses, when referred to in this ordinance, shall have the meanings defined by this section.

(1) Agricultural uses.

*farm.* A 10 acre or larger tract of land used for the production, keeping or maintenance, for sale or lease, of plants and animals useful to man, including the following farming activities and the incidental sale of products on the premises:

- forages and sod crops;
- grains and seed crops;
- dairy animals and products;
- poultry, including egg production but excluding poultry processing;
- livestock, such as beef cattle, sheep, goats, or any similar livestock, including the breeding and grazing of such animals but excluding meat processing and the keeping of pigs or poultry;
- nursery operations involving the raising of plants, shrubs, and trees for sale and transplantation and including greenhouses and incidental sales of items customarily associated with a nursery operation;
- forestry operations involving the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products, or performing forest services, including temporary sawmills and chippers for cutting of timber growth on the same premises but excluding lumber yards, mills, and similar activities;
- stables engaged in the raising, keeping, boarding, or training of horses, ponies, and similar animals, including riding academies and incidental sales of riding accessories and animals raised or regularly kept on the premises.
- bees and apiary products;
- fisheries, excluding fish and seafood processing;

- fur animals, limited to the breeding and raising of such animals; and
- fruits and vegetables of all kinds, including growing and harvesting of such fruits and vegetables, but excluding food processing.
- A booth or stall (farm stand) from which produce and farm products are sold to the general public.

Refer to § 108 for supplemental use regulations.

*farm support business.* A commercial establishment engaged in the sale of farm support goods and services, including the following activities:

- the sale of feed, grains, fertilizers, pesticides, and similar farm support goods;
- the provision of warehousing and storage facilities for raw farm products; and
- the provision of veterinary services to large animals.

*hobby farm.* A five acre or larger tract of land used for the production, keeping or maintenance of farm animals personally useful to the occupants of a dwelling on the same tract but excluding the keeping pigs, poultry, or large livestock.

*kennel.* The boarding or raising of small household pets for commercial purposes.

*livestock sales.* The sale of animal livestock within an enclosed yard or structure, including livestock markets, horse auctions, and similar activities.

(2) Residential uses.

*accessory apartment.* An accessory dwelling unit attached to or detached from a single family residence and located on the same lot. The term includes garage apartments.

*apartment.* Three or more attached, multi-family dwellings within a building of three or less stories. Refer to § 101 for supplemental use regulations.

*assisted living facility.* See definition of “domiciliary care or assisted living facility”, this section.

*combination dwelling.* A dwelling unit 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 an institutional, commercial, or industrial establishment.

*duplex.* A semi-detached, multi-family dwelling.

*garden home.* A detached, single-family dwelling designed on a small lot with one zero lot line on one side. Refer to § 103 for supplemental use regulations.

*group care residence.* A group care home serving up to ten individuals, unrelated by blood or marriage, living together as a single housekeeping unit within a dwelling, under the supervision of one or two resident managers. The home serves socially, physically, mentally, or developmentally impaired individuals in a family-type living arrangement, including child care homes for orphans or neglected children, handicapped or infirm homes for the mentally retarded or mentally ill, rehabilitation homes for drug or alcohol dependency, emergency care homes for abused spouses or children, and similar group residency facilities. The group care residence provisions of this ordinance meet or exceed the minimum requirements § 11-52-75.1 Regulation as to housing of mentally retarded or mentally ill persons in multi family zones, Code of Alabama, 1975, as amended. Refer to § 102 for supplemental use regulations.

*manufactured home.* A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or when erected on site is 320 or more square feet, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, and which is connected to the required utilities, including plumbing, heating, air conditioning, and electrical systems contained therein. Refer to § 109 for supplemental use regulations. See definition of “mobile home”, this section.

*manufactured home park.* A tract of land used or designed to accommodate a manufactured home community of multiple spaces for lease or condominium ownership. Refer to § 110 for supplemental use regulations.

*mobile home.* A structure which complies with the definition of “manufactured home” but which was manufactured prior to June 15, 1976. After the effective date of this ordinance, mobile homes shall be a nonconformity subject to the regulations established in §§ 330-339 of this ordinance.

*modular home.* A dwelling constructed on-site in accordance with the Standard/International Building Code. It is composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. A modular home is not a manufactured home

in that the latter is constructed in a plant in accordance with the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development and does not meet the construction standards of the Standard/International Building Code.

*patio home.* A detached, single family dwelling constructed on-site in accordance with the Standard Building Code. The unit occupies a small lot and has an enclosed yard area with a porch or patio. Refer to § 103 for supplemental use regulations.

*residential cluster subdivision.* A tract of land planned and developed as an integral unit under single ownership or control. Clustering permits a developer to create smaller lots than in a conventional subdivision without substantially increasing the overall density. Land saved by clustering becomes usable common open space to the residents of the subdivision. Lots within the cluster subdivision are restricted to single family detached or attached dwellings, as permitted by the district.

*single family residence.* A detached, single family dwelling constructed on-site in accordance with the Standard Building Code.

*townhouse.* Two (2) or more attached, single-family dwellings within a building of eight (8) or less units. Each dwelling occupies its own lot, **or**

Two or more dwellings attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family, **or**

A residential use in which each dwelling unit shares a common wall (including, without limitation, the wall of an attached garage or porch) with at least one other dwelling unit, in which each dwelling unit has living space on the ground floor and a separate ground floor entrance.

*upper-story or upper-floor apartment.* A single or multi-family dwelling in the upper story of a building where the ground floor is devoted to commercial or institutional uses.

(3) Institutional uses.

*animal shelter.* Non-profit (Humane Society) or public organization providing shelter for small domestic animals.

*boarding house.* A dwelling for the residency of two or more boarders on a long term basis (at least month-to-month). Each unit intended to be rented does not constitute a dwelling unit as defined by this ordinance.

*cemetery.* Human burial grounds.

*club.* Buildings arranged for the gathering of private club members and their guests, including social club, professional association, fraternal club or lodge, union hall, civic association, and similar uses. Refer to § 380 for general definition.

*community center.* Buildings arranged for the community gathering for social, cultural, or community service purposes, including museums, galleries, community meeting rooms, community recreation centers, libraries, YMCA's, YWCA's, and similar uses.

*community facility.* Buildings arranged for the purpose of providing public services, not otherwise listed in this section, including government offices, post offices, transit stations, police stations, fire and emergency service stations, civil defense operations, and similar uses.

*country club.* Land and buildings containing recreational facilities and club house for private club members and their guests.

*day care center.* A licensed facility, other than a residence, providing day care on a regular basis to more than six children, elderly, handicapped or infirm persons.

*day care home.* A licensed service operated from a dwelling by the resident, providing day care on a regular basis to six or less children, elderly persons, or handicapped or infirm persons.

*domiciliary care or assisted living facility.* Licensed homes for the aged, intermediate institutions, and related institutions (not otherwise defined by this section), whose primary purpose is to furnish room, board, laundry, personal care, and other non-medical services, regardless of what it may be named or called, for not less than 24 hours in any week, to individuals not related by blood or marriage to the owner or administrator. This kind of care implies sheltered protection and a supervised environment for persons who, because of age or disabilities, are incapable of living independently in their own homes or a commercial board and room situation, yet who do not require the medical and nursing services provided in a nursing home. In these facilities, there might be available, temporarily and incidentally, the same type of limited medical attention as an individual would receive if living at home.

*hospital.* An establishment which provides health services primarily for in-patient medical or surgical care of the sick or injured, including accessory facilities such as laboratories, pharmacies, out-patient clinics, training facilities, gift shops, coffee shops, cafeterias, and staff offices.

*military installation.* A government-sponsored defense facility, including military bases, national guard centers, military reserve centers, armories, and similar uses.

*nursing care facility.* A licensed institution maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that provided in a hospital but at a higher level than provided in a domiciliary care or assisted living facility.

*park.* Publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.

*penal institution.* A public institution housing inmates for correction or rehabilitation.

*place of worship.* Buildings arranged for religious service purposes, such as churches and synagogues, including related facilities for instruction, meeting, recreation, lodging, eating, and other integrally related activities.

*public assembly center.* Buildings arranged for the general assembly of the public at-large for community events, including coliseums, stadiums, civic centers, and similar uses.

*public utility facility.* A facility that provides public utility services to the public at-large, including water and sewerage facilities, gas distribution facilities, electric transmission and distribution facilities, and cable transmission and distribution facilities.

*public utility service.* Essential utility services which are necessary to support development and which involve only minor structures such as lines and poles.

*school.* Public or non-profit school.

(4) Commercial uses.

*animal hospital.* A place where small household pets are given medical or surgical treatment, and short term boarding of pets within an enclosed building may be provided.

*bank or financial service.* A business engaged in providing banking or financial services to the general public, such as a bank, savings and loan association, credit union, finance company, and similar businesses.

*broadcast studio.* Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and

telephonic mechanisms, including film and sound recording, such as a radio studio, TV studio, or a telegraphic service office.

*business or professional office.* A place where the administrative affairs of a business or profession is conducted, such as the office of a law firm, real estate agency, insurance agency, architect, secretarial service, the administrative staff of business or industry, and the like.

*business support service.* A place of business which supplies support services primarily to business or professional offices or services, such as photocopy, computer, and office equipment supplies and services.

*campground.* A group of buildings or structures on a site of 10 or more acres, planned as a whole for seasonal recreation or vacation uses, including tent campsites, travel trailer or recreational vehicle sites, vacation cottages, recreational facilities, eating facilities, bathrooms, and sale of personal care items and gifts. Refer to § 105 for supplemental use regulations.

*car wash.* A commercial establishment engaged in washing or cleaning automobiles and light vehicles.

*clinic.* A facility providing medical, psychiatric, or surgical services for sick or injured persons exclusively on an out patient basis.

*commercial school.* Private, gainful business providing instructional service in the arts, business, crafts, trades, and professions.

*convenience store.* A small, one story retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket), including not more than one automotive fuel service island.

*cottage industry.* An accessory business use which is conducted within a building accessory to the permanent dwelling unit of the business owner. Refer to § 106 for supplemental use regulations. See definition of “home occupation”, this section.

*entertainment, indoor.* A commercial establishment providing spectator entertainment within an enclosed building, including movie theaters, playhouses, and similar indoor facilities.

*entertainment, outdoor.* A commercial establishment providing spectator entertainment in open or partially enclosed or screened facilities, including drive-in theaters, sports arenas, racing facilities, and amusement parks.



*funeral home.* A commercial establishment engaged in funeral and undertaking services for human burial.

*garden center or nursery.* Retail sales of plants, trees, shrubs, and the like for ornamental or landscaping purposes, conducted from a building, greenhouse, outdoor display area, or stand, including incidental sales of items customarily associated with such sales activities, including such items as containers, fertilizers, ornaments, small gardening tools and equipment, and seeds.

*general retail business, enclosed.* Retail sales of goods and services, not otherwise defined by this section, conducted within an enclosed building, including, but not limited to, food sales, department stores, clothing stores, home furnishings sales, appliance stores, auto supplies stores, gift shops, specialty stores, jewelry stores, cosmetics sales, package liquor stores, tobacco stores, drug stores, variety stores, catalogue stores, and similar enclosed retail businesses.

*general retail business, unenclosed.* Retail sales of goods and services, not otherwise defined by this section, conducted partially or fully outside of a building, including, but not limited to, sidewalk sales, outdoor food service, outdoor tire sales, and other outdoor display or sales.

*home improvement center.* A place of business providing building, appliance, yard and garden materials, tools, and supplies at retail and wholesale.

*home occupation.* An occupation for gain or support incidental to the use of the premises for residential purposes, conducted only by members of a family residing on the premises, and conducted entirely within a dwelling, in connection with which there is no advertising of any nature other than one non-illuminated accessory sign not exceeding two square feet in area. Refer to § 106 for supplemental use regulations. See definition of “cottage industry”, this section.

*hotel or motel.* A commercial facility offering transient lodging accommodation on a daily or weekly basis to nine or more guests, which may include as an integral part of the facility such additional services as restaurants, meeting rooms, banquet rooms, gift shops, and recreational facilities.

*laundry service.* A commercial establishment providing laundering, dry cleaning, or dyeing service (other than a laundry or dry cleaning pick-up station defined under personal service), such as a laundry and dry cleaning plant, diaper or linen service, or laundromat.

*medical support service.* A place of business which supplies medical support services to individuals, medical practitioners, clinics, and hospitals, such as a

pharmacy (where the business activity is limited to the filling of medical prescriptions and the sale of drugs and medical supplies), medical and surgical supply store, an optician, and the like.

*mini-warehouse.* A building or group of buildings containing separate storage spaces which are leased on an individual basis for the exclusive purpose of storing non-hazardous goods, but not including any activity other than dead storage. Refer to § 107 for supplemental use regulations.

*open air market.* Retail sales of arts, crafts, produce, discount or used goods partially or fully outside of an enclosed building, such as a flea market, produce market, craft market, or farmers' market.

*personal service.* A retail establishment engaged in providing services involving the care of a person, such as a barber shop, beauty shop, cosmetic studio, dry cleaning and laundry pick-up station, indoor exercise and fitness center, tanning salon, seamstress, tailor, shoe repair shop, key repair shop, travel agency, interior decorator, formal wear rental, and similar uses.

*recreation, indoor.* A commercial establishment providing recreational or sports activities to participants within an enclosed building, including bowling alleys, billiard parlors, video game centers, ice and roller skating rinks, and other commercial indoor recreational and sports activities.

*recreation, outdoor.* A commercial establishment providing recreation or sports activities to participants in open or partially enclosed or screened facilities, including driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, and other commercial outdoor recreational and sports activities.

*restaurant, fast food.* An establishment where food and drink are rapidly prepared for carry out, fast delivery, drive-thru, or drive-in and may also include standard sit-down consumption.

*restaurant, standard.* An establishment where food and drink are prepared, served, and primarily consumed within the building where guests are seated and served.

*shopping center, community or regional.* A group of commercial establishments (as permitted in the district) located on a lot of ten or more acres planned and developed in a unified design with shared parking and driveway facilities and under common management authority.

*shopping center, neighborhood.* A group of commercial establishments (as permitted in the district) located on a lot of three to less than ten acres planned and developed

in a unified design with shared parking and driveway facilities and under a common management authority.

*specialty retail center.* A group of commercial establishments (as permitted in the district) located on a lot of one to less than three acres planned in a unified design with shared parking and driveway facilities and under common management authority. The center may be a new development or involve the resubdivision and redevelopment of residential lots so as to create a planned grouping of buildings and commercial uses with common parking areas and access drives under a common management authority.

*tourist home.* An establishment, which may be a dwelling, which provides lodging for three to eight transient guests on a short term basis (daily or weekly).

*vehicle repair service.* A place of business engaged in the repair and maintenance of automobiles, light trucks, travel trailers, recreational vehicles, or boats, including the sale, installation, and servicing of mechanical equipment and parts and also painting, body work, upholstery work, fabrication of parts, or rebuilding of engines.

*vehicle sales or rental.* A commercial establishment engaged in the sale or rental of automobiles, light trucks, travel trailers, recreational vehicles, boats, or motorcycles, including incidental parking, storage, maintenance, and servicing.

*vehicle service station.* A commercial establishment providing fuel, lubricants, parts, and accessories, and incidental repair and maintenance service to motor vehicles.

(5) Industrial uses.

*construction service.* A place of business engaged in construction activities and incidental storage as well as wholesaling of building materials (but not a home improvement center which also sells at retail), such as a building contractor, trade contractor, or wholesale building supplies store.

*heavy industry.* Meat or poultry processing and slaughterhouses or storage or manufacturing involving flammable or explosive materials or involving potentially hazardous or commonly recognized offensive conditions.

*maintenance service.* An establishment providing building and yard maintenance services, such as janitorial services, exterminating services, landscape services, and window cleaning services.

*manufacturing, general.* The basic processing and manufacturing of materials or products predominately from extracted or raw materials and the incidental storage, sales, and distribution of such products.

*manufacturing, light.* The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products.

*research lab.* An establishment engaged in research of an industrial or scientific nature, excluding product testing, such as an electronics research lab, research and development firm, or pharmaceutical research lab.

*resource extraction.* The removal of soil, sand, clay, gravel, minerals, or similar materials for commercial purposes, including quarries, borrow pits, sand and gravel operations, gas extraction, and mining, excluding surface mining, stripping, or open field mining operations.

*salvage yard.* A place of business engaged in the storage, sale, dismantling or other processing of used or waste materials, such as a junk or automotive salvage yard.

*sanitary landfill.* A State-approved site for solid waste disposal.

*transmission tower.* A tower used for the transmission of radio and television signals to the general public or private receivers, other than amateur radio towers and towers used by a public facility.

*vehicle and equipment repair, major.* A place of business engaged in the repair and maintenance of heavy trucks (over one ton), construction equipment, tractors and implements.

*vehicle and equipment sales, major.* A place of business engaged in the sale or rental of heavy trucks (over one ton), construction equipment, tractors and farm implements, manufactured homes, and similar heavy equipment, including incidental storage, maintenance, and servicing.

*warehousing, wholesaling, and distribution, enclosed.* A place of business engaged in warehousing, wholesaling, or distribution services within a building.

*warehousing, wholesaling, and distribution, open.* A place of business engaged in open air warehousing, wholesaling, or distribution services.

- (6) Temporary uses. - All temporary uses shall last for a period of no more than thirty (30) consecutive days.

*garage or yard sales.* The sale by a resident, conducted on the premises of a dwelling, of personal property belonging to the occupant of such dwelling.

*seasonal sales.* Temporary seasonal sales of produce, ornamental plants, fire wood, Christmas trees, and other temporary sales that are unlike the usual activities on the lot where the sales occur.

*special event.* Circuses, fairs, carnivals, festivals, benefits, religious events, or similar types of temporary outdoor events that run longer than one day but no longer than thirty days, are likely to attract large crowds, and are unlike the usual activities on the lot where the event occurs.

## APPENDIX A

### TABLE OF PERMITTED USES

#### KEY

P = PERMITTED USE. Use permitted subject to appropriate permits being issued in accordance with this ordinance.

C = CONDITIONAL USE. Use permitted subject to a conditional use permit being granted by the Planning Commission and further subject to appropriate permits being issued in accordance with this ordinance.

N = USE NOT PERMITTED.

AG = AGRICULTURAL DISTRICT.

R-1 = SINGLE FAMILY RESIDENTIAL DISTRICT.

R-2 = PATIO HOME AND TOWNHOUSE DISTRICT.

R-3 = MULTI-FAMILY RESIDENTIAL DISTRICT.

MHP = MANUFACTURED HOME PARK DISTRICT.

NS = NEIGHBORHOOD SHOPPING DISTRICT.

HC = HIGHWAY COMMERCIAL DISTRICT.

M-1 = MANUFACTURING DISTRICT.

\* = SUBJECT TO SUPPLEMENTAL USE REGULATIONS.

\*\* = UPPER STORY RESIDENTIAL USES ONLY

## Table of Permitted Uses

USE CLASSIFICATION	ZONING DISTRICT							
	AG	R-1	R-2	R-3	MHP	NS	HC	M-1
<i>agricultural uses</i>								
*farm	P	N	N	N	N	N	N	P
farm support business	C	N	N	N	N	N	P	P
kennel	P	N	N	N	N	N	P	N
livestock sales	C	N	N	N	N	N	N	P
<i>residential uses</i>								
*apartment	N	N	N	P	N	C**	C**	N
duplex	P	N	N	P	N	N	N	N
*garden home	N	N	P	P	P	N	N	N
*group care residence	P	C	C	P	C	N	N	N
*manufactured home	C	N	N	N	P	N	N	N
*manufactured home park	N	N	N	N	P	N	N	N
*patio home	N	N	P	P	P	N	N	N
single family residence	P	P	P	P	P	N	P	N
*townhouse	N	N	P	P	N	N	C**	N
<i>institutional uses</i>								
animal shelter	C	N	N	N	N	N	P	P
assisted living facility	P	N	N	C	N	P	N	N
boarding house	C	N	N	C	N	N	N	N
cemetery	P	C	C	C	C	P	P	N
club	P	N	N	N	N	P	P	N
community center	P	N	N	N	N	P	P	N
community facility	P	C	C	C	C	P	P	P
country club	P	N	N	N	N	P	P	N
day care center	N	N	N	N	N	P	P	N
day care home	C	C	C	C	C	N	N	N
domiciliary care facility	P	N	N	C	N	P	N	N
home instruction	P	C	C	C	C	N	N	N
hospital	N	N	N	N	N	P	P	N
military installation	N	N	N	N	N	N	N	P
nursing care facility	N	N	N	C	N	P	N	N
park	P	P	P	P	P	P	P	P
penal institution	C	N	N	N	N	N	N	N
place of worship	P	C	C	C	C	P	P	N
public assembly center	C	N	N	N	N	N	P	N
public utility facility	P	C	C	C	C	C	C	P
public utility service	P	P	P	P	P	P	P	P
school	P	C	C	C	C	P	P	N

USE CLASSIFICATION	ZONING DISTRICT							
	AG	R-1	R-2	R-3	MHP	NS	HC	M-1
<i>commercial uses</i>								
animal hospital	N	N	N	N	N	P	P	N
bank or financial service	N	N	N	N	N	P	P	N
broadcast studio	C	N	N	N	N	P	P	P
business or professional office	N	N	N	N	N	P	P	P
business support service	N	N	N	N	N	P	P	P
*campground	C	N	N	N	N	N	N	N
car wash	N	N	N	N	N	N	P	P
clinic	N	N	N	N	N	P	P	N
commercial school	N	N	N	N	N	P	P	P
convenience store	N	N	N	N	N	P	P	N
*cottage industry	P	N	N	N	N	N	N	N
entertainment, indoor	N	N	N	N	N	P	P	N
entertainment, outdoor	N	N	N	N	N	N	P	N
funeral home	N	N	N	N	N	N	P	N
garden center or nursery	C	N	N	N	N	P	P	N
general retail business, enclosed	N	N	N	N	N	P	P	N
general retail business, unenclosed	N	N	N	N	N	N	P	N
home improvement center	N	N	N	N	N	N	P	P
*home occupation	P	P	P	P	P	N	N	N
hotel or motel	N	N	N	N	N	N	P	N
laundry service	N	N	N	N	N	P	P	P
medical support service	N	N	N	N	N	P	P	P
*mini-warehouse	N	N	N	N	N	N	P	P
open air market	C	N	N	N	N	N	P	P
personal service	N	N	N	N	N	P	P	P
recreation, indoor	N	N	N	N	N	P	P	N
recreation, outdoor	C	N	N	N	N	N	P	N
restaurant, fast food	N	N	N	N	N	N	P	N
restaurant, standard	N	N	N	N	N	P	P	N
shopping center, community or regional	N	N	N	N	N	N	P	N
shopping center, neighborhood	N	N	N	N	N	P	P	N
tourist home	N	N	N	N	N	P	P	N
vehicle repair service	N	N	N	N	N	P	P	P
vehicle sales or rental	N	N	N	N	N	N	P	N
vehicle service station	N	N	N	N	N	P	P	P



USE CLASSIFICATION	ZONING DISTRICT							
	AG	R-1	R-2	R-3	MHP	NS	HC	M-1
<i>industrial uses</i>								
construction service	N	N	N	N	N	N	P	P
heavy industry	N	N	N	N	N	N	N	C
maintenance service	N	N	N	N	N	N	P	P
manufacturing, general	N	N	N	N	N	N	N	P
manufacturing, light	N	N	N	N	N	N	C	P
research lab	N	N	N	N	N	N	C	P
resource extraction	C	N	N	N	N	N	N	C
salvage yard	N	N	N	N	N	N	N	C
sanitary landfill	N	N	N	N	N	N	N	C
transmission tower	C	N	N	N	N	N	P	P
vehicle and equipment repair, major	N	N	N	N	N	N	C	P
vehicle and equipment sales, major	N	N	N	N	N	N	P	P
warehousing, wholesaling, and distribution, enclosed	N	N	N	N	N	N	C	P
warehousing, wholesaling, and distribution, open	N	N	N	N	N	N	N	P
<i>temporary uses</i>								
garage or yard sales	P	P	P	P	P	N	N	N
seasonal sales	P	N	N	N	N	P	P	P
special event	P	P	P	P	P	P	P	P

**APPENDIX B**  
**CITY OF RAINBOW CITY, ALABAMA**  
**BOARD OF ZONING ADJUSTMENT**  
**BY LAWS**

**ARTICLE I – GENERAL GOVERNING RULES**

The Board of Adjustment for the City of Rainbow City (hereinafter referred to as the Board) shall be governed by the provisions of Title II, Chapter 52, Article 4, Section 11-52-80, Code of Alabama, 1975, as same may be amended, the Zoning Ordinance of the City of Rainbow City, Alabama and the rules of procedures set forth herein as adopted by the Board.

**ARTICLE II – APPOINTMENT, REMOVAL AND VACANCIES**

- 2.1 Appointment of Regular Members: The Board of Adjustment shall consist of five (5) members to be selected and appointed by the City Council from among the electors residing in the City of Rainbow City, Alabama, for the term of three (3) years except that in the first instance one member shall be appointed for a term of three years, two for a term of two years and two for a term of one years. Thereafter, each member appointed shall serve for a term of three years or until his successor is duly appointed.
- 2.2 Appointment of Supernumerary Members: In addition to the five (5) regular members, two (2) supernumerary members shall be appointed to serve on such board, at the call of the Chairman, only in the absence of regular members, and while so serving have and exercise the power and authority of regular members.
- 2.3 Removals and Vacancies:
  1. Members of the Board of Adjustment shall be removable by the City Council for cause upon written notification of charges and after a public hearing.
  2. Upon resignation or other action resulting in vacancies in office, the Chairman shall inform the City Council as promptly as possible that such vacancy does exist. The City Council shall appoint a replacement to fill out the unexpired terms.

**ARTICLE III – OFFICERS, COMMITTEES**

- 3.1 Selection of Chairman: The Board shall elect a Chairman and Vice-Chairman, who shall be Acting Chairman in the absence of the Chairman, annually in the month of December. Said officers may succeed themselves.
- 3.2 Duties of Chairman: The Chairman (or in his absence, the Vice-Chairman) shall preside at all meetings and hearings of the Board and decide all points of order and procedure. The Chairman shall appoint any committees which may be necessary.

- 3.3 Secretary: A Secretary shall be designated by the Board. The Secretary shall conduct all correspondence of the Board, keep a minute book recording attendance, the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and records of examinations and hearings and other official actions; and shall carry such other official duties as may be assigned by the Board. Minutes of all meetings and hearings shall be filed in the office of the City Clerk and shall become a matter of public record.
- 3.4 Committees: The Board shall be the authority to appoint special advisory committees as deemed necessary to assist the Board in the execution of its responsibilities. Such committees shall be advisory only and shall report back to the Board such information as requested.

#### **ARTICLE IV – MEETINGS**

- 4.1 Meetings: Meetings shall be open to the public and shall be at the call of the Chairman and at such other times as the Board of Adjustment shall specify in its rules of procedure. The Secretary shall notify all members of the Board at least twenty-four (24) hours in advance of the called meeting, except for those meetings at which a hearing will be held, then notice shall be given at least five (5) days prior to the hearing.
- 4.2 Special Meeting: Special meetings may be called by the Chairman provided that at least twenty-four (24) hours' notice of such meeting is given each member.
- 4.3 Public Notice: At all meetings where appeals will be heard, proper public notice shall be given pursuant to Section 6.3.
- 4.4 Quorum: A quorum shall consist of four members, two of which may be supernumerary members.
- 4.5 Vote: The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the properly designated administrative official, or to decide in favor of the applicant on any matter upon which it is first required to pass under the Zoning Ordinance, or to effect any variation in such Ordinance.
- 4.6 Representation, Personal Interest: Neither the Secretary nor any member of the Board shall represent or appear for any person in any matter pending before the Board. No member of the Board shall hear or vote upon an appeal in which he is directly or indirectly interested in a personal or financial way.
- 4.7 Order of Business: The order of business of all meetings shall be as follows: (a) roll call; (b) reading of the minutes from previous meeting; (c) reports of committees; (d) unfinished business; (e) hearing of cases; (f) other new business.

- 4.8 Adjourned Meetings: The Board may adjourn a regular meeting if all business cannot be disposed on the day set, and, if the time and place of the continued meetings by publicly announced at the time of adjournment and is not changed after adjournment, no further notice shall be required.
- 4.9 Parliamentary Authority: The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Board of Adjustment in all cases to which they are applicable and in which they are not inconsistent with these Bylaws or any special rules of order the Board of Adjustment may adopt.

## **ARTICLE V – POWERS AND DUTIES OF BOARD**

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

- 5.1 Administrative Review: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the administrative official in the enforcement of the Zoning Ordinance.
- 5.2 Variances: To authorize upon appeal in specific cases variances from the terms of the Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship.
- 5.3 Powers of Administrative Official: In exercising the above powers, the Board may, in accordance with the terms of the Zoning Ordinance, reverse or affirm, wholly or partly; or may modify the order, requirement, decision or determination appealed from and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

## **ARTICLE VI- APPEALS**

- 6.1 Standing: Appeals to the Board of Adjustment may be taken by any person aggrieved, or by an officer, department of board of the City.
- 6.2 Filing Procedures: Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provision of the Zoning Ordinance may be made to the Board of Adjustment within twenty-one (21) days after the date of the Zoning Administrator's decision which is the basis of the appeal. An administrative fee of \$100.00 shall be collected before any appeal can be filed with the Board. The person making the appeal must file with the officer whom the appeal is taken and the Board of Adjustment, a notice of appeal specifying the grounds for the appeal. Upon receipt of the completed form and payment of the established fee, the Zoning Administrator shall immediately transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

- 6.3 Hearing: When a notice of appeal has been filed in proper form with the Board of Adjustment, The Secretary shall immediately place the said request for appeal upon the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the party or parties making the request for appeal and to all adjoining property owners as given in the last assessment roll as submitted by the applicant. All mailed notices shall be sent to addresses as supplied by the applicant. Public notice shall also be given stating the time, place and purpose of such hearing. Additional notice shall be posted on the premises affected.
- 6.4 Withdrawal of Appeal: If the applicant wishes to withdraw the appeal at any stage prior to the determination by the Board, this fact shall be noted on the appeal application, and appropriate copies, with the signature of the applicant attesting withdrawal. The original shall be retained by the secretary and filed with the minutes. One copy of the appeal shall be returned to the applicant.
- 6.5 Amendment of Appeal: Amendment of the appeal may be permitted at any time prior to or during the public hearing, provided that no amendment shall so alter the appeal as to make it different from its description in the notice of public hearing.
- 6.6 Additional Information: When deemed necessary, the Board may request the applicant to provide such information as may be needed to determine a particular case.
- 6.7 Stay: An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment after the notice of the appeal shall have been filed with him that, for reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or, on application, by a court of record when due cause can be shown.

## **ARTICLE VII – VARIANCES**

- 7.1 Authority: The Board is authorized upon appeal in specified cases to grant variances from the terms of the Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship.
- 7.2 Filing Procedures: A complete application for an appeal for variance accompanied by a \$100.00 application fee shall be filed with the Board.
- 7.3 Notice of Hearing: Upon receipt of the completed application form and the appropriate fee, the Secretary shall immediately place the said request upon the calendar for hearing, and shall give proper notice in accordance with the provisions of Section 6.3.

- 7.4 Standards of Variances: Before any permit for a variance is issued, the Board shall make written findings certifying compliance with the following specific rules:
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structure, or buildings in the same district;
  2. That literal interpretation of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance;
  3. That the special conditions do not result from actions of the applicant (self-imposed hardship);
  4. That granting of the variance will not confer any special privilege on the applicant that is denied by this ordinance to other lands, structures, or buildings in the same district;
  5. That granting of the variance is in harmony with the intent and purposes of the Zoning Ordinance;
  6. That the variance will not adversely affect surrounding property, the general neighborhood, or the community as a whole;
  7. That no nonconforming use of neighboring lands, structure, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
  8. That the variance will not allow the establishment of a use not permissible under the terms of the Zoning Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the ordinance in said district.
- 7.5 Hardship: In proving that a hardship has been imposed on the property as a result of the strict interpretation of the Zoning Ordinance, the following conditions cannot be considered pertinent to the determination of a hardship:
1. Proof that a variance would increase the financial return from the land.
  2. Personal hardship.
  3. Self-imposed hardship.
- 7.6 Minimum Variance: In granting variances, the Board shall grant only the minimum variance that will make possible the reasonable use of the land, building, or structure.
- 7.7 Conditions and Safeguards: In granting variances, the Board may require such conditions and safeguards as deemed appropriate to insure that intent of the Zoning Ordinance.

- 7.8 Hearings and Determinations: Hearings and determinations on appeals for variances shall conform to the requirements set forth in Article IX.
- 7.9 Voidance of a Variance: Failure of the applicant to conform to the conditions and safeguards specified in the terms of the variance, shall be deemed a violation of the Zoning Ordinance and voids the permit.

### **ARTICLE VIII – ORDINANCE INTERPRETATION**

- 8.1 Authority: The Board is authorized to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this article or any ordinance adopted pursuant thereto.
- 8.2 Filing Procedures: A complete application for an appeal for ordinance or map interpretation accompanied by a \$100.00 application fee shall be filed with the Board.
- 8.3 Notice of Hearing: Upon receipt of the completed application form and the appropriate fee, the Secretary shall immediately place the said request upon the calendar for hearing, and shall give proper notice in accordance with the provisions of Section 6.3.
- 8.4 Standards for Interpretations:
1. The interpretation should expand beyond the specific case being considered and thought of as having general, city wide applicability.
  2. Interpretation does not convey the right of legislation – the intent of the ordinance must be upheld. Interpretations shall serve to clarify the intent of the ordinance and map, but in no case shall result in revision of the terms of the ordinance or intent of the ordinance and zoning map.

### **ARTICLE IX – HEARING, REHEARING, AND FINAL DECISIONS**

- 9.1 Hearing: An appeal shall be heard within thirty (30) days from the time of filing unless the appeal is withdrawn. If amended to the degree that the appeal is different from its description in the public notice, the appeal shall then be heard within thirty (30) days of the filing of the amendment. Appeals shall be heard in order of receipt of application; amended appeals according to the date of amendment.
- 9.2 Order of Hearing: The order of the hearing shall be:
- (1) Statement of Case by Chairman
  - (2) Supporting Arguments by Applicant or his Agent

- (3) Supporting Arguments by Person at Hearing
- (4) Opposing Arguments by Persons at Hearing
- (5) Rebuttal by Supporters Other than Applicant
- (6) Rebuttal by Applicant or Agent

The Chairman may establish appropriate time limits for the arguments which shall be equal for both sides. The Chairman may request that representatives be selected to speak for each side.

- 9.3 Rehearing: Where there is a substantial change in facts, evidence or conditions, the Board may accept an application for rehearing. Any matter not previously reheard by the Board may be heard again on a motion adopted by unanimous vote of all members.
- 9.4 Final Decisions: Final decisions shall be made by resolution within thirty (30) calendar days of the last public hearing at which the appeal was considered. A concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the properly designated administrative official.

Findings of the Board shall be noted in the resolution and in the minutes. Any conditions, safeguards or time limitations prescribed by the Board shall be included in the resolution. Notations concerning the decision shall be placed on the application. The original application and resolution shall remain in the files of the Board. One copy of the application and resolution shall be returned to the applicant within five (5) days of the decision.

**ARTICLE X – AMENDMENT, ADOPTION**

- 10.1 Amendment: No rule herein shall be changed or waived without the affirmative vote of four members of the Board.
- 10.2 Adoption: These rules of procedure were adopted by the Board of Adjustment on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Attest: Secretary

\_\_\_\_\_  
Chairman



## **APPENDIX C**

### **CITY OF RAINBOW CITY, ALABAMA**

#### **PLANNING COMMISSION BY LAWS**

##### **ARTICLE I**

###### **OBJECTIVES**

The objective and purposes of the Planning Commission of the City of Rainbow City, Alabama, are those set forth in Title II, Chapter 52, Articles 1 through 4, Code of Alabama, 1975, as the same may be amended, and those powers and duties are delegated to the Planning Commission by the City Council of the City of Rainbow City, Alabama by ordinance in accordance with the enabling law.

##### **ARTICLE II**

###### **NAME OF THE COMMISSION**

The official name of the Planning Commission shall be the Rainbow City Planning Commission.

##### **ARTICLE III**

###### **OFFICERS**

The officers of the Planning Commission shall consist of a Chairman, a Vice-Chairman and a Secretary.

Section 3.1 The Chairman shall preside at all meetings of the Planning Commission and at other meetings and public hearings called by the Planning Commission.

- (a) He (she) shall decide all points of order or procedure and perform any duties required by law, ordinances, these rules, or the Planning Commission.
- (b) He (she) shall call special meetings of the Planning Commission when required and shall transmit reports, plans, and recommendations of the Planning Commission to the City Council, and in general, shall act as spokesperson for the Planning Commission.
- (c) The Commission shall consist of nine (9) members: the Mayor, one of the administrative officials of Rainbow City, a member of the Council selected by it as a member ex officio and six persons appointed by the Mayor.

- (d) The Chairman shall be one of the six (6) appointed members of the Planning Commission. He (she) shall have the privilege of discussing all matters before the Planning Commission and of voting thereon.

Section 3.2 The Vice-Chairman shall serve as Chairman in the absence or the disability of the Chairman.

- (a) In the event of the death or resignation of the Chairman, the Vice-Chairman shall perform the latter's duties until such time as the Planning Commission shall elect a new Chairman.
- (b) The Vice-Chairman shall also be an appointed member of the Planning Commission.

Section 3.3 The Planning Commission shall designate one of its members or a municipal employee to act as Secretary of the Commission.

- (a) The Secretary shall assist the Chairman in the preparation of the agenda for Planning Commission meetings, shall prepare and send out notices for regular and special meetings, shall prepare and distribute minutes of Commission meetings, and shall establish and maintain the Commission's files.
- (b) The Secretary shall also arrange for proper and legal notice of public hearings, attend to correspondence of the Planning Commission, and shall carry out such other duties as are normally the responsibility of a Secretary.

#### **ARTICLE IV**

Annually, at the regular meeting held in the month of July, the Planning Commission shall elect a Chairman, a Vice-Chairman and a Secretary. The officers may succeed themselves.

Section 4.1 Nomination of officers shall be made from the floor, and the election shall follow immediately thereafter.

Section 4.2 A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected and shall serve for one year or until his successor shall take office.

Section 4.3 Vacancies in offices shall be filled immediately by regular election procedures.

#### **ARTICLE V**

##### **MEETINGS**

Regular meeting of the Planning Commission shall be held on the fourth (4<sup>th</sup>) Tuesday of each month at the City Hall in the City of Rainbow City, Alabama at 4:00 P.M.

Section 5.1 A quorum necessary for the transaction of business shall consist of five (5) members of the Planning commission. Except as specifically otherwise provided by statute, ordinance, or these rules of procedure, the business of the Planning Commission shall be transacted by a majority vote of members present.

Section 5.2 The order of business at regular meetings shall be:

- a) roll call,
- b) reading and approval of minutes of previous meeting(s),
- c) communications from City Council,
- d) old business
- e) hearing of applications: the applicant, or an authorized representative, shall be present to answer any questions the Planning Commission may have. If no one is present to answer questions, the application(s) shall be tabled until the next meeting, at which time if no one is present, the application shall die for a lack of a motion. Any fee(s) to re-file an application after this time shall be due again.
- f) reports,
- g) resolutions,
- h) communications and miscellaneous business, and
- i) adjournment.

Section 5.3 Special meetings of the Planning Commission shall be held upon call of the Chairman, and at such other times as the Planning Commission may determine, provided that at least 48 hours notice is given in writing to each member.

Section 5.4 All meetings and hearings of the Planning Commission shall be open to the public.

## **ARTICLE VI**

### **RECORDS**

Section 6.1 The Secretary shall keep minutes of the proceedings of each meeting of the Planning Commission, showing the vote on each question.

Section 6.2 In addition to the minutes of the Planning Commission, the Secretary shall keep a permanent file of all plats, maps, charts, reports, notices, resolutions, correspondence and applications filed with and issued by the Planning Commission.

Section 6.3 The minutes and all records of the Planning Commission shall constitute public records, and the Planning Commission shall arrange with the City Commission to provide for the safe keeping of those records.

**ARTICLE VII**

**EMPLOYEES, CONTRACTS, AND FINANCES**

Section 7.1 The Planning Commission may request the City Council to designate municipal employees to assist in the work of the Planning Commission, and the Planning commission may also recommend that the City contract with city and regional planners, engineers, architects and other consults for such services as may be required.

Section 7.2 The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council.

Section 7.3 The Secretary shall have custody of all funds coming into the possession of the Planning Commission, shall deposit those funds in a manner approved by the Planning Commission, and shall establish and maintain the Planning Commission’s books of account. Under the Planning Commission’s direction and upon its authorization, the Secretary shall sign all orders and checks for the payment of money and shall pay out and disburse Commission funds.

**ARTICLE VIII**

**AMENDMENTS TO THE BYLAWS**

The Planning Commission may from time to time amend any part or parts of these rules and regulations so long as such amendments are in accordance with the laws of the State and Ordinances of the City of Rainbow City; such amendments shall require the affirmative vote or six (6) members of the Planning Commission.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary