



CITY OF FOLEY  
ZONING  
ORDINANCE

September 2, 2025

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ZONING ORDINANCE OF THE  
CITY OF FOLEY, ALABAMA

**PREAMBLE**

AN ORDINANCE, IN PURSUANCE OF THE AUTHORITY GRANTED BY VOLUME 10, TITLE 11, CHAPTER 52, ARTICLE 4, CODE OF ALABAMA 1975, AS AMENDED AND SUPPLANTED BY ALL APPLICABLE LAWS TO PROVIDE FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS OF FOLEY, ALABAMA: TO REGULATE WITHIN SUCH DISTRICTS THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOTS THAT MAY BE OCCUPIED, THE SIZE OF YARDS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION AND THE USE OF BUILDINGS, STRUCTURES AND LAND: TO REPEAL ALL EXISTING ZONING ORDINANCES AND TO PROVIDE METHODS OF ADMINISTRATION OF THIS ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF.

THE PUBLIC WELFARE REQUIRING IT, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOLEY, ALABAMA AS FOLLOWS:

# **ARTICLE I**

## **SHORT TITLE**

This Ordinance, and any amendments to the same, shall be known as the Zoning Ordinance of Foley, Alabama (sometimes referred to herein as the “Ordinance”), and the map herein referred to, identified by the title "Zoning Map" of Foley, Alabama shall be further identified by the signature of the Mayor of Foley and attested to by the City Clerk. The Zoning Map of Foley is hereby adopted and made a part of this Ordinance. The Zoning Map is filed with the City Clerk of Foley at the time of the introduction of this Ordinance, and it will remain on file in the office of the City Clerk as amended from time to time. Upon the adoption of this Ordinance, the Zoning Map shall show by endorsement thereon the date of such adoption.

## ARTICLE II - DEFINITIONS

### 2.1 DEFINITIONS APPLICABLE TO THIS ORDINANCE

For the purpose of this Ordinance words used in the present tense include the future and past tense, the singular includes the plural, the plural includes the singular, the male gender includes the female and the female gender includes the male. Words and terms have their common meaning and definition and are further, more specifically defined as follows:

Accessory Dwelling Units (ADU): A second dwelling unit that is either contained within the structure of a single family dwelling unit or in a separate accessory structure on the same lot as the principal residential building for use as a complete, independent living facility with provisions within the accessory dwelling for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the principal residential building and includes accessory apartments, garage apartments and guesthouses. Recreational Vehicles nor Manufactured Homes can be considered as an ADU.

Accessory Structure: A structure that:

- A. Is subordinate to and serves the principal building or principal use;
- B. Is subordinate in area, extent, or purpose to the principal use served;
- C. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served;
- D. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served; and
- E. Shall not include kitchen or sleeping facilities.

Accessory Use: A use customarily incidental and subordinate to the principal use of the building or land on which the accessory use exists. An accessory use must be located on the same lot or in the same building with the principal use of the land or building.

Adjoining Lot: A lot or parcel of land that shares all or part of a common lot line with another lot or parcel.

Agriculture: The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products. This does not include small gardens for personal use (see Garden).

Alley: A Street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

Alter: Any form of the word “alter”, including alteration and altered, shall mean any of the following:

- A. Any addition or change to the height, width, shape or depth of a building or structure;
- B. Any change in the location of any of the exterior walls, roof or floor of a building or structure; or
- C. Any change in the interior accommodations of a building or structure

Amusement: A recreational facility providing family-oriented entertainment which may include the following: rides, games, water slides, wave pools, boats, performing animals, zoos, aviaries, botanical gardens, museums, theme villages, golf courses, miniature golf courses, theaters, mini-railroads and similar uses.

Antennas, Aerials, Telecommunication Tower: Any device or structure used to support or to transmit and/or receive radio, telephone, television or other electromagnetic waves between terrestrially and/or orbital based structures for the purpose of carrying, magnifying or transferring such signals between sending and receiving instruments.

Assembly, Places of: Land or buildings arranged for public assembly or for religious purposes such as, community centers, churches and synagogues, including related facilities for instruction, meeting, recreation, and other integrally related activities.

Automobile Repair, Minor: A place of business engaged in the repair and maintenance of automobiles and light trucks including the sale, installation, and servicing of mechanical equipment and parts but not including painting, body work, upholstery work, fabrication of parts, or rebuilding of engines.

Automobile Repair, Major: A place of business engaged in the repair and maintenance of automobiles and light trucks including the sale, installation, and servicing of mechanical equipment and parts including painting, body work, upholstery work, fabrication of parts or rebuilding of engines.

Awning: A shelter attached to and hanging from a vertical surface of a building without any other support from the ground.

Block: That portion of land bounded on all sides by the nearest intersecting streets. Alleys may exist within blocks without dividing the land into different blocks.

Boarding House / Bed and Breakfast: A building or structure which is capable of and used for providing lodging or lodging and meals for up to three (3) guest rooms. This use cannot be located within one-thousand (1,000) feet of the same use. The owner of the Bed and Breakfast must reside on site. This is a Use Permitted on Appeal and requires a city license to operate.

**Borrow Pit:** An area from which soil or other unconsolidated materials are removed to be used, with or without further processing, for highway or road construction and maintenance or other similar use.

**Building:** Any structure which may be entered and utilized by persons for business, public use, lodging or the storage of goods, or for carrying on business therein. Where a single building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building.

**Building Area:** That portion of a lot located inside all the required setbacks and within all the other restrictions on which a particular type of structure or building is permitted by this Ordinance. The building area on one lot may differ depending on the type of structure or building is considered (e.g., accessory structures may be allowed in areas a principal structure is not allowed) The building area shall not include areas on which no structure or building can be built or located, such as areas designated or dedicated for storm water retention/detention, open ditches, wetlands, and other such areas.

**Building Line:** The line marking the closest point to the street a principal building may be erected pursuant to this Ordinance. For all lots, including corner lots, the building line is on the front yard side of the lot, as determined by this Ordinance.

**Child/Adult Care:** The provision of care for individuals, who are not related to the primary caregiver. A child care facility which is the family home in which the operator resides and which receives not more than six (6) children, and is licensed as a Family Day / Night Care Home by DHR. A child care facility which is the family home in which the operator resides and which receives not more than twelve (12) children, and is licensed as a Family Group Day / Night Care Home by DHR. This use cannot be located within one-thousand (1,000) feet of the same use. This is a Use Permitted on Appeal and requires licensing from DHR and a city license to operate.

**Clubs / Lodges:** A club or lodge means an association of persons or a use of property by an association of persons organized for some common purpose(s), including social, fraternal, literary, political, educational, historical, or recreational purposes, but excluding such groups organized primarily to render a service which is customarily carried on as a business, such as a bar or lounge. A club or lodge is further defined by the following classifications:

|                       |                |                                  |
|-----------------------|----------------|----------------------------------|
| Class 1 Club or Lodge | Not for Profit | Does not sell or provide alcohol |
| Class 2 Club or Lodge | Not for Profit | Does sell or provide alcohol     |
| Class 3 Club or Lodge | For Profit     | Does not sell or provide alcohol |
| Class 4 Club or Lodge | For Profit     | Does sell or provide alcohol     |

If a certain Class of Club or Lodge is allowed by right in a district, then that Class or any lower numbered Class is allowed by right in that district (e.g., if a district allows Class 2 Club or Lounge, then Class 2 or Class 1 Clubs or Lounges can be located in that district by right).

Co-location: The use of one wireless telecommunications tower by more than one wireless telecommunications provider.

Communal Living Facilities: Communal Living Facilities are facilities in which 3 or more unrelated individuals live in group living arrangements. Communal Living Facilities include Group Home/Family Care Home; Bed and Breakfast; Transitional Home.

Community Development Director: Such person or persons designated to be responsible for the administration and enforcement of certain provisions of this Ordinance. The Community Development Designees may include, but are not limited to, the Planning and Zoning Coordinator, Zoning Administrator, Code Enforcement Officer, and other Community Development staff.

Condominium: A multi-unit dwelling, group of multi-unit dwellings, townhouse complex, group of townhouse complexes, or any combination thereof; each of whose residents, known as unit owners, enjoys exclusive ownership of his individual apartment or dwelling unit holding fee simple title thereto, while retaining an undivided interest, as a tenant in common, in the common facilities and areas of the building or buildings and grounds which are used by all the residents.

Courtyard: An open space that is surrounded completely or partly by a building or group of buildings. See Plaza.

Density: The number of separate dwelling units per gross residential acre. For new developments and subdivisions, the number of separate dwelling units in the net residential acreage excluding delineated wetlands, lakes, ponds, and storm water detention / retention facilities shall also be provided.

Digital Billboard: A billboard (off-premises sign) with an electronic changeable copy sign face.

Domesticated Animal: Any animal used as a pet that is not a cat or a dog, including, but not limited to, rabbits, squirrels, raccoons, pot-bellied pigs, birds, snakes, or reptiles.

Domesticated Pot-Bellied Pig: a non-livestock breed of swine (commonly of the Vietnamese or Asian pot-bellied pig varieties) that is specifically bred and kept as a household pet.

Domestic poultry (Hen): Female chickens and ducks raised for their edible eggs. Specifically excluding roosters (male chickens), drakes (male ducks), and all other species of fowl.

Drive-In Restaurant: A restaurant or public eating business so conducted that food, meals, or refreshments are designed to be or are capable of being delivered to the occupants of motor vehicles without requiring the occupants to leave the vehicle.

Dry Cleaners, Small: Laundry cleaning enterprises using non-flammable, non-explosive type cleaning solvent which occupy not more than one thousand five hundred (1,500) square feet of



floor space; which operate not more than two (2) delivery and pickup trucks; and which employ not more than four (4) persons, exclusive of sales clerks and truck drivers.

Dry Cleaners, Large: Laundry cleaning enterprises occupying more than one thousand five hundred (1,500) square feet of floor space and/or employing more than four (4) persons exclusive of sales clerks and truck drivers.

Driveway: Private road connecting to public road. A private road that enables vehicles to travel from a public road to a building.

Dumpster Enclosure: Dumpster / Trash enclosures are a structure built to provide shelter for a trash dumpster and for recyclable materials.

Duplex: A home with two dwelling units within one structure. See Dwelling – Two Family

Dwelling: A house or other building used primarily as an abode for one (1) or two (2) families; except that the word dwelling shall not include boarding or rooming houses, tents, tourist camps, hotels, recreational vehicles, recreational vehicle parks, or other structures designated or used primarily for transient residents.

Dwelling - One Family: A dwelling used or capable of being used for housing only one (1) family; sometimes referred to herein as a single-family dwelling.

Dwelling - Two Family: A dwelling used or capable of being used for housing two (2) families in separate units or quarters that are totally independent of each other.

Dwelling - Multi-Family: A dwelling used or capable of being used for housing more than two (2) families in separate units or quarters that are totally independent of one another.

Family: One or more persons occupying a dwelling unit and living as a single or traditional housekeeping unit who are related by blood, legal adoption, marriage, foster children, plus no more than (1) additional unrelated person; or, up to a maximum of three (3) unrelated persons living together in a dwelling unit. The Maximum occupancy is determined by the Fire Department and a minimum of seventy (70) square feet of bedroom gross floor area per resident. For the purpose of this definition, a bedroom is defined as a room designed or designated for sleeping and not bathrooms, hallways, closets, utility or storage rooms or areas or rooms which primary use is for eating, cooking or general congregating.

Fence: Any artificial obstruction to free movement from one area of land to another area of land which is fixed in the ground and which is not a sign or building, as those terms are defined herein.

Feather Flags: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, or mounted from any type of pole, designed to move in the wind.

Foley Directional / Wayfinding Signs: Signs erected by or on behalf of the City of Foley in the public right of way pursuant to City ordinances and regulations directing travelers to business locations from intersections.

Footcandle: A term used to describe a unit of measure of the density of light that falls on a surface. A footcandle is equal to one lumen per square foot. A footcandle measures the amount of illumination on a surface from a light source.

Garden: A garden is defined as a space where plants or fruits and vegetables are grown for personal use, not for wholesale distribution.

Garden-Patio Home (GPH): A single family dwelling located on its own lot or two (2) single family dwellings connected by a firewall as required by the Building and Fire Codes with only one (1) side yard required per dwelling, with a minimum six hundred (600) square feet of court yard, patio or open space provided per dwelling, or as otherwise stated in this Ordinance.

Gross Acre: A measure of land equal to one acre, including all areas of land regardless of whether or not any structure, building or other improvement is capable or permitted to be built on that area.

Group Home / Family Care Home: Group home means a dwelling unit, operated by an affiliate of a national, regional, state or county organization with a philanthropic mission, shared by four or fewer persons, excluding resident staff, who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education and participation in community activities, under a structured and scheduled plan that must be provided to the city, for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential under the direction and guidance of a designated managing caregiver, designated as such by the affiliate organization, who must be a resident of the group home and available by telephone on a 24-hour basis in case of complaints. A copy of the home rules shall be provided to the City. This use cannot be located within one-thousand (1,000) feet of the same use. This is a Use Permitted on Appeal and requires a city license to operate.

The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, a work release facility for convicts or ex-convicts, a home for the detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in the custody of the state, or other housing facilities serving as an alternative to incarceration. The term "group home" shall also not allow the use of a dwelling as an apartment or duplex. A group home shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in Alabama Code § 13A-6-60 to § 13A-6-71 or individuals required to register as sex offenders pursuant to Alabama Code 15-20A-1 to § 15-20A-48. A group home may include a home for the disabled. As used in this subsection, the term "disabled" shall mean:

- a) Having a physical or mental impairment that substantially limits one or more of such person's major life activities;
- b) Having a record of having such an impairment; or
- c) Being regarded as having such an impairment.

However, "disabled" shall not include persons who currently use illegal controlled substances, persons who have been convicted of the illegal manufacture or distribution of controlled substances, sex offenders, and juvenile offenders or persons with or without disabilities who present a direct threat to the persons or property of others.

Habitable Structure: A structure containing spaces for living, sleeping, eating, cooking, or any combination thereof.

Home-Based Business: The use of a premise principally as a residence but in which one or more people operate a business or commercial enterprise pursuant to the restrictions and provisions contained in this Ordinance.

Home Occupation: The use of a premises principally as a residence but in which the inhabitants thereof operate a business or commercial enterprise pursuant to the restriction and provisions contained in this Ordinance.

Hotel: Any establishment where sleeping or sleeping and eating accommodations are advertised or held out to be available to transients, whether such establishment be known as a hotel, condotel, apartment hotel, inn, tavern, club, resort, tourist home, tourist court, motel, court, motor court, motor lodge or by other like term, but this term shall not be construed to include apartments, clubs, manufactured home parks, boarding houses, rooming houses or portions thereof where single night accommodations are not advertised or held out to be available.

Illegal Non-Conforming Building/Structure: Any building or structure which was erected, constructed, modified or altered in violation of the provisions of the then-current Zoning Ordinance.

Illegal Non-Conforming Lot: Any lot or parcel of land which, when subdivided or otherwise altered, changed or created, was in violation of the provisions of the then-current Zoning Ordinance.

Illegal Non-Conforming Use: Any use which, when commenced, was in violation of the provisions of the then-current Zoning Ordinance.

Inflatable: Any device used to draw attention to a specific business through the means of continuous forced air flow to include balloons.

Institutional Uses: A use in which people are cared for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted.

Intersection: All areas of land included within two or more different streets which join each other or come into contact with each other where vehicles traveling upon different streets may come in conflict. The junction of an alley or private driveway with a street shall not constitute an intersection.

Joint Residential & Commercial Use: A joint use is a type of commercial property that includes both commercial and residential space. The residential uses shall be designed so that they are compatible with the commercial uses. Residential and commercial uses shall not occupy the same floor of a building or share the same entrances. Where an existing single story structure is located in a zone that allows Joint Residential & Commercial Use, it may also be used for that purpose providing that it can maintain separate entrances, and achieve full compliance with Building Code separation of use and any applicable fire suppression requirements.

Kennel: A business establishment not operated by a licensed veterinarian, where animals are bred, raised, groomed, boarded or trained with either indoor or outdoor overnight animal retention facilities.

Kitchen Facilities: Facilities and equipment associated with the preparation and storage of food and meals, including the cleaning and washing of related items.

Landscaping Material: Living material including, but not limited to, trees, shrubs, vines, lawn grass, ground cover, and landscape water features. Non-living material may be used in such a manner as to present a finished appearance and to complete coverage, and may consist of pine or cypress bark, crushed pecan shell, pine straw, or other decorative mulch.

Legal Non-Conforming Building / Structure: Any building or structure which was lawfully erected, constructed, modified or altered in conformity with all applicable zoning and municipal ordinances, or pursuant to a variance granted by the Board of Adjustment and Appeals, but which does not comply with one or more subsequently enacted or applicable provisions of this Ordinance.

Legal Non-Conforming Lot: Any lot which was lawfully created or subdivided in conformity with all applicable zoning and municipal ordinances, Planning Commission regulations and other laws, or through variance granted by the Board of Adjustment and Appeals, but which does not comply with one or more subsequently enacted or applicable provisions of this Ordinance.

Legal Non-Conforming Use: Any use which was lawfully operated in conformity with all applicable zoning and municipal ordinances, or through variance granted by the Board of Adjustment and Appeals, but which does not comply with one or more subsequently enacted or applicable provisions of this Ordinance.

Livestock: The term "livestock" shall refer to equine or equidae, cows, calves, yearlings, bulls, oxen, sheep, goats, lambs, kids, hogs, shoats, and pigs; excluding "domesticated animals" (see definitions).

Living Quarters: Housing providing facilities for sleeping and bathing.

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as permitted by law. Two or more adjoining lots in identical ownership may be combined to create one lot for purposes of setbacks, distances and areas within or from lot lines.

Master Signage Plan (MSP): A comprehensive document presented to and approved by the Planning Commission that contains a set of criteria and standards for present and future freestanding signage in common areas of a Planned Development in order to create a cohesive architectural statement. The MSP should identify locations of all expected signage and call out any requested relaxations of the standard sign regulations included in this zoning ordinance. The MSP may be modified as needed during site plan approvals through a Planned Development's progress in phases.

Mentally Retarded or Mentally Ill Living Facilities: The classification of "multifamily" shall not exclude a group home in which 10 or less unrelated persons who are mentally retarded or mentally ill may reside, and said home may, in addition thereto, include two additional persons who need not be related by blood or marriage to each other or to any of the mentally retarded or mentally ill persons living in the home. These are allowed in a Multi-Family zone.

Mobile / Manufactured Dwelling: Any vehicle or similar portable structure, mounted or designed for mounting on wheels, used or intended for use for permanent dwelling purposes including structural additions, except parked and unoccupied camping-type trailers. Any vehicle or structure shall be deemed to be a mobile / manufactured dwelling whether or not the wheels have been removed there from and whether or not resting on temporary or permanent foundations. Manufactured dwelling structures must be approved by the Alabama Manufactured Housing Commission.

Mobile / Manufactured Dwelling Park: A tract of land under unified control which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of the Ordinance, which is intended for the express purpose of providing a satisfying living environment for mobile / manufactured dwelling residents on a long term occupancy basis.

Mobile / Manufactured Dwelling Subdivision: A tract of land with individually owned lots, which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance and Subdivision Regulations of the City of Foley, which is intended for the express purpose of providing a satisfying living environment for mobile/manufactured dwelling residences on a long term occupancy basis.

Mobile Vendors: Offering or soliciting for sale, or the attempted or actual sale of, foodstuffs, goods, wares, merchandise, labor or services by any person on foot, from a temporary structure (such as a stall, tent or table), or from a vehicle (such as a motor vehicle, bicycle, scooter, trailer, cart, wagon or other form of conveyance).

Mobile Food Vendor: A vehicle-mounted food service establishment designed to be readily moved.

Modular Dwelling: A structure or building designed to be used or actually used as a dwelling unit constructed by the assembly of pre-manufactured units, component parts, sections or modules and designed to be placed or actually placed on a permanent foundation. Modular structures must be approved by the Alabama Manufactured Housing Commission.

Monopole: A type of wireless telecommunications tower that has one single, self-supporting metal tube securely anchored to a foundation that does not use guy wires. A monopole may have the antennas mounted on the outside of the structure.

Motel: A type of hotel that has separate outside entrances for each guest room or suite of rooms and having automobile parking spaces provided for each room. Sometimes referred to as a “Motor Court.”

Multi-Family: A building which is used as a residence for three (3) or more families living in separate dwelling units.

Non-Conforming Lot: A lot, which does not conform to one or more provisions of this Ordinance or any subsequent amendments thereto, for the district in which it is located. It may be a legal non-conforming lot or an illegal non-conforming lot depending on when it was created in relation to when the offended provision of the Zoning Ordinance was enacted or applicable to it.

Non-Conforming Structure / Building: A building or other structure, which does not conform with one or more provisions of this Ordinance, or any subsequent amendments thereto, for the district in which it is located. It may be a legal non-conforming structure/building or an illegal non-conforming structure/building depending on when it was constructed, erected, altered or modified in relation to when the offended provision of the Zoning Ordinance was enacted or applicable to it.

Non-Conforming Use: A use of any structure or of land which does not conform with one or more provisions of this Ordinance, or any subsequent amendments thereto, for the district in which it is located. It may be a legal non-conforming use or an illegal non-conforming use depending on when it was commenced in relation to when the offended provision of the Zoning Ordinance was enacted or applicable to it.

Offices: A building or area of rooms used for professional, administrative, clerical and similar uses, but not including residential, retail sales, wholesale distribution, or other such uses.

Office / Warehouse: A single building which is used by one owner or one tenant as both an office in one distinct area (which is accessible by the public) and used for the storage of goods and materials for wholesale or retail distribution and sale in another distinct area of the building. It may also function as a distribution center. Storage excludes bulk storage or materials, which are flammable, explosive or hazardous. The office operation may be incidental to the warehouse function attached to it.

Open Space: Any land or area, the preservation of which in its present use would: conserve and enhance natural or scenic resources; protect streams or water supply; promote conservation of soils, wetlands, beaches or tidal marshes; enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries; and/or enhance recreation opportunities.

Open Space (Residential Development): Land area within a residential development that is in a centralized location held in common ownership for all the residents for recreation, protection of natural land features, amenities or buffers. Open space must be 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. Open space does not include land occupied by non-residential buildings (except for shared amenities), common driveways, parking areas, street rights-of-way, required drainage areas or storm water management nor does it include lots for single family or multi-family dwellings. Open space should be left in a natural state or landscaped, except in the case of recreational structures.

Overlay District: A zoning district that encompasses one or more underlying zones and that may vary the requirements, uses and standards of the underlying zone.

Parcel: A contiguous area of land described in a single description by a deed or other instrument or as one of a number of lots on a plat or plan, separately owned and capable of being separately conveyed.

Parking Space: The space necessary to park an automobile along with necessary lanes and maneuvering areas.

Pennants: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, string, or mounted from any type of pole usually in a series, designed to move in the wind.

Pet Grooming: Any facility in a totally enclosed building where animals are groomed but where overnight boarding is not permitted.

Planned Developments: A Planned Development (PD) is a regulatory process which promotes holistic real estate development by segmenting potential development by land use or dwelling types, by clustering uses and strengthening the collaboration required between developers and municipalities. The goal of this type of regulation is to promote unified planning, sound economics and to protect the interests of all community members.

Planned Development District (PDD): A specific zoning district that is subject to this Ordinance and to additional restrictions that may be imposed by the City Council when created.

Planned Industrial District (PID): A specific zoning district that is subject to this Ordinance and to additional restrictions that may be imposed by the City Council when created. This is designed to be primarily an industrial development.

Planned Unit Development (PUD): A specific zoning district that is subject to this Ordinance and to additional restrictions, which may be imposed by the City Council when created.

Plaza: An open area usually located near urban buildings and often featuring walkways, trees and shrubs, places to sit, and businesses. See Courtyard.

Poultry: Domesticated fowl collectively, especially those valued for their meat and eggs, such as chickens, turkeys, ducks, geese, and guinea fowl.

Professional service and office uses: This group of uses includes business and professional offices, medical offices or clinics, financial institutions without drive-up windows, and personal service businesses where the service is performed on an individual-to-individual basis as opposed to services which are performed on objects or personal property. Examples of personal service businesses are barber shops, beauty shops, or photography studios. This group of uses may include a dispatching/communications/office center for the distribution of goods, but specifically excludes the warehousing or actual distribution of goods.

Project Area: Total land area for the purpose of development with site improvements.

Public Building: A building used or designed to be used principally by a municipality, county, state, public corporation, public utility or by the federal government as a courthouse, jail, city hall, auditorium, library, civic center, music hall, art gallery, art center, museum, municipal building, post office, office, warehouse, storage, and other uses deemed necessary by these types of entities.

Public Building, Governmental: A public building, intended primarily for use by a municipality, county, or state, is authorized by law for the execution of the entity's statutorily sanctioned functions and purposes. This authorization is grounded in the power and authority to perform functions essential for activities reasonably necessary to fulfill the city's governmentally authorized functions and activities.

Public Building, Proprietary: A public building or structure with proprietary purposes serves a commercial or business function through its function or structure, designed to generate revenue. It may be available to the public or commercial establishments which are not directly related to the discharge of their governmental powers.

Public Uses: Building, structures and uses of land by a unit of government, including but not restricted to government administration, thoroughfares, libraries, parks, playgrounds, recreation centers, fire stations and other similar uses.

Recreational Vehicle: For the purposes of this Ordinance, a recreational vehicle shall consist of any of the following as herein defined:

- A. Travel Trailer: A travel trailer is a vehicular portable structure mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a stock passenger automobile. It is primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use.
- B. Camping Trailer: A camping trailer is a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other pliable material for folding compactly while being drawn by another vehicle. When unfolded at the site or



location, it provides temporary living quarters, and its primary design is for recreation, camping, or travel use.

- C. Truck Camper: A truck camper is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck. It is constructed to provide temporary living quarters and is primarily designed for recreation, camping, or travel use.
- D. Motor Home: A motor home is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car. Its primary purpose is to provide temporary living quarters for recreation, camping, and travel.
- E. Boat: A boat is any recreational vehicle designed or intended for operation on water. Boats and trailers used to transport them shall be considered recreational vehicles and are subject to the same requirements and restrictions applying to other recreational vehicles.
- F. Utility Trailer: A separate vehicle, not driven or propelled by power, designed to transport vehicles and/or other types of personal property or equipment.

Recreational Vehicle Park: A tract of land under unified ownership which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance, and which is intended for the express purpose of providing a satisfactory living environment for travel trailer residents on a temporary basis.

Rooming House: Any building or portion thereof which contains not less than three (3) nor more than nine (9) guest rooms, which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly.

Road-Side Stand: A structure for display and sale of products, with no space for customers within the structure itself.

Semi-Public Buildings: Structures for the use of a group the membership of which is open to the public, such as churches, Y.M.C.A. and Y.W.C.A. facilities, private schools, hospitals and nursing homes, colleges and health clubs, country clubs, tennis clubs, etc.

Sidewalk Vending Unit (Pushcart): A mobile food vendor business in which food that is prepared elsewhere and ready for consumption at the point of sale, is sold from or out of a non-motorized mobile piece of equipment or vehicle that is removed each day from the location where the food is sold.

Sign: **See Article XXII definitions**

Site Plan: The plan drawings of a proposed development on a lot or lots which reflects the existing conditions and proposed changes, including drainage, and any other possible environmental impact.

Standard Billboard: A billboard (off-premises sign) that does not have an electronic changeable copy sign face.

Stealth Monopole: A monopole that does not have antennas mounted on the outside, but instead has them inside the monopole structure. These look like flagpoles.

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

Street: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Street, Private: Street or road not owned or maintained by the City of Foley whether or not it has public access.

Street Vending Unit (Food Truck): A mobile food vendor business in which food that is prepared and made ready for consumption at the point of sale, is sold from or out of a motor vehicle that is removed each day from the location where the food is sold.

Storage Structures / Open Storage: A structure, groups of structures or open space intended designed or capable of being used as rental storage facilities to individuals, businesses or other entities. Said definition shall also include the term "mini-warehouse", "boat", "RV" and other similar storage facilities.

Structure: Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including among other things, signs, billboards, fences, walls, antennas, but not including telephone poles or overhead wires, fences less than three (3) feet high, retaining walls or terraces. Generators and HVAC units are excluded from this definition.

Structure Height, Maximum: Unless addressed elsewhere in the Zoning Code, the "Maximum Building Height (feet)" shall be the maximum height in feet of any structure, including buildings, towers, and all other forms of structures.

Telecommunications: The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

Temporary Structure: A structure that is intended to be temporary or is capable of being moved from one location to another whether the structure is located on the premises of a fixed facility or whether the stand is located on a lot used for business purposes. A structure that is not attached to a permanent foundation.

Townhouse: A building or structure, portions of which are designated for separate ownership for residential purposes, not transient use.

Townhouse Complex: A group of more than two townhouses connected by party walls.

Towing Company Storage Yard: Each towing company shall have adequate storage space to provide safe-keeping for a minimum of fifteen (15) wrecked, disabled or impounded vehicles. This space shall be enclosed by a six (6) foot chain link fence or wall with a gate under lock and key.

Traffic Analysis: Refer to adopted City of Foley Ordinances.

Traffic Impact Study: As set forth in City Ordinances.

Transitional Home: A dwelling shared by four (4) or less mentally handicapped individuals who live for a short period while receiving social, psychological or similar therapy or counseling excluding jails, prisons, and other correctional institutions. Which may in addition, also include up to two (2) resident staff who need not be related by blood or marriage to each other or to any of the persons living within, who live together as a single housekeeping unit in which staff persons provide care. This use cannot be located within one-thousand (1,000) feet of the same use. This is a Use Permitted on Appeal and requires a city license to operate.

Transient: A transient is a person who occupies a dwelling unit on a temporary basis and who does not intend to make the dwelling his residence. Transients typically do not stay in one dwelling unit for more than one week.

Transportation Continuity (Refer to City of Foley Transportation Continuity Plan):

Freeways and Expressways: Multi-lane controlled access roadways with directional travel lanes and are typically separated by a physical barrier. Access points are, like interstates, limited to on-off ramp locations, although limited access via at-grade intersections is allowed. These roadways, similar to interstates, focus on mobility versus access.

Principal Arterials: Provide major vehicle mobility to major center of a region. Typically access includes at-grade intersections and limited direct access to property to improve through movement traffic flows. Provide mobility between important centers of activity, along interzonal trips (entering and then leaving an area), and through the area. Principal Arterials have a subcategory of urban and rural.

Minor Arterials: Provide interconnection with and supplements principal arterial. Includes at-grade intersections and direct access to property. Provide mobility between important centers of activity, along interzonal trips (entering and then leaving an area), and through the area. Principal Arterials have a subcategory of urban and rural.

Major and Minor Collectors: Provide balance between land access and traffic flows within residential neighborhood and commercial and industrial areas. Collect Traffic from local roadways and funnel to the arterial streets. Includes at-grade intersections and direct access to property.

Local: Account for the largest percentage of all roadways in terms of mileage. Typically provides connectivity at the end of the origin or destination end of the trip.

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

Veterinary Clinic: An establishment operated by a licensed veterinarian under Alabama law that meets or exceeds all mandatory requirements of the Alabama State Board of Veterinary Examiners, and provides examination, diagnostic and health maintenance services for medical and surgical treatment of animals and is equipped to provide indoor housing and nursing care for animals during illness or convalescence.

Waterfront Construction Setback Line: A line running parallel to the shoreline at a specified distance from mean high tide. All principal structures shall be located only landward of this line.

Wholesale: Sale of products primarily to retailers, other merchants, or industrial, institutional, and commercial users mainly for resale or business use.

Wireless telecommunications antenna: The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

Wireless telecommunications facility: The equipment and structures located in one location that are involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines. This includes the tower, antennas, equipment shelter, and related equipment, fixtures, and structures.

Wireless telecommunications tower: A structure intended to support equipment used to transmit and/or receive telecommunications signals that exceeds thirty (30) feet in height.

Yard: The open space on a lot not covered by the footprint of any principal structure or building. Yards shall be measured from the wall of the structure to the property line using a straight line, and where a minimum size yard is required, the yard shall be the shortest distance between the structure and the property line.

- A. Front Yard: The yard extending across the entire width of the lot between the main buildings, including covered porches, and the front property line. On corner lots, the narrower or shorter frontage side shall be considered the front regardless of the location of the main entrance of the dwelling. Where both frontages on a corner lot are equal in size, the front yard shall be the side on which the majority of lots front on that block.
- B. Rear Yard: The yard extending across the entire width of the lot between the main buildings, including covered porches, and the rear property line. This is on the opposite side from the front yard.
- C. Side Yard: The yard extending along a side lot line, from the front yard to the rear yard, between the main buildings, including covered porches and carports.

Zoning Administrator: See Community Development Director

## ARTICLE III - PURPOSE AND METHOD

### 3.1 PURPOSE

The fundamental purpose of this Ordinance is to promote the public health, safety, morals and general welfare of the people, the community and the area. This Ordinance is also designed to provide for the orderly development and growth of Foley; to avoid congestion of the public roads and streets; to conserve life, property, natural resources, and public funds; to allow for and encourage the most advantageous uses of land, resources and properties for the general good and benefit to the people of Foley, Alabama.

### 3.2 METHOD

For the purpose hereinafter stated, the City of Foley is divided into districts of such number, shape and area, and of such community of purpose, adaptability or use, which are deemed most suitable to serve the stated purposes of this Ordinance; to provide for the best general civic use, to protect and preserve the common rights and interests within each district and the general rights, and interests of all; by regulating, limiting, and restricting the location, use, size, type and occupancy of buildings, structures, signs and land.

### 3.3 ZONING DISTRICTS

In order to classify, regulate, and restrict the location of buildings designed for specific uses, to regulate and limit the height, location, type, size and bulk of buildings hereinafter erected or structurally altered, to regulate and limit the intensity of the use of the land area, and to regulate and determine the areas of open spaces within and surrounding such buildings, the City of Foley, Alabama is hereby divided into the following districts.

| Designation | General Use      | Specific Use               |
|-------------|------------------|----------------------------|
| R-1R        | Residential Zone | Restricted Single Family   |
| R-1A        | Residential Zone | Single Family              |
| R-1B        | Residential Zone | Single Family              |
| R-1C        | Residential Zone | Single Family              |
| R-1D        | Residential Zone | Single Family              |
| R-2         | Residential Zone | Single Family & Two Family |
| R-3         | Residential Zone | Multi-Family               |
| R-4         | Residential Zone | Single Family & Two Family |

|            |                       |                                    |
|------------|-----------------------|------------------------------------|
| GPH-1      | Residential Zone      | Garden-Patio Homes                 |
| TH-1       | Residential Zone      | Townhouses                         |
| MH-1       | Residential Zone      | Mobile Home / Park Subdivision     |
| PUD        | Special Use           | Planned Unit Development           |
| PDD        | Special Use           | Planned Development District       |
| PID        | Industrial            | Planned Industrial District        |
| B-1        | Commercial Use        | Central Business District          |
| B-1A       | Commercial Use        | Extended Business District         |
| B-2        | Commercial Use        | Neighborhood Business District     |
| B-3        | Commercial Use        | Local Business District            |
| PO         | Office Zone           | Preferred Office District          |
| M-1        | Industrial Zone       | Light Industry                     |
| RV         | Special Use           | RV Park - short term rentals       |
| A-O        | Agriculture           | Open Space / Agricultural Use      |
| OSP        | Parks/Public Land     | Open Space / Preservation District |
| PUBLIC USE | Government/Public Use | Parks and Buildings for Public Use |

### **3.4 ZONING MAP**

The boundaries of the districts are shown on the map which shall be known as the "Zoning Map". Unless otherwise shown on said Zoning Map, the boundaries of districts are lot lines, the center lines of streets or alleys or such other historical or recognized lines, or the corporate limit lines as they existed at various times. The Zoning Map may be amended from time to time.

### **3.5 INTERPRETATION OF DISTRICT BOUNDARIES AND ZONING ORDINANCE**

The Community Development Director or his/her designee shall make an interpretation of the Zoning Map or this Ordinance upon request of any person. Where uncertainty exists as to the boundaries of any district shown on the Zoning Map the following rules shall apply:

- A. Where boundaries are indicated as following or as approximately following streets, alleys, right-of-ways, section lines, lot lines, or any other natural or artificial line capable of being located on the ground by a surveyor, such lines shall be the boundaries.

- B. In un-subdivided property or tracts where a district boundary divides a lot, the location of such boundaries, unless same is indicated by dimensions, shall be determined by the use of the scale appearing on such maps.
- C. Where boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or to the center lines or alley lines of alleys or to the center lines or right-of-way lines of highways, such boundaries shall be construed as being parallel thereto and at such distance as given, such dimensions shall be determined by the use of the scale shown on said maps.
- D. In case any further uncertainty exists, the Community Development Director shall have the discretion to determine and interpret the Zoning Map. The Community Development Director shall have the discretion to determine and interpret the provisions, scope, purpose and intent of this Zoning Ordinance and to make decisions based on their interpretation of the same.

### **3.6 ZONING APPLICABILITY TO PUBLIC BUILDINGS, STRUCTURES AND USES**

No street, park, or other public place, open space, or public building or structure, public utilities (publicly or privately owned) within the jurisdiction of the City of Foley, as specified herein, shall be authorized or constructed without compliance with the provisions of this regulation.

#### **3.6.1 ZONING ORDINANCE APPLICABILITY**

- A. Public Building, Governmental: While it is encouraged to adhere to specific zoning regulations for Public Building, Governmental in nature, such as parks, public places, open spaces, or public buildings, it is not required. The approval criteria remain in accordance with the requirements outlined in the Code of Alabama, Section 11-52-11. The Planning Commission's review focusing on location, character, and extent, in conjunction with the Comprehensive Plan (master plan).
- B. Public Building, Proprietary: Compliance with the zoning ordinance is mandatory for buildings and uses defined as Public Building, Proprietary. Additionally, the Code of Alabama, Section 11-52-11 review by the Planning Commission is mandatory.
- C. Change in Use or Conditions: When changes occur affecting the status of public buildings, structures and uses, the following provisions apply:
  - a. If a public building and/or property ceases to be used for general government purposes, the property shall immediately become subject to the zoning ordinance and other relevant municipal ordinances as applicable.
  - b. Upon the sale of public property or a change of use for property used for general government purposes, the buyer or public entity must initiate a rezoning request

within 60 days. Failure to initiate this request within the specified timeframe will result in the property being ineligible for subdivision, site plan approval, or a building permit until it has been properly zoned in accordance with this section.

- c. At the discretion of the Planning Commission, a zoning amendment may be initiated through Article V.5.3.

### **3.6.2 ZONING MAP ADJUSTMENT FOR GOVERNMENTAL PUBLIC STRUCTURES AND/OR USES:**

Any public building, use, or structure of a general governmental nature, or the parcel it occupies, currently contains a “zoning” designation, shall have its “zoning” designation removed. The subject parcels should bear an appropriate descriptive title, accompanied by "public use," for example, "Max Griffin Park – Public Use." The review and approval of projects within this category will be exclusively through the Planning Commission pursuant COA, 11-52-11, for location, character and extent.



## **ARTICLE IV - ADMINISTRATION AND REVIEW PROCEDURES**

### **4.1 GENERAL ADMINISTRATION**

The provisions of this Ordinance shall be administered and enforced by the Community Development Director of the City, or his/her designees.

#### **4.1.1 GENERAL**

The provisions contained in this Article are cumulative to the requirements, provisions, and regulations found elsewhere in this Zoning Ordinance. These Provisions should be read in conjunction with the other provisions of this Zoning Ordinance. In the event of a conflict or discrepancy between any provision found in this Article and any other provision found in this Article, this Zoning Ordinance, or elsewhere, the more burdensome regulation, provision, or interpretation shall apply.

#### **4.1.2 INTERPRETATION AND PURPOSES**

In their interpretation and application the provisions of this Ordinance shall be considered minimum requirements adopted for the promotion of the public health, safety, morale, convenience, order, prosperity, and general welfare of the community. Where other Ordinances or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other Ordinances or regulations is mandatory.

### **4.2 BUILDING PERMIT**

Unless elsewhere exempt under the municipal ordinances pertaining to building permits, it shall be unlawful to commence construction of any building or other structure, including accessory structures, fences and signs, or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, until the Building Official of the City has issued for such work a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this Ordinance. Application for a building permit shall be made to the City on forms provided for that purpose.

#### **4.2.1 REVIEW OF BUILDING PERMIT APPLICATIONS**

It shall be unlawful for the Community Development Director of the City to approve any plans or the Building Official to issue a building permit for any construction until he/she has inspected such plans in detail and found them to be in conformity with this Ordinance. Said plan shall include the following, as required:

- A. The actual shape, proportions and dimensions of the lot.
- B. The shape, size, use and location of all buildings, signs 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.

#### **4.2.2 APPROVAL OF BUILDING PERMIT APPLICATIONS**

If the proposed construction, moving, or alteration as set forth in the application is in conformity with the provisions of this Ordinance and other applicable codes and Ordinances, the Building Official of the City shall issue a building permit accordingly.

#### **4.2.3 DENIAL OF BUILDING PERMIT APPLICATIONS**

If a building permit applicant is denied a permit based on the Community Development Director's interpretation or enforcement of this Ordinance, as opposed to the other codes of the City of Foley, then the applicant may appeal to the Zoning Board of Adjustment and Appeals pursuant to the rules and procedures of this Ordinance, state and local laws, and regulations of the Zoning Board of Adjustment and Appeals.

#### **4.2.4 NEWLY ANNEXED AREAS**

Notwithstanding any other provision of this Ordinance, when land is annexed into the City of Foley and has not yet been zoned, the City Council may, by passage of a resolution, temporarily authorize the Building Official to issue building permits for structures and work located in these newly annexed areas upon such terms as the City Council may impose, until the area is zoned. Any such resolution will not be deemed an amendment to this Zoning Ordinance and will not be deemed a general or permanent Ordinance.

#### **4.3 UNLAWFUL USES / STRUCTURES**

Any use of land, dwellings, or structures which is in conflict with or violation of this Ordinance, and which is not a legal nonconforming use, is hereby declared to be a nuisance by the City of Foley. Any structure, dwelling, building, lot, or land that is erected, altered, modified, moved, transferred, or allowed to exist in conflict with or in violation of this Ordinance, and which is not a legal nonconforming structure, building or lot, is hereby declared to be a nuisance by the City of Foley. The City and its officers, employees, and agents are hereby authorized to take any appropriate action to abate all nuisances and to take any appropriate action to protect the health, safety and welfare of the public from such nuisances and to forward the purposes of this Ordinance.

#### **4.4 ENFORCEMENT**

#### **4.4.1 ZONING ENFORCEMENT AND APPEALS**

Whenever a violation of these ordinances is identified or is alleged to have occurred an application to the Board of Adjustment and Appeals may be considered if it meets the criteria for a variance.

Whenever the Community Development Director or his/her designee has knowledge of a violation or an alleged violation, a thorough investigation may be initiated. After such investigation, and upon the finding of a violation, the violation procedures contained in this Article shall be initiated.

Violation of the provisions of these ordinances, including violation of conditions and safeguards established in connection with a grant of a variance, site plan approval or appeal, shall be addressed and punishable in accordance with sections contained herein.

In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in the event that any building, structure, or land is used in violation of these ordinances, the Community Development Director may institute or cause the institution of any appropriate action or proceeding to:

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

#### **4.4.2 VIOLATIONS**

Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who:

- a. violates any provision of these ordinances,
- b. permits, participates, assists, directs, creates or maintains any such violation,
- c. fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, site plan approval or the like, or
- d. who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to these ordinances, shall be in violation.

Any person(s) in violation of these ordinances shall be held responsible for such violation and be subject to the penalties and remedies as provided herein and as provided by law.

Each and every person who commits, permits, participates in, assists, directs, creates or maintains a violation may be found individually in violation of a separate offense. Each day that any violation continues to exist shall constitute an additional and separate violation.

Any structure or lot erected, constructed, altered, occupied or used contrary to any provision(s) of these ordinances or other applicable ordinances, stipulation, condition, approvals and variance shall be declared to be unlawful.

#### **4.4.3 NOTICE OF VIOLATION**

The Community Development Director or his/her designee shall issue a written notice of violation upon receipt of a complaint or knowledge of violation, to all persons in violation. The Notice of Violation may be served by certified mail, return receipt requested, or pursuant to Alabama Rules of Civil Procedure. The Notice of Violation shall allow thirty (30) days to correct or abate such violation.

The Notice of Violation ("Notice") shall clearly identify the property and particular alleged violation involved, the action necessary to correct it, the time permitted for such correction, and penalties for failure to comply. The Notice shall include but not be limited to:

- a. A description of the location of the property involved, either by street address or by legal description.
- b. A statement indicating the nature of the violation.
- c. A statement showing the time within which all necessary remedial action must be accomplished, which time may not be less than 10 days nor more than 90 days from the date of such written Notice.
- d. The name of the person(s) upon whom the Notice of Violation is served.
- e. A statement advising that upon the failure to comply with requirements of the Notice, such enforcement procedure as may be required under these zoning ordinances shall be taken.

The Community Development Director may shorten or eliminate the time period to correct a violation if he/she determines that the alleged violation presents an imminent and serious threat to the public health, safety, or welfare, or the violation is irreparable or irreversible. The Notice of Violation shall, in such case, state that an immanent and serious threat to public health, safety, or welfare exists or the violation is irreparable or irreversible, along with the allowed time period for correction if any.

When the Community Development Director or his/her designee determines that the violation has not been corrected or abated by end of the prescribed time period, he/she shall issue a written notice forwarding the matter to the City of Foley Prosecutor for further action.

Upon the submission by the violator of evidence of compliance deemed adequate by the Community Development Director, the Director may deem the violation to be resolved and compliance achieved.

When, after issuance of a Notice of Violation but prior to commencement of any judicial proceedings, the Community Development Director determines that the person in violation is making a diligent effort to comply with the requirements of the Notice, the Community Development Director may issue a written stay of further enforcement actions pending full compliance. The stay shall list the diligent efforts to comply and should be provided to the violator(s). No enforcement actions shall be stayed longer than ninety (90) days.

When any Notice of Violation is issued to any person for substantially the same violation for which a previous Notice of Violation has been issued to such person, no period shall be allowed for correction or abatement of the violation. Rather, in such event, the Community Development Director shall immediately cause the matter to be forwarded to the City of Foley Prosecutor for further action.

Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation (see 4.2, above). The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

When a violation results from a person's failure to obtain a permit or approval required by this Ordinance, and the person subsequently submits an application for the required permit, the Community Development Director may waive the daily fee and shall instead require double the normally required permit application fee as a reduced fine.

#### **4.4.4 ADDITIONAL PENALTIES**

The Community Development Director may issue, or cause to be issued, a Stop Work Order on a premises, lot or parcel that is in alleged violation of any provision of these ordinances, or is being maintained in a dangerous or unsafe manner. A Stop Work Order may be issued in place of or in conjunction with any other actions and procedures identified in these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state conditions under which work may be resumed. Upon receipt of a Stop Work Order, all work associated with the violation shall immediately cease. Any person who continues to work shall be in violation of these ordinances and subject to penalties and remedies contained herein. The Stop Work Order may be appealed to the respective Zoning Board of Adjustment for which the activity is located.

The Community Development Director may issue, or cause to be issued, a Cease and Abate Order to any person(s) maintaining any condition, or engaged in any activity or operation, which violates these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to the person maintaining such condition or engaged in such activity and operation. Upon receipt of a Cease and Abate Order, all conditions, activities and operations associated with the violation shall immediately cease and be abated. Any person who continues or fails to abate such condition, activity or operation shall be subject to penalties and remedies contained herein.

The Community Development Director may revoke, or cause the revocation of, permits or approvals in those cases where an administrative determination has been duly made that false statements or misrepresentations of material fact(s) were made in the application or plans upon which the permit or approval was based.

#### **4.4.5 APPEALS**

Any person(s) aggrieved by a decision of the Community Development Director or his or her designee in regards to zoning enforcement may file an appeal, made on forms provided by the City, to the respective Zoning Board of Adjustment and Appeals where the alleged violation has occurred. An appeal must be filed within thirty (30) days of the date of the Notice of Violation. An appeal is deemed filed once submitted to the Planning and Zoning Department. See also Section 26.3.A.

### **4.5 REMEDIES**

The remedies to the City of Foley contained in this Ordinance are commutative, supplemental, and in addition to any other rights and remedies the City of Foley may have pursuant to state and local law, its police powers, the building codes of the City of Foley and any other property maintenance codes or ordinances now in effect or hereafter adopted by the City of Foley.

#### **4.6 SEVERABILITY CLAUSE**

If any section, subsection, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision, or portion of this Ordinance which is not in and of itself invalid or unconstitutional.

## ARTICLE V - AMENDMENT

### 5.1 PROCEDURE

The provisions of this Ordinance and the boundaries and districts displayed on the Zoning Map may be amended, supplemented, changed, modified, or repealed by the City of Foley pursuant to the procedure provided by state law and by this Ordinance.

### 5.2 REZONING BY PETITION OF PROPERTY OWNER

When a property owner petitions to have his property rezoned, the following procedure shall be followed:

- A. By noon, a minimum of fifteen (15) working days prior to a regularly scheduled Planning Commission meeting, the applicant shall submit to the Community Development Director or his/her designee:
  1. The required fee as established by the City Council which is intended to help defray the cost of processing, administering, and advertising the application.
  2. A map, drawn to scale, indicating:
    - a. The actual shape of the parcel(s) and legal description of property; and
    - b. Completed application form.
  3. A list of the names and mailing addresses of all property owners whose property abuts and shares a substantial common boundary with the land sought to be rezoned. This includes land which is contiguous to the land sought to be rezoned but is separated from it by a road, right-of-way, or by water.
  4. The Community Development Director shall review the application for completeness and conformance to the requirements of this section. If the application is incomplete, inaccurate, or untimely, as determined by the Community Development Director, the applicant shall be notified of the deficiency. If the deficiency cannot or is not cured in time to properly advertise notice prior to the next Planning Commission meeting, the application will not be advertised or presented to the Planning Commission.
- B. Prior to the Planning Commission meeting at which the rezoning is to be initially considered, the Community Development Director shall notify all adjacent property owners and the applicant of the requested rezoning by sending notice via certified mail. The Community Development Director shall also publish notice of the requested rezoning in a newspaper of general circulation in the City of Foley twice prior to the Planning Commission meeting. Both notices shall include:
  1. The location of land sought to be rezoned;
  2. The nature of the rezoning request (indicating the current zoning of the site and the requested rezoning classification);

3. The time, date and location of the Planning Commission meeting at which the rezoning request is to be reviewed; and
  4. The fact that a public hearing will be conducted to consider the rezoning request.
- C. After the public hearing the Planning Commission may require additional information or documentation from the applicant or from City staff. After due consideration of the comments made at the public hearing, the reports from staff members, and the concerns of the Planning Commission members, the Planning Commission shall render a decision on the application. The Planning Commission's decision shall be communicated to the City Council in the form of a recommendation.
- D. Upon receipt of the recommendation of the Planning Commission in favor of a request for rezoning, the City Council shall follow Code of Alabama procedures.
- E. When the City Council denies a rezoning request, the Planning Commission shall not reconsider the same request for a period of six (6) months. Each time the City considers a zoning or rezoning request by an applicant, the prescribed administration fee must be paid.

### **5.3 INITIAL ZONING AND ZONING AMENDMENTS UPON THE CITY OF FOLEY'S INITIATIVE**

The Planning Commission may, upon its own initiative, hold public hearings for the consideration of any proposed amendment to the provisions of this Ordinance, to the rezoning or initial zoning of property, or to the altering, amending or changing of the zoning district boundaries or designations after giving notice of the public hearing in accordance with the provisions of Section 5.2 of this Article, except that property owners are only notified by mail when their property or property abutting their property is being considered for rezoning. The Planning Commission will report its recommendation, whether favorable or unfavorable, to the City Council.



## ARTICLE VI - GENERAL REGULATIONS

### 6.1 GENERAL USE REQUIREMENTS

The following general regulations pertain to the administration, enforcement, and compliance with this Ordinance.

#### 6.1.1 APPLICATION OF THIS ORDINANCE

No structure shall be constructed, erected, placed, maintained or permitted to exist, and no land, structure, dwelling or building shall be used within the corporate limits of the City of Foley, as they may now or hereafter exist, except as specifically authorized by this Ordinance.

#### 6.1.2 PROHIBITIONS

Except as otherwise expressly provided in this ordinance;

- A. No land may be used except for a purpose permitted in the district in which it is located;
- B. No building or structure shall be used except for a use permitted in the district in which the structure or building is located;
- C. No building or structure shall be erected, enlarged, reconstructed, moved, or altered; to include change in use; except in conformity with the regulations, prohibitions and limitations on buildings and structures for the district in which the building or structure is located;
- D. The minimum building line, parking spaces, open spaces, including lot area per family, required by this Ordinance for each and every building existing at the time of the passage of this Ordinance or for any building hereafter erected, shall not be encroached upon or considered as building or open space for any other building, nor shall any lot area be reduced below the requirements of this Ordinance;
- E. Every building hereafter erected or altered shall be located on a lot as herein defined. Only one (1) principal building and its customary accessory building may be erected on any lot in any R-1R, R-1A, R-1B, R-1C, R-1D, R-2, R3, R4, GPH-1, TH and MH-1. Accessory Dwelling Units must meet zoning, building, fire and other regulations & obtain all required permits.
- F. Lots shall meet the minimum lot size requirements specified herein for their zoning district except that where public utilities are not available. Baldwin County Health Department Regulations shall apply in these instances.

#### 6.1.3 JOINT OCCUPANCY

No building, structure or dwelling unit located within a residential zone shall be erected, structurally altered for, or used as a family dwelling simultaneously with any non-residential use, except as specifically allowed for in home-based businesses and home occupations.

#### **6.1.4 PUBLIC UTILITIES**

Utility structures including, but not limited to, poles, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power or to provide telephone service or cable television, and pipe, lines, vents, valves, hydrants, regulators, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other utilities may be constructed, erected, repaired, maintained or replaced within any district within the City. This is not to be construed to include the erection or construction of buildings. Electric substations are conditional uses in all zoning districts of the City.

#### **6.2 NON-CONFORMING USES, LOTS AND STRUCTURES**

Within the districts established by this Ordinance or amendments that may be later adopted, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendment. These lots, uses and structures are to be considered "Legal Non-Conforming". It is the intent of this Ordinance to permit these legal non-conforming uses, lots and structures to continue, subject to this Ordinance, but not to encourage their survival. It is further the intent of this Ordinance that legal non-conforming uses, lots and structures shall not be enlarged, altered, amended, changed or expanded in any way other than to bring them into compliance with this Ordinance. Uses, lots and structures which do not conform to this Ordinance and which do not fall within the definition of "Legal Non-Conforming" are in violation of this Ordinance and are subject to the penalties and enforcement provided for in this Ordinance and under state and local law.

##### **6.2.1 RESTORATION TO SAFE CONDITION**

Except as provided in Sections 6.2.2 and any other provision of this Ordinance limiting the repair or replacement of legal non-conforming structures when damaged, this Ordinance shall not prevent the restoration of any building or structure to a safe or sanitary condition when required by the proper authorities.

##### **6.2.2 RESTORATION AFTER DAMAGE**

No legal non-conforming building or structure which has been damaged by fire, wind, water or any other natural or artificial cause, except for the criminal acts of third parties, to the extent of more than fifty percent (50%) of its current replacement value at the time of such damage, as determined by the Building Official, shall be rebuilt or restored except in conformity with the provisions of this Ordinance. If a legal non-conforming building or structure is damaged by less than fifty percent (50%) of its current replacement value, such damaged portion may be rebuilt or restored to its original non-conforming size, shape or type or in a manner that results in the same or less non-conformity, provided that such rebuilding or restoration is completed within 12 months of the date of such damage. No legal non-conforming building or structure shall be rebuilt or restored in such a manner as to increase or heighten the quantity or type of its non-conformity. Nothing

contained herein shall permit or allow a legal non-conforming structure to be renovated or preserved so as to increase the number of years the building or structure will exist.

### **6.2.3 ABANDONMENT**

A legal non-conforming use which has been abandoned shall not be reestablished, and any future use shall be in conformity with the provisions of this Ordinance. Whether a use has been abandoned will be determined by the Community Development Director. Abandonment will be found when there is an actual discontinuance of a use coupled with an apparent intent to discontinue a use. Any discontinuance of a use for a continuous period of one year or longer shall be presumed to be abandoned. A legal non-conforming use shall not be changed to another non-conforming use. A legal non-conforming use which is changed or abandoned shall not be permitted to be reestablished.

### **6.3 STRUCTURES CONFORMING TO USE REGULATIONS BUT NOT OTHER REGULATIONS**

Notwithstanding any other provision of this Ordinance, a structure or building conforming to the use regulations of a district, but not conforming to other provisions of this Ordinance, may be enlarged or altered provided that such enlargement or alteration conforms to the other provisions of this Ordinance. No structure or building which fails to conform to the current Zoning Ordinance's regulations regarding setbacks, size, shape, height, type or location may be expanded or altered except to bring the structure or building into full compliance with this Ordinance.

### **6.4 BUILDINGS TO BE MOVED**

Any building or structure which is to be moved to any location within the city limits of Foley, shall be considered for the purpose of this Ordinance to be a new building under construction, and as such shall conform to the applicable provisions of this Ordinance.

### **6.5 REDUCTIONS IN LOT AREA PROHIBITED**

Unless located within a planned development that receives approval through the Planning Commission, no lot shall be reduced in area or altered in shape so that the lot itself, the existing yards, or any aspect of the lot or the existing or proposed structures would violate this Ordinance unless and until the Board of Adjustment and Appeals first grants a variance from the offended provisions of this Ordinance.

### **6.6 ANNEXED PROPERTY**

At the inception of any efforts to annex property into the corporate limits of the City of Foley, notice of such annexation should be communicated to the Community Development Director. The Community Development Director should take such steps as he/she deems necessary or prudent

to recommend to the Planning Commission an initial zoning classification for the area which may be annexed. The Planning Commission's consideration and public hearings on the initial zoning classification may run concurrently with the annexation procedure so that the Planning Commission's zoning recommendation can be made to the City Council as timely as possible. No property may be subdivided by the Planning Commission until it has been zoned.

## **6.7 VACATED OR ABANDONED RIGHT-OF-WAY**

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

## **6.8 ORIENTATION AND DESIGN STANDARDS FOR AUTOMOBILE REPAIR GARAGES AND SIMILAR USES**

### **A. Applicability**

The following standards shall apply to all new construction, substantial renovations or requiring a site plan review, and expansions of buildings used for:

1. Minor and Major Automobile Repair
2. Vehicle Service and Maintenance Facilities
3. Tire and Brake Shops
4. Auto Body and Paint Shops
5. Similar automotive-related uses as determined by the Community Development Director

### **B. Garage Door Orientation and Access Standards**

#### **1. Prohibited Orientation**

Garage doors, service bays, and other large vehicular openings shall not face directly onto any arterial or collector street as identified in the City of Foley's Major Road Plan Functional Street Classification.

#### **2. Permitted Orientation**

Garage doors and service bays shall be oriented toward interior side yards, rear yards, or internal service areas which are screened from view from any arterial or collector street. Openings may face private internal drives not visible from an arterial or collector street.

#### **3. Corner Lots and Multi-Frontage Parcels**

On corner lots or parcels with frontage on multiple streets, garage doors may face the secondary street frontage if it is classified as a local street and not an arterial or collector. In such cases, enhanced screening and landscaping shall be provided in accordance with subsection D.

#### **4. Access Driveways**

Primary vehicular access to service bays shall be provided from internal drives or local streets wherever possible. Additional curb cuts along arterial or collector streets shall be minimized to protect pedestrian movement and streetscape continuity.

**C. Screening, Landscaping, and Design Standards**

Screening of Service Bays and Openings Where service bays or garage doors are visible from a public street or adjacent residential property, screening shall be provided by:

- a. A continuous evergreen hedge, a minimum of 6 feet in height at maturity.
- b. A decorative masonry wall or opaque fence, a minimum of 6 feet in height, coordinated with building materials and colors.
- c. Berms or a combination of landscaping and architectural elements designed to provide a year-round visual barrier.

## ARTICLE VII - TELECOMMUNICATION TOWERS

### 7.1 WIRELESS TELECOMMUNICATIONS FACILITIES

#### 7.1.1 PURPOSE

The purpose of this section is to establish minimum standards for the location, design, construction, and maintenance of wireless telecommunications facilities to mitigate any adverse consequences to the health, safety, and general welfare of the community in general and the neighboring owners and occupants in compliance with federal and state laws.

#### 7.1.2 APPLICATION REQUIREMENTS

Applicants for a new or modified wireless telecommunications facility must apply for a plan review by the Community Development Department in addition to other required land disturbance permits, building permits, and other required approvals. Applicants proposing to erect new wireless telecommunication towers must also submit the following information as part of the review and permit process:

- A. Photo-simulations of the proposed wireless telecommunication tower taken from the property lines on at least four sides of the proposed tower and the nearest public right-of-way, plus whatever additional photo-simulations taken from additional or different angles, locations, or heights as requested by the Community Development Department;
- B. An affidavit of need from licensed RF engineer who is properly licensed stating that: (1) the proposed wireless telecommunications facilities (tower, antennas, and other components) are actually necessary based on current needs of a particular wireless telecommunications provider; (2) the proposed wireless telecommunication tower is the minimum height necessary to address the current need; and (3) there are no existing telecommunication towers, buildings, or alternative structures available on which the wireless telecommunication provider could co-locate which would address the current need (or, if there are alternative existing towers or structures, what reasonable and diligent efforts have been made by the applicant to secure sufficient rights on such structure); and
- C. An affidavit from the proposed operator of the wireless telecommunication facilities that its facilities will be operated in strict compliance with the Federal Communications Commission's rules, regulations, and standards concerning RF emissions.
- D. A landscape plan.

If the application is complete and the facilities meet all applicable building codes, and other codes, and if the facilities comply with the standards in sub-section 6.16.3, then the Building Official shall approve the plans within thirty (30) days. If the application is incomplete or the proposed facilities do not meet the applicable codes or the standards in the 6.16.3, and if no variance has been secured, then the Building Official shall deny the application within thirty (30) days.

### **7.1.3 PERMITTED LOCATIONS FOR WIRELESS TELECOMMUNICATIONS FACILITIES MEETING CERTAIN STANDARDS**

Wireless telecommunications towers are allowed by right in Industrial zoning districts and in Agricultural-Open Space zoning districts in the City provided that they are not within a historic district and further provided that the wireless telecommunications facility meets the following minimum standards or conditions:

- A. The wireless telecommunications tower is no higher than one hundred twenty-five feet (125') above the ground;
- B. The wireless telecommunications facility is completely fenced and adequately secured to prevent unauthorized access by at least an eight foot (8') high fence;
- C. The wireless telecommunications facility must be landscaped on the outside of the fence to provide an effective, year-round natural vegetative buffer and visual screen to obscure or obstruct a view of the fence and the components inside the fence other than the tower;
- D. The wireless telecommunications tower must be set back from property lines, public rights of way, and all buildings a minimum distance of 125% of the height of the proposed wireless telecommunications tower;
- E. The wireless telecommunications tower must be of a monopole design, and for any proposed wireless telecommunication towers which would be visible at ground level from any portion of land then being put to any of the following land uses, such wireless telecommunication tower must be of a stealth monopole design:
  1. Schools;
  2. Parks;
  3. public recreational facilities (excluding sidewalks and trails);
  4. historic districts;
  5. residential zoning districts; and
  6. residential areas of mixed use zoning districts.
- F. Any non-stealth wireless telecommunications tower must be designed to be capable of accommodating at least one additional set of wireless antennae by a different wireless telecommunications provider.
- G. The wireless telecommunications facility must not interfere with the operation of any airport or aircraft, must meet all applicable FAA regulations and standards, must not be located in existing aviation easement areas, and must be equipped with such lights and other safety features as are reasonably requested by the operator of any nearby airports.

### **7.1.4 WIRELESS TELECOMMUNICATIONS FACILITIES PROHIBITED**

Any wireless telecommunications facilities that are proposed to be in any other location that permitted in Section 7.1.3, and/or any wireless telecommunications facilities that do not comply with the minimum conditions found in Section 7.1.3, are strictly prohibited. If an application is filed for a variance from any provision of the Zoning Code to allow any wireless telecommunications facility that does not fully comply with Section 7.1.3, and if such variance is granted in whole or in part, then the Zoning Board of Adjustments and Appeals shall also impose such additional,

different, and supplemental conditions and requirements on the wireless telecommunications facility to carry out the intent and purpose of this Zoning Code.

#### **7.1.5 WIRELESS TELECOMMUNICATIONS ANTENNAS ON EXISTING TOWERS, BUILDINGS, AND STRUCTURES**

Wireless telecommunications antennas may be added to or located on existing wireless telecommunications towers (co-location), and such antennas may be added to or located on alternative existing support structures like water towers, buildings, and similar facilities, in all zoning districts so long as the addition of the new wireless telecommunications antennas does not extend above the height of the existing telecommunications tower or does not extend more than ten (10) feet above the alternative support structure.

#### **7.1.6 AESTHETICS AND APPEARANCE**

All wireless telecommunications facilities shall be designed, constructed, and maintained in such a manner to be as aesthetically pleasing as is reasonable and practicable to have the least negative visual impact on the surrounding area as practicable. Wireless telecommunications towers and wireless telecommunications antennas shall be painted a neutral or blending color so as to reduce visual obtrusiveness except as expressly prohibited by Federal Aviation Administration requirements. If a wireless telecommunications antenna is installed on a structure other than a tower, the antenna and supporting wireless telecommunications facilities must be of a color that is identical to, or closely compatible with, the color of the alternative supporting structure so as to camouflage the wireless telecommunication facilities. No signage, symbols, or advertisements may be attached to a wireless telecommunications tower or antenna.

#### **7.1.7 OBSOLETE TOWERS**

In the event that a wireless telecommunications facility ceases to be used for telecommunications by any wireless provided for the period of 180 days, the wireless telecommunications facility shall be deemed to be abandoned. Upon such abandonment, the owner of the wireless telecommunications facility or owner of the land shall have an additional 180 days within which to dismantle and remove the wireless telecommunications facility.



## ARTICLE VIII - RESIDENTIAL - MISCELLANEOUS

### 8.1 **ACCESSORY STRUCTURES**

All accessory structures, including Accessory Dwelling Units (ADU), shall conform to the following regulations:

- A. Providing the size, location, and setback requirements listed in sections 8.1.1 and 8.1.2 can be met in full, any primary residence may have a maximum of two (2) accessory structures, one (1) of which may be an Accessory Dwelling Unit (ADU).
- B. The total ground coverage of the accessory structures may not exceed 40% of the yards in which they are located.
- C. No accessory structure may be built prior to the primary residence, except as noted in 8.1.D.a.
- D. No accessory structure shall be erected in any front yard or any street-side yard on a corner lot.
- E. Accessory structures shall not exceed the overall height of the primary structure and in no case shall exceed two (2) stories;
- F. An ADU shall not cover more than 30% of the yard in which it is located;
- G. Exceptions for AO - Agriculture Open Space zoned properties:
  - a. Accessory structures may be built prior to the primary residence and are limited to two (2) stories. When built first, they should be planned for a location within the future primary residence's rear yard.
  - b. A single Accessory Dwelling Unit may be built and is limited to 60% of planned primary residence size.
  - c. The total number of accessory structures allowed is not limited in quantity, but must not exceed 40% of total rear and side yards in which they are located.

#### 8.1.1 **ACCESSORY DWELLING UNITS (ADU)**

A second dwelling unit that is either contained within the structure of a single family dwelling unit or in a separate accessory structure on the same lot as the principal residential building for use as a complete, independent living facility with provisions within the accessory dwelling for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the principal residential building and includes accessory apartments, garage apartments and guesthouses.

Accessory Dwelling Units shall also conform to the following regulations:

- A. Only one ADU is allowed per primary residence.
- B. Neither Recreational Vehicles nor Manufactured Homes may be used as an ADU.
- C. The ADU ground floor square footage shall not exceed 60% of the size in square feet of the ground floor of the principal residence. Neither may the total square footage of the ADU exceed 60% of the principal residence total square footage.
- D. An ADU shall be at least 10 feet from all lot lines and 10 feet from any other structure on the same lot.

### **8.1.2 RESIDENTIAL ACCESSORY STRUCTURES**

- A. Single story-accessory structures shall be at least five (5) feet from all lot lines and ten (10) feet from any other structure on the same lot, excluding fences. Two story accessory structures shall be at least ten (10) feet from all lot lines
- B. Plant nurseries, greenhouses, and hoop structures are allowed accessory structures provided that:
  - a. no sales are made from the premises;
  - b. all accessory structures and material storage facilities larger than three hundred (300) square feet in total area shall be located not less than twenty (20) feet from all property lines, and no closer than ten (10) feet to any other structure.

### **8.1.3 RESIDENTIAL ANTENNAS**

Antennas and aerials for radios, televisions, weather monitoring, and similar pieces of equipment are permitted in addition to other accessory structures provided the unit, dish, rod, or other component of the structure does not exceed fourteen (14) feet in height, ten (10) feet in diameter, and shall meet all setback requirements as set forth in this section of the Ordinance. Roof mounted antennas shall not exceed ten (10) feet in diameter, and shall not extend over fifteen (15) feet above the height limits established for the district in which it is located; and no such antennas shall be used for any type commercial use or advertising purposes. All other antennas in residential districts shall be permitted only on appeal to the Board of Adjustment and Appeals.

## **8.2 FENCES AND WALLS**

Fences and walls may be erected, placed and maintained, along lot lines as long as they do not exceed six (6) feet in height in all residential zoning districts, except for R1R, Restricted Residential Single Family and GPH1, Garden Patio Home where an eight (8) foot fence may be permitted. No fence or wall located in a required front yard shall exceed a height of three (3) feet with the exception of a chain link fence up to four (4) feet..

Wood, vinyl, decorative metal or chain link fences are permitted in all residential zones. Stock type fencing (hog wire, chicken wire, goat wire, livestock & similar), tin / metal panels and razor wire are prohibited in all residential zones except for AO - Agricultural Open Space. See Exhibit D for Examples.

Subdivision privacy wood / vinyl fences built by developers must be finished side facing external right-of-ways or a shadow box design.

Privacy wood / vinyl fences built by individual homeowners on single family lots must be built finished side out or shadow box under the following conditions:

- Facing a public right-of-way

**8.3 RECREATIONAL VEHICLES, UTILITY TRAILERS, AND EQUIPMENT PARKED, STORED, OR KEPT ON A LOT OR PARCEL**

- A. The owner of the recreational vehicle shall be the owner or lessee of the principal structure of the lot or parcel on which it is located.
- B. All recreational vehicles parked, stored, or kept on a lot or parcel zoned residential shall be fully operable, readily movable, kept in good repair, and display the current license plate and/or registration as may be appropriate under state law for the particular type of vehicle.
- C. A recreational vehicle may not be permanently attached to utility connections, except as may periodically be required to maintain the equipment and its appliances, if any. Boats and similar recreational vehicles must be on functional operational trailers and stored without the benefit of cradles or other stationary supports.
- D. A recreational vehicle may be temporarily parked in a front yard for the limited purposes of loading, unloading, and/or cleaning before or after a trip, not to exceed seven (7) days.
- E. Parking is permitted in the rear or side yard provided it is not closer than five (5) feet to any parcel line, lot line, and does not block operable windows or doors of a room of a house used for human habitation through the maintenance of a three (3) foot clearance from the side of the house.
- F. The maximum number of recreational vehicles permitted to be parked, stored, or kept on the lot or parcel shall be calculated per Table 8.3.F.1 depending on the zoning of the lot or parcel. Property owners will be responsible for confirming that RV parking/storage is not otherwise disallowed by restrictive covenants.

*Table 8.3.F.1*

| Residential<br>Zoning District | Max # of<br>Recreational Vehicles |
|--------------------------------|-----------------------------------|
| R-1R                           | 3                                 |
| R-1A                           | 2                                 |
| R-1B                           | 2                                 |
| R-1C                           | 2                                 |
| R-1D                           | 1                                 |
| R-2                            | 1                                 |
| R-4                            | 1                                 |
| R-1R                           | 3                                 |
| GPH-1                          | 1                                 |
| MH-1                           | 1                                 |
| AO                             | 4                                 |

|                                                                                             |   |
|---------------------------------------------------------------------------------------------|---|
| Residential Single Family lots within a Planned Development                                 | 1 |
| Legal Non-Conforming Single Family Residence located in a higher density or commercial zone | 1 |

- G. Multiple recreational vehicles may be on a parcel subject to Table 1 and the following: (1) One RV may be parked, stored, or kept on a parcel without any screening. (2) Up to 3 RVs may be stored on a parcel when screened from view in such a manner that the RVs are not visible from public roadways.
- H. Recreational vehicles may only be parked, stored, or kept in a location behind the front façade line of the principal buildings or behind the portion of the front building line farthest from the front lot line if the front of the building is not a continuous straight line (This is not the same as the front yard building setback line).
- I. When located in the exterior side yard of a corner lot, screening of the visible side of the recreational vehicle shall be required. Aesthetically sensitive screening shall be provided, which may include evergreen trees and bushes or a combination of fencing and vegetative screening.
- J. Recreational vehicles parked, stored, or kept inside any fully enclosed legally permitted accessory structure, carport, or garage shall not be counted against the maximum number of recreational vehicles permitted on a lot or parcel.
- K. A recreational vehicle may not be used or occupied for living, sleeping, or housekeeping purposes in residential districts, except as provided herein: Guests may occupy a recreational vehicle for up to fourteen (14) days in a calendar year.
- L. It shall be unlawful for any person, whether owner or operator, to leave any recreational vehicle, mobile home, motor home, boat, trailer, utility trailer, or equipment on any public street.

### **8.3.1 UTILITY TRAILERS AND EQUIPMENT**

- A. It shall be unlawful for any person or entity to park, store, or keep utility trailers and equipment used in the operation of a business on any lot or parcel zoned for residential use except as follows:
  - 1. One (1) single-axle utility trailer may be stored in a residential area when screened from public view.

- B. Commercial construction equipment, whether on or off a trailer, such as bobcats, dozers, and similar equipment typically used in construction, shall not be stored in residential areas.
- C. Notwithstanding the prohibitions in 8.3.1 (a) and (b), temporary parking of utility trailers and equipment used to provide services to residential properties shall be permitted.
  - 1. Temporary parking for service provision shall be limited to the duration of the service being provided and shall not exceed 48 hours, unless otherwise authorized by the municipal authorities.
  - 2. Any utility trailers and equipment parked temporarily for service provision must not impede traffic flow, pedestrian access, or otherwise create a nuisance to the surrounding residential properties.

## **8.4 ANIMALS AND POULTRY IN RESIDENTIAL ZONES**

Domesticated animals (as defined in Section 2.1) are permitted in residential zones R-1R, R-1A, R-1B, R-1C, R-1D, R-2, and R-4 in accordance with the minimum acreage requirements found in Table 8.4.1. When different animals are combined the required acreage shall be the sum of the minimum acreages required for each animal. Property owners will be responsible for confirming that the keeping of non-traditional domesticated animals as pets is not otherwise disallowed by restrictive covenants.

*Table 8.4.1*

| <b>Animal</b>          | <b>Minimum Acreage</b> | <b>Maximum Number Permitted</b> |
|------------------------|------------------------|---------------------------------|
| Domestic Pot Belly Pig | 0.5                    | 2 total                         |
| Domestic Poultry       | <0.5 acres             | 4 total                         |
| Domestic Poultry       | >0.5 acres             | 8 hens per 0.5 acres            |

Additionally, the following restrictions will apply:

- a. Owners or persons-in-charge of domesticated animals and domestic poultry hens shall not knowingly, voluntarily, or willfully permit them to roam freely within the city.
- b. Enclosures may only be located in a rear yard and must meet accessory structure setbacks.
- c. Enclosures shall be maintained and kept clean in order to prevent excessive odor and pest or rodent infestation causing a nuisance to neighbors.
- d. The selling of eggs, fertilizer, or breeding of hens is prohibited.
- e. The slaughter of domestic poultry for sale in residential zones is prohibited.

**8.5 DUPLEX - FORM BASED CODE**

- A. The purpose of a Form Based Code is to consider:
1. Neighborhood context - The design should be consistent with, compliment or improve upon the design character of the immediate neighborhood.
  2. Variety of Design - The duplex should incorporate design elements which help break up the mass of the building and provide visual interest.
- B. These guidelines are intended to protect viable and stable neighborhoods in keeping with their established character and use. They are applicable to Duplexes allowed in any Residential or Planned zone.
- C. DEFINITIONS APPLICABLE TO THIS SECTION:
1. Architectural Details - Include but are not limited to: porch railings; column size, taper, base and molding; dormer windows; shutters; and similar.
  2. Building Facade Recesses - Porches or patios
  3. Landscaping - Sod alone does not constitute landscaping for the purpose of this section; trees, bushes, and other items included in the definition of "Landscaping Material" must also be provided to effectively incorporate the duplex into the surrounding neighborhood.
  4. Pedestrian or Vehicular Courtyard - A break in the primary facade facing the street that: recess no more than 50% of the width of the facade; recess a minimum of 8' in depth; and, shall be enclosed on 3 sides by the building facade.
  5. Transparency - All building facades along public frontages shall have a minimum of 20% transparency with glass; All glass facing a public frontage must be clear, non-reflective and not painted or tinted (transparent, low-emissivity glass is permitted); Glass cannot be made opaque by window treatments (Except for operable sunscreen devices inside the structure within the climate controlled space); and, Security bars on windows or doors shall not be visible from the street.
- D. REQUIREMENTS:
1. The primary facade facing the street shall include the following:
    - i. Landscaping
    - ii. Transparency
    - iii. The primary facade facing the street shall also include at least one of the following:
      - Architectural Details
      - Building Facade Recess
      - Pedestrian or Vehicular Courtyard

## ARTICLE IX - COMMERCIAL - MISCELLANEOUS

### 9.1 COMMERCIAL ACCESSORY STRUCTURES

No accessory structure shall be erected in any front yard or any street-side yard on a corner lot. Accessory structures: shall not exceed two (2) stories in height; shall not cover more than thirty percent (30%) of the required yard in which it is located; and shall be at least five (5) feet from all lot lines and ten (10) feet from any other habitable structure on the same lot. Temporary accessory structures may be permitted on a short term basis.

Dumpster / Trash Enclosures are considered accessory structures for setback, location and similar purposes. Please refer to Engineering / Public Works for specific design criteria.

#### 9.1.1 TEMPORARY / MOBILE STRUCTURES USED FOR BUSINESS

- A. Vendors may operate on private property with written permission from the property owners. The parcel must be zoned for non-residential uses or may be placed on public property within approved areas. Any public property use must be approved by Mayor and Council prior to any permits being issued. These temporary / mobile structures may be allowed for a period not to exceed a total of three (3) months during a single calendar year.
- B. Mobile food vending units shall be located at least ten (10) feet away from the nearest building unless otherwise approved by the City of Foley Fire Department. Vendors shall serve only walk-up customers, not customers in a motor vehicle; shall not broadcast loud music or advertisements; no signage is allowed except signage affixed to the mobile vending unit identifying the vendor and menu / price information; and, vendors must provide for adequate waste collection from their customers. Vendors must operate in a safe and sanitary manner approved by the Alabama Health Department.

### 9.2 METAL BUILDING FACADES

All metal buildings constructed along major arterial, minor arterial and collector streets (as defined in Resolution No. 3213-07 and amendments) are required to have a façade which may be composed of stucco, brick, scored concrete, split-face concrete block, wood or a combination of these materials. This does not include architectural panels that are part of a business brand or part of an overall architectural design. This standard applies to:

- A. City zoning districts including B-1, B-1A, B-2, B-3, PO and commercial / industrial portions of PUD, PDD and PID.
- B. No more than twenty-five (25%) percent of any façade shall be composed of metal siding.

- C. The requirement is for any portion of the structure that faces a public right-of-way.
- D. The facades shall extend for a minimum of ten (10) feet along building elevations not adjacent to a thoroughfare.
- E. This requirement is not applicable to non-habitable accessory structures and structures located more than two-hundred (200) feet from the nearest street as defined above.

### **9.3 FENCES AND WALLS**

Fences and walls may be erected, placed and maintained, along lot lines as long as they do not exceed six (6) feet in height in all commercial zoning districts. No fence or wall located in a required front yard shall exceed a height of three (3) feet with the exception of a chain link fence up to four (4) feet.

Privacy wood / vinyl fences must be built finished side out, facing public right-of-ways or parking areas. Decorative metal and chain link fences are also allowed in commercial areas. Stock type fencing (hog wire, chicken wire, goat wire, livestock & similar), tin / metal panels and razor wire are prohibited in all commercial zones. See Exhibit D for Examples. Barbed Wire, Razor Wire, or Stock Type Fencing may be allowed in M-1 Industrial Zoning when approved by Special Exception from the Board of Adjustment and Appeals, or in a PID if included in the Master Plan approved by Planning Commission.

### **9.4 JOINT COMMERCIAL/RESIDENTIAL USE**

Joint commercial/residential use is intended to encourage mixed use development on commercially zoned properties. The residential uses shall be designed in such a way that they are compatible with the commercial uses and shall not share the same entrances. Residential and commercial uses shall not occupy the same floor of a building, except as described in Section 2.1 Definitions.

A dwelling unit density of .5 (1/2) dwelling units per 1,000 square feet of the gross floor area devoted to commercial uses may be allowed (structures with less than two thousand (2,000) square feet devoted to commercial uses shall be allowed one dwelling unit). Each 2,000 square feet of required commercial must be built first or simultaneously with each dwelling unit. In no instance shall the total residential square footage exceed the total commercial square footage.



## **ARTICLE X - PARKING / LANDSCAPING / BUFFER / LIGHTING REQUIREMENTS / GREENBELT**

### **10.1 PARKING REQUIREMENTS**

- A. Off-street automobile parking spaces shall be provided with vehicular access to a street or alley, and shall be equal to at least the minimum requirements for the specific land use as herein provided. Excessive overparking (>20% of required) should be avoided when possible or justified through appropriate site-use comparisons using the ITE Parking Generation Manual.
- B. The required number of parking spaces for any number of separate uses may be combined in 1 lot, but the required space assigned to 1 use may not be assigned to another use at the same time, except that portion of the parking space required for an existing church whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.
- C. These standards shall not apply to B1, Central Business District, where on-street parking is provided with the exception of new churches being constructed which would adhere to the regulations.
- D. Parking Schedule:
  - 1. One, two, and multi-family dwellings; manufactured housing park – 2 spaces for each dwelling unit.
  - 2. Hotels, motels, and tourist homes – 1.1 spaces for each guest bedroom.
  - 3. Churches, auditoriums, stadiums, ball fields, civic centers and similar uses - 1 parking space for each 4 seats.
  - 4. Schools – Elementary or middle school – 2.5 spaces per classroom. High school – 7 spaces per classroom.
  - 5. Hospitals, nursing homes, homes for aged and similar uses - 1 space for each 4 beds.
  - 6. Industrial / manufacturing – 1 space for each 500 sq ft of gross floor area.
  - 7. Warehouses, Storage Structures / Open Storage – 1 space for each 3,000 sq. ft. of gross floor area.
  - 8. Restaurants – 1 space for each 4 seats.
  - 9. Accessory Dwelling Units – 1 space for each unit.Any use not specified by this ordinance shall require 1 parking space for each 400 sq ft of gross floor area in the building.
- E. Parking space and aisle size requirements:
  - 1. Perpendicular spaces - 10 ft wide by 20 ft long
  - 2. Herringbone/Angle spaces - 9 ft wide by 20 ft long
  - 3. One way traffic parking lot aisle width - 20 ft minimum

4. Two way traffic parking lot aisle width - 25 ft minimum

### **10.1.1 USE AND MAINTENANCE OF PARKING LOTS (NON-RESIDENTIAL)**

Off-street parking for non-residential uses:

- A. Required parking must be designated by pavement, gravel, cross-ties or some similar method.
- B. Shall not be used for the parking or storage of automobile trailers, boat trailers, non-motorized recreational vehicles and similar vehicles.
- C. Shall not be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.
- D. Shall be graded for proper drainage and provided with a surface maintained at all times in such manner as to prevent the release of dust and to be free of dust, trash and debris.
- E. Shall be provided with entrances and exits so located as to minimize traffic congestion.
- F. Shall be lighted in such a manner that they neither unreasonably disturb occupants of adjacent residential properties, nor interfere with traffic yet adequately light the parking area, entrances and exits.
- G. May not have more than one (1) attendant shelter building which shall conform to all setback requirements for structures in the district, and which shelter building shall contain not more than fifty (50) square feet of gross floor area.
- H. May have a sign for identification of the use, provided it complies with the following requirements:
  1. Such sign shall not exceed twenty (20) square feet in area, or five (5) feet in height.
  2. Such sign may be illuminated by a non-oscillating, concealed light source, but illumination by any spotlight or floodlight shall be prohibited.

### **10.1.2 DESIGN AND LANDSCAPING OF OFF-STREET PARKING LOTS**

#### **CONSISTING OF 10 OR MORE PARKING SPACES**

The design and appearance of parking areas is intended to enhance and be compatible with the character of the community while making the area more visually appealing. Toward this objective, the following standards shall be observed in the construction of off street parking area construction accommodating ten (10) or more parking spaces as otherwise defined herein:

- A. A minimum of ten percent (10%) of the total interior area intended for off-street parking shall be suitably landscaped. Such landscaping to include the placement of a shade tree at intervals approximately fifty (50) linear feet with a minimum of five (5) shrubs per shade tree.
- B. Interior portions of the parking area shall be broken by provision of landscaped islands.
- C. A maximum of twelve (12) parking spaces in a row will be permitted without an island.
- D. Each landscaped area must be a minimum of sixteen (16) square feet if it is to be counted toward the minimum landscaped area requirement.
- E. Landscaped areas shall be protected from vehicular encroachment by the use of curbing.
- F. Legal non-conforming off-street parking facilities may continue until they are expanded by more than five percent (5%) of its existing parking capacity at which time the entire parking area must be brought into conformity with this Ordinance.
- G. Cross-visibility at the intersection of any combination of streets, alleys or driveways, landscaping shall be so planted and maintained as to provide unobstructed visibility between the heights of two and one-half (2 ½) feet and fifteen (15) feet within an area defined by projecting lines parallel to and twenty five (25) feet from the point of intersection of curb lines projected.
- H. The owner, tenant, agent of either and other person in charge of premises shall be jointly and severally responsible for the compliance with this section of the ordinance as well as the maintenance of all landscaping, landscaped areas and incidentals as required by this ordinance. All trees and other plant material shall be kept in a healthy, living state and grounds shall be kept free of rubbish, refuse, and debris. Grass and shrubbery shall be kept neatly trimmed in accordance with applicable municipal ordinance.

### **10.1.3 OFF-STREET LOADING**

On the same lot with every structure or use hereafter erected or created, there shall be provided and maintained space for loading and unloading of materials, goods, or things, and for delivery and shipping, so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets and alleys by pedestrians and vehicles.

Where any structure is enlarged, or any use is extended so that the size of the resulting occupancy comes within the scope of this Section, the full amount of off-street loading space shall be supplied and maintained for the structure or use in its enlarged or extended size. Where the use of a structure or land or any part thereof is changed to a use requiring off-street loading space the full amount of off-street loading space shall be supplied and maintained to comply with this ordinance.

For the purpose of this Section, an off-street loading space shall be an area of at least twelve (12) feet wide by forty-five (45) feet long with fourteen and one-half (14 ½) foot vertical clearance. Each off-street loading space shall be accessible from a street or alley, and arranged for convenience and safe ingress and egress by motor truck and/or trailer combination.

Off-street loading facilities supplied to meet the needs of one use shall not be considered as meeting the off-street loading needs of any other use.

No area or facility designated, designed or used to satisfy the off-street parking requirements of this Ordinance shall be used or counted towards the off-street loading requirements of this Ordinance.

Nothing in this section shall prevent one off-street loading zone to be used by more than one business, building, use or entity provided that the off-street loading facility is: (1) at least equal to the combined size and capacity requirements of all the several businesses, buildings, uses or entities who share the off-street loading facility; (2) located on the same lot as all the businesses, buildings, uses and entities; and (3) located and arranged so that it is capable of being conveniently used by all the users of the facility.

Plans for buildings or uses requiring off-street loading facilities under the provisions of this Article shall clearly indicate the location, dimensions, clearance, and access of all such required off-street loading facilities.

#### **10.1.4 OFF-STREET LOADING SPACE**

Off-street loading space shall be provided and maintained in accordance with the following schedule:

- A. For each retail store, warehouse, wholesale establishment, industrial plant, factory, freight terminal, market, restaurant, mortuary, laundry, dry cleaning establishment, or similar use which has an aggregate floor area of:
  - 1. Less than 10,000 square feet: 0 spaces.
  - 2. 10,000 square feet or more, but less than 25,000 square feet: 1 space.
  - 3. 25,000 square feet or more, but less than 60,000 square feet: 2 spaces.
  - 4. 60,000 square feet or more, but less than 120,000 square feet: 3 spaces.
  - 5. 120,000 square feet or more, but less than 200,000 square feet: 4 spaces.
  - 6. 200,000 square feet or more, but less than 290,000 square feet: 5 spaces.
  - 7. 290,000 square feet or more: 5 spaces plus an additional space for each additional 90,000 square feet over 290,000 or any portion thereof.
- B. For each auditorium, convention hall, exhibition hall, museum, hotel, office building, sports arena, stadium, hospital, or similar use which has an aggregate gross floor area of:

1. Less than 10,000 square feet: 0 spaces.
2. 10,000 square feet or more, but less than 40,000 square feet: 1 space.
3. 40,000 square feet or more: 1 space plus an additional space for each 60,000 square feet over 40,000 square feet or any portion thereof.

C. For any use not specifically mentioned in this Section, the requirements for off-street loading for a use which is mentioned, and to which the unmentioned use is similar, shall apply, in the determination of the Community Development Director.

### **10.1.5 RESIDENTIAL LOTS THAT MAY BE USED FOR OFF-STREET PARKING**

The Board of Adjustment and Appeals may allow property zoned for residential use to be used by an abutting non-residential enterprise for off street parking if the Board determines that the residential property will not be substantially or permanently injured and that the neighboring residential area will not be adversely affected by the use of the residential lot for parking. The owner or occupant of the land on which the non-residential enterprise is conducted must own the residential lot; no fee may be charged for parking on the residential lot; and the residential lot may not be used for off-street loading. The abutting lots may be separated by a street or alley. The Board may require certain conditions and safeguards for the adequate protection of the adjoining property and subject property.

## **10.2 BUFFERS**

Buffers shall be provided in accordance with the requirements of Tables 10.2.4 and 10.2.5 and as described in this section. In cases where buffers are required or deemed necessary for the protection and/or separation of uses on abutting lots, the following provisions shall constitute the minimum requirements for each unless otherwise specified by the reviewing authority in individual cases. For the purposes of this Section, “fences” and “walls” shall have the same meaning, but shall not include the term “retaining wall”.

### **10.2.1 BUFFER GENERAL REQUIREMENTS**

- A. 100 percent of the applicable buffer requirements shall be the responsibility of the developing land use, except when the new use is developed abutting an existing more intensive use developed prior to the adoption of these standards and for which no buffer is in place. In this case, the new use shall be responsible for providing a minimum of fifty (50) percent of the required buffer.
- B. Whenever the proposed use abuts an existing use on a property that is designated for another use within the Comprehensive Master Plan, the approving authority may modify the required buffer in accordance with the projected use.
- C. Whenever the proposed use abuts an existing use in a district in which such neighboring use is nonconforming, the approving authority may modify the required buffer in

accordance the type(s) of use permitted by the nonconforming use's zoning classification or projected by the Comprehensive Master Plan, whichever is less.

- D. Whenever the proposed use abuts a vacant property, the buffer required shall be based on the zoning of the abutting property or the use projected by the Comprehensive Master Plan, whichever is less.
- E. If the use relationships between two (2) abutting lots changes so that a lesser buffer would be required, the width of the buffer may be reduced accordingly.
- F. If the required buffer abuts a public right-of-way, up to one-half (1/2) of the right-of-way width may be counted toward the buffer width requirement.
- G. Golf courses, playfields, stables, swimming pools, tennis courts and other recreational facilities; parking and other vehicular use areas; buildings, dumpsters, and outdoor storage are prohibited in required buffers.
- H. Where desirable and upon receipt of a written agreement between the affected property owners, the Commission may permit a pedestrian access way along a wall provided as part of a required buffer, to allow access to and from an abutting residential use.
- I. Buffer requirements may be more stringent if located adjacent to a wetland or stream bank. Refer to City of Foley Ordinances for wetland and stream bank buffer requirements.

### **10.2.2 BUFFER DESIGN REQUIREMENTS**

- A. Any required buffer abutting a park or greenway shall be waived in its entirety, if the property owner dedicated that land to be set aside for the required full buffer width to the City for incorporation into the park or greenway, such land dedication shall be deemed acceptable only upon approval of the Mayor and City Council.
- B. In accordance with the following standards, the width of a required buffer may be reduced by up to fifty (50) percent if a wall together with landscaping (including trees) is used and up to twenty-five (25) percent if a berm together with landscaping is used:
  - 1. Any wall shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks, or metal or other materials specifically designed as fencing materials, or any combination thereof, as may be approved by the reviewing authority. No more than twenty-five (25) percent of the wall surface shall be left open, and the finished side of the wall shall face the abutting property. Chain-link fencing with plastic, metal, or wooden slats shall not be permitted.
  - 2. Walls shall be a minimum of six (6) ft high and shall avoid a stockade appearance. This can be accomplished through any or a combination of the following methods: adding an evergreen hedge on the finished side of the wall, using supports of a different material or by undulating the plan of the wall. Walls over 100 linear feet

shall have no more than fifty (50) percent of their length in a straight line, unless the entire wall is set back five (5) ft or more from the lot line, with evergreen planting provided within such setback

3. Berms shall be a minimum of four (4) ft in height with a maximum slope of three to one (3:1). Berms in excess of six (6) ft in height shall have a maximum slope of four to one (4:1) as measured from the exterior lot line. Berms shall be landscaped and stabilized to prevent erosion.
- C. Refer to the City Ordinances for recommended tree plantings and planting requirements. Native vegetation is highly recommended for buffer plantings.

### **10.2.3 BUFFER LANDSCAPING REQUIREMENTS**

- A. Existing natural vegetation, which meets, in whole or in part, buffer planting requirements, may be applied toward the requirements of this Section. All plants shall be suitable for local planting conditions and the intended landscaping purposes. All exposed beds shall be maintained with mulch and shall be a minimum of two (2) inches deep at installation.
- B. Shrubs shall be evergreen and at least thirty (30) inches tall at installation with an average height of five (5) to six (6) ft to be expected as normal growth within four (4) years. However, twenty-five (25) percent of the shrubs may vary from this standard. The permitted variations are that such shrubs:
  1. May be deciduous;
  2. May be two (2) ft tall when planted, provided an average height of three (3) to four (4) ft is expected as normal growth within four (4) years; and
  3. When planted on a berm, may be of a lesser height, provided that the combined height of the berm and planting is at least six (6) ft after four (4) years.
- C. Deciduous trees shall have a minimum of two-and-one-half (2 1/2) inch caliper and be a minimum of (10) ft in height at installation. At installation, evergreen trees shall be a minimum of six (6) ft in height and multi-stemmed trees shall be eight (8) ft in height.
- D. All landscaped areas shall be protected from vehicular encroachments by curbs, wheel stops, or other permanent barriers.
- E. Stormwater management and drainage controls required by the City Engineering Department shall be coordinated with landscaping improvements and integrated into the overall site design.

**Table 10.2.4 MINIMUM BUFFER REQUIREMENTS**

| Developing Uses                                                | Existing Abutting Uses  |                            |                     |        |          |                   |
|----------------------------------------------------------------|-------------------------|----------------------------|---------------------|--------|----------|-------------------|
|                                                                | Residential             |                            | Institutional       | Office | Business | Parks & Greenways |
|                                                                | Detached Dwellings      | Townhouses or Multi-family | Low / Medium / High |        |          |                   |
| RESIDENTIAL                                                    | Type of Buffer Required |                            |                     |        |          |                   |
| Zero Lot Line Dwellings                                        | C                       | none                       | none                | none   | none     | none              |
| Townhouses & Multi-family                                      | C                       | none                       | none                | none   | none     | none              |
| Manufactured home & Recreational vehicle parks                 | C                       | C                          | C                   | C      | C        | C                 |
| INSTITUTIONAL                                                  |                         |                            |                     |        |          |                   |
| Low Intensity                                                  | C                       | C                          | none                | none   | none     | C                 |
| Medium Intensity                                               | C                       | C                          | C                   | none   | none     | C                 |
| High Intensity                                                 | B                       | B                          | B                   | none   | none     | C                 |
| OFFICE                                                         |                         |                            |                     |        |          |                   |
| Clinics/Offices up to 50,000 sf                                | C                       | C                          | C                   | none   | none     | C                 |
| Clinic/Offices greater than 50,000 sf                          | B                       | B                          | B                   | none   | none     | C                 |
| BUSINESS                                                       |                         |                            |                     |        |          |                   |
| Amusement, Outdoor entertainment & retail                      | C                       | C                          | C                   | none   | none     | C                 |
| Retail, shopping centers, & restaurants up to 50,000 sf        | B                       | B                          | C                   | none   | none     | C                 |
| Retail, shopping centers, & restaurants greater than 50,000 sf | B                       | B                          | C                   | none   | none     | C                 |
| INDUSTRIAL                                                     |                         |                            |                     |        |          |                   |
| Light Manufacturing                                            | A                       | A                          | A / B / B           | C      | C        | B                 |
| Warehousing & Storage                                          | A                       | A                          | A / B / B           | C      | C        | B                 |
| Other Light Industrial                                         | A                       | A                          | A / A / A           | B      | B        | B                 |
| Heavy Industrial                                               | A                       | A                          | A / A / A           | A      | A        | A                 |



**Table 10.2.5 REQUIREMENTS BY TYPE OF BUFFER AND SITE ACREAGE**

| Type of Buffer |                   | Site Area (In Acres) |       |       |       |       |       |       |       |       |        |     |
|----------------|-------------------|----------------------|-------|-------|-------|-------|-------|-------|-------|-------|--------|-----|
|                |                   | 1 or less            | 1 ≥ 2 | 2 ≥ 3 | 3 ≥ 4 | 4 ≥ 5 | 5 ≥ 6 | 6 ≥ 7 | 7 ≥ 8 | 8 ≥ 9 | 9 ≥ 10 | >10 |
| <b>A</b>       | width (ft)        | 40                   | 50    | 55    | 60    | 65    | 70    | 75    | 80    | 85    | 90     | 100 |
|                | trees per 100 lf  | 9                    | 9     | 9     | 10    | 10    | 10    | 10    | 11    | 11    | 11     | 12  |
|                | shrubs per 100 lf | 60                   |       |       |       |       |       |       |       |       |        |     |
| <b>B</b>       | width (ft)        | 25                   | 30    | 35    | 40    | 45    | 50    | 55    | 60    | 65    | 70     | 75  |
|                | trees per 100 lf  | 6                    | 6     | 7     | 7     | 8     | 8     | 9     | 9     | 10    | 10     | 11  |
|                | shrubs per 100 lf | 40                   |       |       |       |       |       |       |       |       |        |     |
| <b>C</b>       | width (ft)        | 20                   | 25    | 30    | 35    | 40    | 45    | 50    | 55    | 60    | 65     | 70  |
|                | trees per 100 lf  | 3                    | 4     | 5     | 5     | 6     | 6     | 7     | 7     | 8     | 8      | 9   |
|                | shrubs per 100 lf | 20                   |       |       |       |       |       |       |       |       |        |     |

**10.3 EXTERIOR LIGHTING REQUIREMENTS**

A. Purpose and Intent: The purpose of this regulation is to minimize light pollution, glare, and light trespass by establishing guidelines for exterior lighting applications. These regulations aim to ensure that outdoor lighting enhances safety and visibility while minimizing adverse impacts on the night sky and neighboring properties.

B. Application Requirements:

1. Exterior lighting plans are required for all projects other than single family residential. An exterior lighting plan, including a photometric plan (which covers the parcel which is the site of the building or project in question), appropriate pole, fixture, and lamp cut sheets, and descriptions of lenses and appropriate data tables, shall be submitted for review during the site plan approval process.
2. All applications for exterior lighting installations must include the following:
  - a. Photometric Plans: A detailed photometric plan covering the entire site must be submitted. The plan should demonstrate the distribution of light and ensure compliance with the requirements outlined in this regulation. Photometric plans must be prepared by a licensed professional engineer or lighting designer.

- b. Fixture Specifications: Complete specifications for all lighting fixtures proposed for installation, including cut sheets, must be provided. This should include information on the fixture type, wattage, shielding, and any additional features designed to minimize light pollution, glare, or spill light.
  - c. Mounting Heights: Proposed mounting heights for lighting fixtures should be specified, ensuring that fixtures are positioned to minimize upward light and glare.
  - d. Control Measures: Applicants must outline any proposed control measures, such as timers, motion sensors, or dimmers, intended to minimize unnecessary or excessive lighting during non-operational hours.
- C. Photometric Performance Requirements:
  - 1. Light Distribution: Lighting fixtures must be selected and positioned to achieve uniform light distribution across the site, with emphasis on minimizing upward light and spill light onto adjacent properties.
  - 2. Cutoff Fixtures: All lighting fixtures must be cutoff fixtures, designed to limit upward light emissions and glare.
  - 3. Spill Light Control: Measures must be implemented to minimize spill light onto adjacent properties. This may include the use of shields, baffles, or other appropriate methods to direct light downward and confine it within the boundaries of the property.
- D. Illumination Levels:
  - 1. Maximum Intensity: The maximum illumination levels at the property line should not exceed 0.5 foot candles when adjacent to residential properties and 1.0 footcandles when adjacent to other uses. These levels should be maintained throughout the operational hours of the lighting system.
  - 2. Gradual Dimming: Lighting systems must incorporate gradual dimming controls to reduce illumination levels during non-operational hours, minimizing light pollution and unnecessary energy consumption.
- E. Prohibitions: The installation, retrofitting, or modification of wall pack lighting fixtures, as well as any similar fixtures attached to exterior walls and characterized by outward-facing design and emitting excessive glare and spill light, is strictly prohibited.
- F. Compliance and Enforcement:
  - 1. Inspections: Compliance with this regulation will be verified through site inspections conducted by authorized personnel.
  - 2. Penalties: Non-compliance with the requirements of this regulation may result in penalties, including fines and the requirement to modify or remove non-compliant lighting installations.
- G. Exemptions: While the following are exempt from certain provisions of this regulation but must still adhere to the principles of minimizing light pollution, glare, and light trespass to the greatest extent possible.

1. Emergency lighting necessary for safety and security purposes is exempt from certain provisions of this regulation but must still adhere to the principles of minimizing light pollution, glare, and light trespass to the greatest extent possible.
  2. Exemptions from the provisions of this ordinance are permitted when federal or state laws, rules, and regulations take precedence over these provisions.
  3. Public schools.
  4. Recreational sporting venues owned by the City
- H. Applicability: This regulation applies to all new exterior lighting installations and modifications to existing installations within the City.
- I. Definitions:
1. Photometric Plans: Detailed diagrams illustrating the distribution and intensity of light across a site, typically prepared by a licensed professional engineer or lighting designer. These plans provide critical information for assessing the performance of exterior lighting installations and ensuring compliance with regulatory standards.
  2. Footcandle (f.c.): A unit of illuminance measuring one lumen per square foot.
  3. Control Measures: Strategies and mechanisms implemented to regulate the operation of lighting systems, including timers, motion sensors, dimmers, and other devices intended to minimize unnecessary or excessive lighting during non-operational hours.
  4. Light Distribution: The manner in which light is spread or dispersed across a given area, aiming to achieve uniform illumination while minimizing glare, hot spots, and uneven lighting. Proper light distribution is essential for optimizing visibility and safety in outdoor environments.
  5. Cutoff Fixtures: Outdoor lighting fixtures designed to limit the upward emission of light and control glare by utilizing shielding or other mechanisms to direct light downward. Cutoff fixtures help minimize light pollution and prevent unnecessary illumination of the night sky.
  6. Spill Light Control: Measures implemented to minimize the unintended projection of light beyond the boundaries of a property, reducing light trespass onto adjacent properties and minimizing the adverse effects of glare and excessive illumination.
  7. Maximum Intensity: The maximum allowable level of illumination at the property line, typically expressed in footcandles (fc). Maximum intensity standards help ensure that lighting installations do not produce excessive glare or spill light onto neighboring properties, contributing to a more visually comfortable and environmentally responsible outdoor lighting environment.
  8. Gradual Dimming: A feature of lighting systems that allows for the gradual reduction of illumination levels during non-operational hours. Gradual dimming controls help minimize light pollution, conserve energy, and promote responsible outdoor lighting practices by adjusting lighting levels to match changing environmental conditions and usage patterns.
  9. Emergency Lighting: Lighting systems designed to provide illumination during emergency situations, such as power outages or evacuations, to ensure the safety and security of occupants. While emergency lighting is exempt from certain provisions of exterior lighting regulations, it is still subject to requirements aimed at minimizing light pollution, glare, and light trespass.

10. Wall pack lighting fixtures are defined as outdoor lighting fixtures designed to be attached directly to exterior walls, characterized by their outward-facing design and tendency to emit excessive glare and spill light.

#### **10.4 RESIDENTIAL DEVELOPMENT GREENBELT ZONES**

- A. Intent: The intent of this section aims to protect the community's health, safety, and welfare by establishing greenbelt zones in specific city areas.

Objectives:

1. Promote a Positive Community Image:
  - a. Encourage quality development.
  - b. Enhance property values.
  - c. Promote orderly growth and aesthetic quality.
2. Create a Safe, Healthy, and Natural Environment:
  - a. Protect and enhance vegetation for ecological health.
  - b. Ensure a sustainable living environment.
  - c. Provide safe travel experiences for pedestrians and drivers.
3. Specific Goals:
  - a. Protection from Light Pollution: Minimize artificial lighting and glare in residential areas.
  - b. Reduction of Noise Pollution: Implement natural and manmade sound barriers to reduce traffic and external noise.
  - c. Enhancement of Visual Appeal: Develop diverse landscaping and greenbelts to improve residential areas and streetscapes.
  - d. Safe Multi-Modal Travel System: Establish a safe multi-modal travel system on higher volume roads at specific city locations.

- B. Greenbelt Zone Requirements:

Location and Exceptions: Greenbelt zones, comprised of landscaping with trees, shrubs, and ground cover to effectively create a barrier, must be established along the frontage perimeter of proposed residential development sites that abut a collector or arterial roadway, as designated by the City of Foley Transportation Continuity Plan and its amendments (refer to Exhibit E, Functionally Classified Roads map).

In mixed-use developments, downtown areas, planned developments, employment centers, and village centers as provided in the comprehensive plan, greenbelt zones may not be required if the Planning Commission determines that the site plan adequately integrates uses, connectivity and aligns with the intent of this section and goals of the Zoning Ordinance and Comprehensive Plan.

The Planning Commission reserves the right to require greenbelt zones when deemed necessary to protect the health, safety, and welfare of the community.

1. Minimum Greenbelt Zone Dimensions:
  - a. A greenbelt zone of no less than 25 feet in width shall be provided and maintained under common area ownership for subdivisions and by owner

when controlled by a single entity, beginning at the edge of the right-of-way line on private property. When a masonry wall, fence, or berm is provided, the greenbelt width may be reduced to 20 feet.

- b. This greenbelt zone shall be continuous, with the exception of curb cuts or entrance drives providing ingress and egress, or sidewalks or bike paths providing connectivity to the site.
  - c. A vision clearance area must be maintained as provided in Illustrations (a.) and (b.) in Section 22.1.D.
  - d. When a conflict occurs with any other regular or ordinance of the City, the more restrictive will prevail.
2. Greenbelt Specifications:
- a. Minimum required screening shall consist of a natural greenbelt utilizing existing vegetation, a structural planted greenbelt, or a combination thereof, whichever provides an opaque visual screen to a height of six (6) feet, or any combination of existing and replanted vegetation that can reasonably be expected by the Planning Commission to create an opaque visual screen six (6) feet high within two (2) growing seasons. Understory trees may be required between larger canopy trees to create diversity in scale and counteract gaps in density caused by streetlights, utilities, or driveway separation requirements. The minimum number of trees must be maintained.
  - b. Sidewalks, paths, lighting, and street furniture may be permitted as required by site conditions.
3. Fencing, Walls, and Berms:
- a. Fencing or Walls:
    - i. Any fence or wall used to satisfy these regulations must be positioned inside the greenbelt zone at the rear of the zone and maintained under common area ownership to ensure a consistent and aesthetic appearance in maintenance, style, materials, and color.
    - ii. Walls shall be constructed using durable materials such as brick, stone, masonry, wood posts and planks, metal, or other approved fencing materials, or a combination thereof, as determined by the Planning Commission.
    - iii. Chain-link fencing with plastic, metal, or wooden slats is prohibited.
    - iv. Walls must be a minimum of 5 feet high and designed to avoid a repetitive monotonous appearance.
    - v. Fences and walls exceeding 100 linear feet must incorporate at least two of the following techniques to reduce visual monotony:
      - Changes in plane: Include a minimum one-foot depth offset for every 50 feet of wall.
      - Changes in height: Integrate wall inserts, decorative columns, or pilasters every 50 feet to provide architectural relief.
      - Changes in material and texture: Enhance aesthetic appeal by incorporating a mix of materials such as wood, metal, or stone with varied textures, like combining rough stone with smooth metal.
  - b. Berms:

- i. Berms used to satisfy these regulations must be at least four (4) feet in height with a maximum slope of three to one (3:1). Berms exceeding six (6) feet in height shall have a maximum slope of four to one (4:1) measured from the exterior lot line. Berms should be landscaped and stabilized to prevent erosion.
- 2. Tree Selection and Placement:
  - a. Canopy trees: Must be planted at a spacing of 30 feet apart to provide seasonal shading and visual appeal.
  - b. Understory trees: Shall be planted in substitution for canopy shade trees where it has been demonstrated that overhead utility lines and fixtures would interfere with the normal maturing of canopy trees.
  - c. Evergreen Trees: Should be strategically placed where higher intensity impacts (e.g., terminating streets, high-volume intersections) from noise and glare occur to ensure effective noise reduction. In no case will the required trees be reduced without specific authorization from the Planning Commission.
  - d. Arrangement: Trees shall be arranged in staggered, multi-layered rows alternating between canopy, understory, and evergreen trees to form a dense, effective barrier throughout the year.
  - e. Canopy trees will not be located within:
    - i. Twenty feet of a streetlight.
    - ii. Ten feet of all utility mains, services, and appurtenances.
    - iii. Ten feet of a fire hydrant, manhole, or sewer inlet.
    - iv. Thirty feet of an intersection.
    - v. An area blocking the view of traffic signs.
    - vi. Ten feet of a driveway.

Note: Distance measurements must be from the trunk of the tree at ground level to the object
- 3. Shrubs and Ground Cover:
  - a. There shall be a minimum of one three-gallon shrub for every five feet of frontage area. The shrubs shall be located within the first 10 feet of the frontage area in the greenbelt zone.
  - b. Greenbelt zones shall be planted with a variety of trees, shrubs, grass, and other ground cover to create an attractive and effective barrier.
- 4. Tree Specifications:
  - a. Canopy trees shall be at least three (3) inches or greater in caliper and ten (10) feet in height at planting.
  - b. Understory trees shall have an initial caliper diameter of at least one (1) inch and measure a minimum of five (5) feet in clear trunk.
  - c. Evergreen trees shall be at least three (3) inches in caliper and eight (8) feet in height at planting.
  - d. There shall be a minimum of one (1) tree planted for every twenty-five (25) feet or fraction thereof of frontage, fifty (50%) percent of which shall be shade trees.
  - e. Except under or within 25 feet of an overhead power line, small trees or ornamental trees may be approved by the Planning Commission.

C. Landscape Plan Approval:

All proposed greenbelt zones must have a detailed landscape plan approved by the Planning Commission before any development begins. The landscape plan must include the following elements:

1. Plant Selection and Placement:

- a. A detailed list of plant species, including trees, shrubs, ground covers, and grasses.
- b. A site plan indicating the specific location and spacing of all plantings to ensure effective noise and light greenbelting and aesthetic appeal.

2. Irrigation System:

- a. Specifications for an efficient irrigation system, including layout, type, and maintenance schedule.

D. Greenbelt Zone to be shown on Plans and Plats:

All greenbelts required by this Zoning Ordinance or provided by a development shall be delineated on site plans, development approval plans, and subdivision plats as greenbelts.

E. Procedure, Installation, and Maintenance:

These regulations ensure the efficient creation of the desired community environment, preventing costs to the developer for tree removal, replacement, or relocation, and preventing costs to the property owner or city for future maintenance or repair of avoidable damages. Greenbelts shall be provided in addition to other planting requirements mandated by other ordinances or regulations.

- The City will inspect on-site to affirm adherence to the approved landscape plan and must approve any alterations or departures from the originally approved plan.
- In the event of tree failure, replacement will be required.

Installation:

- All tree plantings shall be installed in accordance with American Standard for Nursery Stock (ANSI Z60.1) standards.
- Trees selected for planting must be free from injury, pests, disease, nutritional disorders, or root defects, and must be of good vigor to ensure a reasonable expectation of survivability.

Maintenance:

- All maintenance of trees must be performed in accordance with the American National Standards Institute (ANSI) A300 Tree Care standards.

F. Maintenance Responsibility:

The responsibility for the maintenance within the common area greenbelt zones lies with the developer, homeowners' association, property owners' association, or any combination of common ownership entities. Regular maintenance must be conducted to ensure the health and effectiveness of the greenbelt zone. All maintenance of trees must be performed in accordance with the American National Standards Institute (ANSI) A300 Tree Care standards.

The City will inspect the locations and species variation on-site to affirm adherence to the approved landscape plan and must approve any alterations or departures from the originally approved plan prior to installation. In the event of tree or planting failure within the greenbelt zone, replacement will be required.

G. Tree Protection Measures during Construction:

In an effort to protect trees during home construction, commercial development, and other land development activities after planting, the following tree protection measures are designed to ensure the health and preservation of trees and to minimize construction impacts on them.

A Tree Protection Zone (TPZ) must be established based on the size of the existing tree at a minimum of 2 feet per inch of Diameter at Breast Height (DBH). For example, a tree with a 3-inch DBH requires a TPZ with a radius of 6 feet from the base of the tree.

Tree Protection Measures:

Fencing:

- TPZ fencing must be installed before construction begins and maintained throughout the construction period. Fencing must be located and placed so as not to harm the root system.
- Fencing must be highly visible, at least 4 feet high, and constructed of durable materials.
- Signage of 6 square feet shall be placed on the exterior of the fencing indicating the tree protection zone.
- The fencing should be placed at the edge of the TPZ and maintained throughout the duration of the construction or until a Certificate of Occupancy is issued.

H. Enforcement:

Removal or damage of plantings is considered a violation and may be remedied as provided by law, including but not limited to fines, stop work orders, or additional replanting.



## ARTICLE XI - SITE PLAN REVIEW

### 11.1 SITE PLAN REVIEW

A zoning site plan review is a procedure designed to assist a developer in interpreting the Zoning Ordinance so that proposed developments will stand a better chance of not violating this Ordinance. Ultimate responsibility for compliance with this Ordinance rests with the land owner, developer, tenant, or person who is responsible for the building, structure, lot or use.

A zoning site plan review shall be required to be made in all cases on new construction, remodeling or refurbishing of existing structures, demolition and rebuilding on existing lots, and the change of occupancy or use of any structure, regardless of the district.

A conceptual review may be performed with the Community Development Director, and/or other City Staff during the planning stages of a project, but this will not be considered a formal review. Formal reviews will only be made on submitted, finalized plans.

Site plan approval by the Planning Commission is required for each phase of a Planned Development. Site plans are also required to be submitted to the Planning Commission for input in cases where the proposed development meets the following criteria. A site plan approval will be valid for 12 months but will expire after this date if no building permits have been obtained. The Planning Commission may extend the site plan approval if it is determined there is an extenuating circumstance.

- A. Duplexes
- B. Commercial developments where the total area exceeds three (3) gross acres.
- C. Commercial developments where the total structure area exceeds fifty thousand (50,000) square feet.
- D. Places of amusement over three (3) acres.

The Community Development Director and/or other City Staff will review the site plan and advise the applicant of changes that must be made in the plans so as to comply with the Zoning Ordinance. Such changes shall be accomplished prior to the issuance of a building permit. Site plan review is a service to the applicant that is performed by municipal employees and officers in their official capacities. The failure of the reviewing officials to recognize or notice a violation or the incorrect interpretation of the reviewing officials at the site plan review stage shall not prevent or prohibit the City of Foley and these same officials from enforcing the Zoning Ordinance against an applicant if a structure, lot, or use of land conflicts with this Ordinance.

### **11.1.1 SITE PLAN CONTENTS**

- A. Boundary survey including acreage and easements;
- B. Location of bordering right-of-ways;
- C. Location, occupancy type, square footage, height & setbacks of proposed structures;
- D. Parking spaces including number, size & ADA, sidewalks, loading dock if required, total percent of landscaping.
- E. Schematic with stormwater pond location and basic size.
- F. Location and size of proposed signage.
- G. The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that one can readily interpret the site plan, and shall include more than one drawing where required for clarity.
- H. Landscape Plan (including Street Trees and Greenbelt Zones if applicable)
- I. Photometric Plans
- J. Architectural Renderings/Elevations for Proposed Buildings

## ARTICLE XII - BED & BREAKFAST REQUIREMENTS

### 12.1 BED AND BREAKFAST

Bed and Breakfasts shall be a use permitted on appeal in all residential areas and other areas where residences are either permitted or permitted on appeal.

#### 12.1.1 BED AND BREAKFAST REQUIREMENTS

No residential dwelling structure shall be erected solely for the purpose of creating a Bed and Breakfast use. Only existing structures shall be permitted for this use, and only upon approval for such use as a home occupation, a use permitted on appeal where residential uses are permitted or permitted on appeal, by the Board of Adjustments and Appeals. The proposed Bed and Breakfast will be in harmony with the surrounding neighborhood. Where conditions are attached by the Board of Adjustment and Appeals, they shall be included as part of the business or building permit if home modification is required.

It is the intent of this Ordinance that Bed and Breakfast uses in an area where they are, or may be permitted, create no greater impact than that of any private residence with temporary houseguest. In line with the general considerations above, the following site and design criteria are established:

- A. The architectural integrity of existing interior spaces of the home shall be maintained. Only such construction and remodeling as may be necessary to meet health, safety, and sanitation requirements shall be permitted. Any modifications proposed shall be approved by the Building Official.
- B. Exterior modifications to the structure or to the grounds shall not alter the appearance of the home from that of a single family residence. Only such exterior alterations as are necessary to insure the safety of the structure shall be permitted. Any exterior alterations shall be approved by the Board of Adjustment and Appeals, and the Building Official.
- C. There shall be a minimum of two (2) off-street parking spaces for the principal occupants of the residence, and a minimum of one (1) additional parking space per guest room. The additional parking spaces shall not be located in any required front or side yard setback area and shall be screened from the view of adjacent properties by natural or artificial means.
- D. No more than one (1) identification sign shall be permitted for the Bed and Breakfast use. Such signs shall state only the name and street address of the establishment. It shall not

exceed four (4) square feet in sign face area. No other signage or advertising copy such as Vacancy/No Vacancy, Rent/Lease, etc. is permitted.

- E. A Bed and Breakfast homeowner shall not offer weekly or monthly rentals, nor shall a guest room be rented to the same guest for a period longer than nine (9) consecutive days.
- F. No Bed and Breakfast use shall be located within five hundred (500) feet of another Bed and Breakfast use unless approved by the Board of Adjustment and Appeals.
- G. Bed and Breakfast guest rooms shall not contain any cooking facilities and cooking is strictly prohibited in these rooms.

## ARTICLE XIII - DISTRICT REGULATIONS

### 13.1 REGULATIONS APPLYING TO ALL DISTRICTS

#### 13.1.1 USES / STRUCTURES PERMITTED

Unless specifically prohibited in a particular zoning district, the following uses and structures are permitted by right in all districts.

- A. Public buildings of a governmental nature;
- B. Unlighted recreational facilities, including parks, playgrounds, stadiums, etc;
- C. Accessory Structures / Accessory Dwelling Units;
- D. Class 1 Clubs or Lodges

#### 13.1.2 USES / STRUCTURES PERMITTED ON APPEAL

Unless specifically prohibited in a particular zoning district, the following uses and structures are permitted on appeal in all districts.

- A. Public Utilities such as electric and gas substations and water / wastewater pumping stations;
- B. Public buildings of a proprietary nature;
- C. General hospitals for humans (including nursing homes and assisted living facilities);
- D. Institutional uses;
- E. Semi-public buildings and uses, including private schools, churches and childcare and adult care facilities unless otherwise allowed;
- F. Lights for recreational facilities (subject to regulations based on the neighborhood, zoning district, and surrounding area that may limit the time of day and the number and nature of lights allowed);
- G. Public and semi-public buildings with heights greater than three (3) stories or fifty (50) feet;
- H. Class 2 Clubs or Lodges;
- I. Communal Living Facilities excluding Mentally Retarded or Mentally Ill in a multi-family zone.

#### 13.1.3 USES PROHIBITED

- A. On-street and off-street parking of motorized vehicles in excess of ten thousand (10,000) pounds and/or with more than six (6) wheels is prohibited in all residential zoning districts and in all residential areas of mixed use districts.
- B. Any occupancy of a dwelling unit by a group of people that do not meet the definition of a "Family" as defined herein.

It shall be presumptive evidence that three or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

1. The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.
2. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers shall not be deemed to be occupied by the functional equivalent of a traditional family.
3. The group shares expenses for food, rent or ownership costs, utilities and other household expenses.
4. The group is permanent and stable. Evidence of such permanency and stability may include:
  - a. The presence of minor dependent children regularly residing in the household who are enrolled in local schools;
  - b. Members of the household have the same address for purposes of voter's registration, driver's licenses, motor vehicle registration and filing of taxes;
  - c. Members of the household are employed in the area;
  - d. The household has been living together as a unit for a year or more, whether in the current dwelling or in other dwelling units;
  - e. There is common ownership of furniture and appliances among the members of the household; and
  - f. The group is not transient or temporary in nature.
5. Evidence that the group is the functional equivalent of a traditional family may include other factors reasonably related to whether or not the group is the functional equivalent of a family.

### **13.2 AUTOMOBILE FILLING STATIONS**

Automobile filling stations, regardless of the district in which they are located, shall, in addition to any other set back requirements, locate pump islands and gas pumps at least ten (10) feet back from all property lines and right-of-ways.

### **13.3 HOME BASED BUSINESS**

A premises principally used as a residence but in which one or more people operate a business or commercial enterprise, provided, however:

- A. No customers may come to this address;
- B. No person other than residents may work with this business at this address;
- C. No outside storage of products or equipment other than a personal vehicle used for business purposes;
- D. No commercial signs of any kind may be placed on the premises;
- E. This address cannot be used to advertise the business; and
- F. No activity shall be conducted at this address that creates visible evidence that the resident is engaging in a business.

### **13.4 HOME OCCUPATION**

A premises principally used as a residence but in which one or more people operate a business or commercial enterprise, provided, however:

- A. The business or commercial enterprise is conducted entirely within a dwelling;
- B. The business or commercial enterprise is carried on solely by the inhabitants of the dwelling;
- C. The business or commercial enterprise requires and actually uses less than twenty-five percent (25%) of total floor area;
- D. The business or commercial enterprise is clearly incidental and secondary to the residential use of the dwelling;
- E. The business or commercial enterprise does not change the residential character of the dwelling, meaning that there shall be no major change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation;
- F. The business or commercial enterprise must be such that it can be conducted without any significant adverse impact on the surrounding neighborhood and shall not cause or encourage an amount of vehicular or pedestrian traffic not normally associated with the residential area in which it is conducted;
- G. Any need for parking associated with the business or commercial enterprise shall be met off the street;
- H. No equipment or process shall be used which creates noise, vibration, glare, fumes or odors detectable to the normal senses off the lot;
- I. No equipment or process shall be used which creates electrical interference affecting radio or television receivers off the premises, or creates fluctuations in the voltage off the premises;
- J. No public display of goods is allowed.

Home Occupations are allowed one (1) advertising or location sign located on premise which shall not exceed four (4) square feet in area. Examples of home occupation are: dressmaking, the taking of boarders and the leasing or renting of rooms, tutoring, and teaching. It may include an office for any professional or business use where traffic generated would not be detrimental to the neighborhood.

The conducting of a health clinic, hospital, barbershop, beauty parlor, tearoom, or animal hospital shall not be deemed to be a home occupation.

## ARTICLE XIV - SINGLE FAMILY RESIDENTIAL & DUPLEX DISTRICTS

### 14.1 RESIDENTIAL DISTRICTS

#### 14.1.1 R-1R RESTRICTED RESIDENTIAL SINGLE FAMILY

- A. Uses / Structures Permitted: Single family dwelling units and home based businesses. Excluding townhouses, garden-patio homes, recreational vehicles and mobile / manufactured dwellings.
- B. Uses / Structures Permitted on Appeal: Modular Dwellings and home occupations
- C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically permitted or permitted on appeal by this section or by Sections 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| Minimum Lot Area                                      | 30,000 square feet* |
| Minimum Lot Width at Building Line                    | 100 feet            |
| Minimum Depth of Front Yard                           | 35 feet             |
| Minimum Depth of Rear Yard                            | 30 feet             |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet             |
| Minimum Waterfront Setback Line                       | 75 feet             |
| Minimum Width of each Side Yard                       | 10 feet             |
| Minimum Depth of Side Yard Abutting Street            | 30 feet             |
| Maximum Building Area (% Gross Lot Area):             | 25%                 |
| Maximum Building Height (feet):                       | 50 feet             |
| Maximum Building Height (stories):                    | 2 stories           |
| Garage Setback (Front Loaded)                         | 40 feet             |
| Minimum Off-Street Parking Spaces:                    | 2                   |
| Maximum Density Per Acre:                             | 1.4                 |

\* or meet Health Department requirements.

#### 14.1.2 R-1A RESIDENTIAL SINGLE FAMILY

- A. Uses / Structures Permitted: Single family dwelling units, Modular dwellings, and home based businesses. Excluding townhouses, garden-patio homes, mobile/manufactured dwellings, and Recreational Vehicles.



B. Uses / Structures Permitted on Appeal: Home occupations.

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII

D. Requirements:

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| Minimum Lot Area:                                     | 12,000 square feet* |
| Minimum Lot Width at Building Line                    | 100 feet            |
| Minimum Depth of Front Yard                           | 35 feet             |
| Minimum Depth of Rear Yard                            | 30 feet             |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet             |
| Minimum Width of Each Side Yard                       | 12 feet             |
| Minimum Depth of Side Yard Abutting Street            | 35 feet             |
| Maximum Building Area (% of Gross Lot Area)           | 25 %                |
| Maximum Building Height (feet):                       | 50 feet             |
| Maximum Building Height (stories):                    | 2                   |
| Garage Setback (Front Loaded)                         | 40 feet             |
| Off-Street Parking Spaces                             | 2                   |
| Maximum Density Per Acre                              | 3.0                 |

\* or meet Health Department requirements.

### **14.1.3 R-1B RESIDENTIAL SINGLE FAMILY**

A. Uses / Structures Permitted: Single family dwelling units, Modular dwellings and home based businesses. Excluding townhouses garden-patio homes, mobile/manufactured dwellings, and Recreational Vehicles

B. Uses / Structures Permitted on Appeal: Home occupations.

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

|                                                       |                                       |
|-------------------------------------------------------|---------------------------------------|
| Minimum Lot Area                                      | 11,000 square feet*                   |
| Minimum Lot Width at Building Line                    | 85 feet                               |
| Minimum Depth of Front Yard                           | 35 feet                               |
| Minimum Depth of Rear Yard                            | 30 feet                               |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet                               |
| Minimum Width of Each Side Yard                       | 10 feet (5 feet on side with carport) |
| Minimum Depth of Side Yard Abutting Street            | 35 feet                               |

|                                             |         |
|---------------------------------------------|---------|
| Maximum Building Area (% of Gross Lot Area) | 25%     |
| Maximum Building Height (feet)              | 50 feet |
| Maximum Building Height (stories)           | 2       |
| Garage Setback (Front Loaded)               | 40 feet |
| Off-Street Parking Spaces                   | 2       |
| Maximum Density Per Acre                    | 3.3     |

\* or meet Health Department requirements.

#### **14.1.4 R-1C RESIDENTIAL SINGLE FAMILY**

- A. Uses / Structures Permitted: Single family dwelling units, Modular dwellings and home based businesses. Excluding townhouses, mobile/manufactured dwellings, Recreational Vehicles, and garden-patio homes.
- B. Uses / Structures Permitted on Appeal: Home occupations.
- C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

|                                                       |                                       |
|-------------------------------------------------------|---------------------------------------|
| Minimum Lot Area                                      | 9,500 square feet*                    |
| Minimum Lot Width at Building Line                    | 75 feet                               |
| Minimum Depth of Front Yard                           | 30 feet                               |
| Minimum Depth of Rear Yard                            | 30 feet                               |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet                               |
| Minimum Width of Each Side Yard                       | 10 feet (5 feet on side with carport) |
| Minimum Depth of Side Yard Abutting Street            | 30 feet                               |
| Maximum Building Area (% of Gross Lot Area)           | 40%                                   |
| Maximum Building Height (feet)                        | 50 feet                               |
| Maximum Building Height (stories)                     | 2                                     |
| Garage Setback (Front Loaded)                         | 40 feet                               |
| Off-Street Parking Spaces                             | 2                                     |
| Maximum Density Per Acre                              | 3.8                                   |

\* or meet Health Department requirements.

#### **14.1.5 R-1D RESIDENTIAL SINGLE FAMILY**

***No new properties will be zoned R-1D.***

- A. Uses Permitted: Single family dwelling units, modular dwellings and home based businesses. Excluding townhouses, garden patio homes, mobile/manufactured dwellings, and recreational vehicles.

B. Uses Permitted on Appeal: Home occupations.

C. Uses Prohibited: Agriculture and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

|                                                       |                    |
|-------------------------------------------------------|--------------------|
| Minimum Lot Area                                      | 6,000 square feet* |
| Minimum Lot Width at Building Line                    | 60 feet            |
| Minimum Depth of Front Yard                           | 20 feet            |
| Minimum Depth of Rear Yard                            | 15 feet            |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet            |
| Minimum Width of Each Side Yard                       | 10 feet            |
| Minimum Depth of Side Yard Abutting Street            | 20 feet            |
| Maximum Building Area as % of Gross Lot Area          | 50%                |
| Maximum Building Height (feet)                        | 50 feet            |
| Maximum Building Height (stories)                     | 2                  |
| Garage Setback (Front Loaded)                         | 40 feet            |
| Off-Street Parking Spaces Required per Family Unit    | 2                  |
| Maximum Density per Acre                              | 5.0                |

\*or meet Health Department requirements

#### **14.1.6 R-2 RESIDENTIAL SINGLE FAMILY AND DUPLEX**

A. Uses / Structures Permitted: Single family dwelling units, residential structures containing two family units (duplex), modular dwellings and home based businesses. Excluding townhouses, mobile/manufactured dwellings, recreational vehicles and garden-patio homes.

B. Uses / Structures Permitted on Appeal: Home occupations.

C. Uses / Structures Prohibited: Agriculture and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

##### **SINGLE FAMILY:**

|                                                       |                                  |
|-------------------------------------------------------|----------------------------------|
| Minimum Lot Area (single family)                      | 9,000 square feet*               |
| Minimum Lot Width at Building Line                    | 75 feet                          |
| Minimum Depth of Front Yard                           | 30 feet                          |
| Minimum Depth of Rear Yard                            | 30 feet                          |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet                          |
| Minimum Width of Each Side Yard                       | 10ft (5 feet on side w/ carport) |

|                                             |         |
|---------------------------------------------|---------|
| Minimum Depth of Side Yard Abutting Street  | 30 feet |
| Maximum Building Area (% of Gross Lot Area) | 40%     |
| Maximum Building Height (feet)              | 50 feet |
| Maximum Building Height (stories)           | 2       |
| Garage Setback (Front Loaded)               | 40 feet |
| Off-Street Parking Spaces (Per Family Unit) | 2       |
| Maximum Density Per Acre                    | 4.0     |

\* or meet Health Department requirements.

DUPLEX:

|                                                       |                                  |
|-------------------------------------------------------|----------------------------------|
| Minimum Lot Area (duplex)                             | 11,500 square feet*              |
| Landscape Requirements (duplex)                       | 10% of min lot area              |
| Minimum Lot Width at Building Line                    | 75 feet                          |
| Minimum Depth of Front Yard                           | 30 feet                          |
| Minimum Depth of Rear Yard                            | 30 feet                          |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet                          |
| Minimum Width of Each Side Yard                       | 10ft (5 feet on side w/ carport) |
| Minimum Depth of Side Yard Abutting Street            | 30 feet                          |
| Additional Setback from Single Family Residential     | 5 feet                           |
| Maximum Building Area (% of Gross Lot Area)           | 40%                              |
| Maximum Building Height (feet)                        | 50 feet                          |
| Maximum Building Height (stories)                     | 2                                |
| Garage Setback (Front Loaded)                         | 40 feet                          |
| Off-Street Parking Spaces (Per Family Unit)           | 2**                              |
| Maximum Density Per Acre                              | 4.0                              |

\* or meet Health Department requirements.

\*\* Parking shall be clearly shown on the site plan as paved, gravel, or similar durable surface and marked for the residents' use.

E. ADDITIONAL REQUIREMENTS FOR DUPLEXES CAN BE FOUND IN SECTION 8.5 "Duplex Form Based Code".

#### **14.1.7 R-4 RESIDENTIAL SINGLE FAMILY AND DUPLEX**

- A. Uses / Structures Permitted: Residential structures containing one or two family units; mobile/manufactured dwelling units, and modular dwellings on individual lots; and home based businesses.
- B. Uses / Structures permitted on Appeal: Home occupations, lodges and clubs not operated for profit; professional and business offices.
- C. Uses / Structures Prohibited: Agriculture, poultry, and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII

## D. Requirements:

## SINGLE FAMILY RESIDENTIAL:

|                                                       |                    |
|-------------------------------------------------------|--------------------|
| Minimum Lot Area (single family)                      | 9,500 square feet* |
| Minimum Lot Width at Building Line                    | 75 feet            |
| Minimum Depth of Front Yard                           | 30 feet            |
| Minimum Depth of Rear Yard                            | 30 feet            |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet            |
| Minimum Width of Each Side Yard                       | 10 feet            |
| Minimum Depth of Side Yard Abutting Street            | 30 feet            |
| Maximum Building Area (% of Gross Lot Area)           | 40%                |
| Maximum Building Height (feet):                       | 50 feet            |
| Maximum Building Height (stories):                    | 2                  |
| Garage Setback (Front Loaded)                         | 40 feet            |
| Off-Street Parking Spaces (per family unit)           | 2                  |
| Maximum Density                                       | 4.0                |

\* or meet Health Department requirements.

## DUPLEX:

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| Minimum Lot Area (single family)                      | 9,500 square feet*  |
| Additional Minimum Lot area (each additional family)  | 2,000 square feet*  |
| Landscape Requirements (duplex)                       | 10% of min lot area |
| Minimum Lot Width at Building Line                    | 75 feet             |
| Minimum Depth of Front Yard                           | 30 feet             |
| Minimum Depth of Rear Yard                            | 30 feet             |
| Minimum Depth of Rear Yard with Pool/Screen Enclosure | 10 feet             |
| Minimum Width of Each Side Yard                       | 10 feet             |
| Minimum Depth of Side Yard Abutting Street            | 30 feet             |
| Additional Setback from Single Family Residential     | 5 feet              |
| Maximum Building Area (% of Gross Lot Area)           | 40%                 |
| Maximum Building Height (feet)                        | 50 feet             |
| Maximum Building Height (stories)                     | 2                   |
| Garage Setback (Front Loaded)                         | 40 feet             |
| Off-Street Parking Spaces (Per Family Unit)           | 2**                 |
| Maximum Density Per Acre                              | 4.0                 |

\* or meet Health Department requirements.

\*\* Parking shall be clearly shown on the site plan as paved, gravel, or similar durable surface and marked for the residents' use.

E. ADDITIONAL REQUIREMENTS FOR DUPLEXES CAN BE FOUND IN SECTION 8.5 Duplex Form Based Code.

### 14.1.8 GPH-1 RESIDENTIAL GARDEN PATIO HOMES

**No more property will be zoned GPH1**

- A. Uses / Structures Permitted: Garden–patio homes, Modular Dwellings; home based businesses.
- B. Uses / Structures Permitted on Appeal: Residential uses including structures specifically permitted or permitted on appeal in R-1C districts; home occupations.
- C. Uses / Structures Prohibited: Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.
- D. Requirements:
 

|                                            |                         |
|--------------------------------------------|-------------------------|
| Minimum Lot Area (per family)              | 4,000 square feet*      |
| Minimum Lot Width at Building Line         | 40 feet                 |
| Minimum Depth of Front Yard                | 20 feet                 |
| Minimum Depth of Rear Yard                 | 15 feet                 |
| Minimum Width of Side Yard                 | 10 feet (total of both) |
| Minimum Depth of Side Yard Abutting Street | 10 feet                 |
| Maximum Building Height (feet):            | 50 feet                 |
| Maximum Building Height (stories):         | 2 ½                     |
| Garage Setback (Front Loaded)              | 40 feet                 |
| Off-Street Parking Spaces                  | 2                       |
| Maximum Density Per Acre                   | 8.0                     |

\* or meet Health Department requirements.

**14.1.9 GARDEN PATIO HOMES**

- A. No area will be zoned for garden-patio homes until the City Council shall determine that the proposed patio homes are designed in such a manner as to be in harmony with the character of the surrounding neighborhood.
- B. It is the intent of this Ordinance that patio homes, in areas where they are or may be permitted may be appropriately intermingled with other types of housing; shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space; and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildings areas.
- C. In line with general considerations above, the following site plan and design Criteria are established:
  - 1. No more than two (2) garden-patio homes shall be connected.
  - 2. Each patio home shall be constructed on its own lot, and shall be a minimum width of forty (40) feet at the building line with minimum lot area of four thousand (4,000) square feet.

3. Each patio home lot shall have side yards totaling a minimum of ten (10) feet or meet Building/Fire Codes. Minimum depth of rear yard shall be fifteen (15) feet. Fireplace and chimney may be placed in the side or rear yard setback provided they do not project beyond the thirty (30) inch permitted roof overhang and provided they do not restrict or obstruct any drainage or drainage easement, either existing or proposed.
4. The required ten (10) foot side yard must be kept perpetually free of permanent obstructions, accessory structures, walls and fences without gates.
5. Privacy fences or walls may be placed on or along any lot line provided that such fences or walls are not constructed in such a manner as to block any local lot drainage and provided gates or other openings are provided that will not restrict access for fire protection. An eight (8) foot maximum height limit will be permitted for privacy fences or walls located on or along any required side or rear yard.
6. Each patio home shall have on its own lot one yard containing not less than six hundred (600) square feet, reasonably secluded from view.
7. Off-street parking shall be provided at the rate of two (2) spaces per dwelling unit and shall be located within the interior of the lot. Garages shall not be credited toward the parking requirements if said garage is a part of the main dwelling or attached to the main dwelling.
8. The exterior walls of the patio home, or any accessory structures located on the zero (0) foot side yard setback shall not project over the property line. Roof overhang may penetrate maintenance and drainage easements of the adjacent lot a maximum of thirty (30) inches, provided the roof shall be so designated that water run-off shall be restricted to the drainage easement area.
9. No windows, doors, or other openings shall be permitted on the zero (0) foot side line of any patio home unit. Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual wall maintenance easement of three (3) feet in width along and parallel to the adjacent lot shall be provided.
10. Where adjacent zero (0) lot line dwellings are not constructed against or along a common lot line, a perpetual drainage easement shall be provided which shall be approved by the City. Fences and walls may be located on or along this easement provided gates or other openings that will not block local lot drainage are maintained.
11. The lot adjacent to the zero (0) setback side yard must be under the same ownership at the time of initial construction (ensuring that a developer does not infringe on the property rights of owners of adjacent tracts).
12. A ten (10) foot side setback shall be required, provided the adjacent property is not zoned for patio homes or is not a permitted use in the adjacent zoning district.
13. No accessory structures shall be erected in a required front, side, street side yard, or open space. Accessory structures shall be permitted in the rear yard and shall not exceed one (1) story in height; and shall not cover more than twenty-five (25) percent of the required rear yard.

## **ARTICLE XV** - reserved

(formerly titled: MULTI-FAMILY & TOWNHOUSE DISTRICTS)

Contents have been moved to ARTICLE XXI - Planned Developments



## ARTICLE XVI - MANUFACTURED HOMES

### 16.1 MH-1 MOBILE / MANUFACTURED DWELLING PARK

- A. Uses / Structures Permitted: Mobile / manufactured dwellings; modular dwellings; and home based businesses.
- B. Uses / Structures Permitted on Appeal: Home occupations; residential structures and uses specifically permitted in R-1C districts.
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII; poultry and livestock.
- D. Requirements:
 

|                                           |                                                                                                   |
|-------------------------------------------|---------------------------------------------------------------------------------------------------|
| Minimum Lot Area                          | 3,000 square feet or three times larger than the footprint of the dwelling, whichever is greater* |
| Minimum Lot Width at Building Line        | N/A                                                                                               |
| Minimum Depth of Yards                    | 20 feet on each long side of structure and 15 feet on each end of structure (short side)          |
| Off-Street Parking Spaces per family unit | 2                                                                                                 |
| Maximum Density Per Acre                  | 8.0 units                                                                                         |

\* or meet Health Department requirements.

#### 16.1.1 MOBILE / MANUFACTURED DWELLINGS GENERAL REQUIREMENTS

- A. No mobile / manufactured dwelling shall be occupied for dwelling purposes unless the same is located in an appropriate zoning district.
- B. No mobile / manufactured dwellings shall be admitted to any park or mobile home subdivision unless it meets all code requirements of the City of Foley.
- C. No area will be zoned for mobile / manufactured dwellings parks until the following information is submitted to the Planning Commission and City Council:
  1. Area and dimensions of the proposed park.
  2. Location of all drives and mobile / manufactured dwellings layout.
  3. Location of water and sewer lines, water supply, and sewage disposal areas.
  4. A preliminary drainage plan for the park reviewed by the City Engineering Department.
  5. Location and dimension of all buffers, office structures, recreational areas, open spaces and other required accessory structures.
  6. A traffic analysis, if required by City of Foley Ordinances.

**16.1.2 DEVELOPMENT STANDARDS**

Except as otherwise provided, the development standards which follow apply to mobile / manufactured dwellings parks and mobile / manufactured dwellings subdivisions.

- A. Buffers: Each boundary of a mobile / manufactured dwellings park or subdivision must be at least one hundred (100) feet from any residential property or industrial property line located outside the park or subdivision, unless separated there from by a natural or artificial barrier that is sufficient in size, and composition so as to completely prohibit the unobstructed view or access between the mobile home park or subdivision and the neighboring property.
- B. Utilities: Each mobile / manufactured dwellings lot shall have attachments for waste disposal and water supply facilities, properly connected to an approved method of sewage disposal and water supply.
- C. Required Open Space:
  - 1. Each mobile / manufactured dwellings park shall provide land for open space which may be used for recreational purposes, but which may not be used for parking or for accessory structures. Such open space shall total at least fifteen percent (15%) of the gross land area of the park. This requirement does not apply to mobile / manufactured dwellings subdivisions.
  - 2. Mobile / manufactured dwellings subdivisions greater than five (5) acres in total area shall include, at a minimum, open space equal to ten percent (10%) of the total area. Such open space may be used for recreational purposes, but may not be used for parking or accessory structures.
  - 3. The City's Land Development Ordinance also contains guidance and requirements for Conservation Green Space that must be met in conjunction with this Zoning Ordinance Open Space requirement.
- D. Additional Requirements:
  - 1. No mobile / manufactured dwellings park office or service building shall be closer to a public street right-of-way than the minimum of 30 feet.
  - 2. All mobile / manufactured dwellings parks must be divided into lots.
- E. Traffic and Circulation:
  - 1. All right of ways for access driveways and interior streets of mobile / manufactured dwellings parks must be at least thirty (30) feet in width with at least twenty (20) feet paved or topped with a hard, durable surface.
  - 2. Requirements contained in the Subdivision Regulations of the City of Foley shall govern streets and right-of-ways for mobile / manufactured dwellings subdivisions.
- F. Single Mobile / manufactured dwellings: Where single mobile / manufactured dwellings are permitted, they shall be subject to the following regulations:

1. Such mobile / manufactured dwellings shall be in compliance with all codes of the City of Foley.
2. The minimum lot size shall be ten thousand (10,000) square feet with one-hundred (100) feet minimum width.
3. The lot must have access to a public road.

## ARTICLE XVII - RECREATIONAL VEHICLE (RV) PARK DISTRICT

### 17.1 RECREATIONAL VEHICLE PARK

A tract of land under unified ownership which has been developed with all necessary facilities and services in accordance with a development plan meeting all the requirements of this Ordinance, and which is intended for the express purpose of providing a satisfactory living environment for travel trailer residents on a temporary basis.

#### 17.1.1 DEFINITION

Recreational Vehicle: For the purposes of this Ordinance, a recreational vehicle shall consist of any of the following as herein defined:

- A. A travel trailer is a vehicular portable structure mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a stock passenger automobile; primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use.
- B. A camping trailer is a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other pliable material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location, providing temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- C. A truck camper is a portable structure designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- D. A motor home is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car, primarily designed to provide temporary living quarters for recreation, camping and travel.
- E. A boat is any recreational vehicle designed or intended for operation on water. Boats and trailers to transport the same shall be considered a recreational vehicle, and subject to the same requirements and restrictions applying to other recreational vehicles.

### **17.1.2 GENERAL REQUIREMENTS**

- A. No person shall engage in the construction of a park for the accommodation of recreational vehicles, or make any addition or alteration to any park so as to alter the number of lots or sites therein, or affect the facilities required therein, until such time as zoning has been approved and applicable permits have been obtained for such addition, alteration or construction. Permits may include but are not limited to: Land Disturbance Permit, Environmental Permit, Building Permits, Fire Permits, etc. Unless there is an extenuating circumstance, Riviera Utilities should be the primary provider of all utilities.
- B. Nothing in this section shall be construed as a responsibility or liability of the City of Foley to construct, operate or maintain any private street, drainage, open area, park, recreational or other facility.
- C. The developer/owner may petition City Council to accept maintenance if built to City specifications but the City is under no obligation to accept.

### **17.2 PRE-APPLICATION CONFERENCE**

To expedite the review of a RV Park, coordinate its local review in respect to the provisions of this Ordinance with necessary county, state and federal agency reviews, and to inform the City of an RV Park in the preparation, a Pre-Application Plan Review shall be processed as required by this ordinance and in accordance with the procedures established by the Community Development Department. The pre-application review will serve several purposes and focus on the following items:

- A. To inform the City of any RV Park plans in progress together with the scale and character of the plan so that the City may recognize the proposed development in any of its physical or facility planning for the entire City.
- B. To inform the applicant of the City's informal response as to the scale and character of the proposed development and to alert the applicant of any specific areas of concern that the City may have for that specific site or proposed plan.
- C. To clarify and inform both the applicant and the City in respect to the development plan approval procedure including an anticipated application time and review period. To enable the applicant to inform the City of the requirements, procedures and status of the various county, state and federal agency reviews.

### **17.3 SUBMISSION REQUIREMENTS**

In order to provide an expeditious method for processing a plan for an RV Park under the terms of this Ordinance, it is hereby declared to be in the public interest that all procedures with respect to

the approval or disapproval of a plan for an RV Park, and the continuing administration thereof, shall be consistent with the following provisions:

- A. A rezoning application for a development plan for a planned unit development shall be filed by or on behalf of the landowner with the Community Development Department. The purpose of the development plan is to provide the City with information in respect to the type, character, scale and intensity of development as well as the time phasing of the proposed RV Park in order for the City to evaluate the impact of the development upon the City. Once the RV Park master plan has been approved, each phase must be approved by staff and the Planning Commission prior to any permits being issued.
- B. A minimum area for an RV Park is three (3) acres.
- C. The maximum density shall not exceed 10 RV units per acre.
- D. Minimum 25% open space excluding required stormwater / drainage. The minimum 25% shall be reserved collectively in contiguous units accessible to all the RV sites and maintained by the property owners. This open space is to be used for: accessory uses, parks, recreation facilities, sidewalks, clubhouse, pool, and similar. The City's Land Development Ordinance also contains guidance and requirements for Conservation Green Space that must be met in conjunction with this Zoning Ordinance Open Space requirement.
- E. The RV Park may include some small rental cabins for short term use (90 days)
  - A screening buffer is required. Options are:
    - 1. A natural 30' buffer that provides adequate screening from adjoining properties; or,
    - 2. A 30' buffer using a berm (height determined by local topography upon review by City Staff), fence and landscaping; or
    - 3. A 50' buffer using fencing and landscaping.
- F. All RV Parks shall have frontage on an existing publicly or privately maintained street. A completed traffic analysis may be required with the zoning application in accordance with the Traffic Impact Study requirements (latest edition).
- G. The RV Park zoning designation is for Recreational Vehicles only. Manufactured Homes are not permitted.
- H. All RV Parks shall meet Zoning, Building Code, Fire Code, Environmental & Engineering regulations. This includes all required accessory uses such as toilets, showers, laundry facilities, and similar.
- I. Water will be provided by a master meter for the development. No individual meters will be allowed.

- J. The onsite sewer collection system outside of public right-of-way will be the responsibility of the owner. The sewer provider will operate and maintain any lift stations and force mains.
- K. Amenities and accessory uses shall be restricted to park occupants.
- L. An RV Park is for short-term rentals. RV spaces and rental cabins will be limited to a maximum 90 day stay per occupant.
- M. RV Park Development Requirements:
  - Minimum site width 40'
  - Minimum site depth 40'
  - Maximum density per acre 10

#### **17.4 NATIVE SCREENING LANDSCAPE BUFFER:**

Required Landscape Buffer plants. A combination of trees, shrubs and grasses will be required.

- A. Trees: Longleaf Pine, Slash Pine, Way Myrtle, Live Oak, East Palatka Holly, Southern Magnolia, Little Gem Magnolia, Sabal Palm, Eastern Red Cedar, Bald Cypress / Pond Bald Cypress, Atlantic White Cedar.
- B. Shrubs: Formosa Azalea, George Tabor Azalea, Henry's Garnet Sweetspire, Sweet Olive.
- C. Grasses: Miscanthus, Adagio Eulalia Grass, Pink Muhly Grass, Fakahatchee Grass.

## ARTICLE XVIII - COMMERCIAL / OFFICE DISTRICTS

### 18.1 COMMERCIAL DISTRICTS

#### 18.1.1 B-1 CENTRAL BUSINESS DISTRICT

- A. Uses / Structures Permitted: Stores selling food, restaurants / drive-in eating places, general merchandise, apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; pet grooming; offices; banks; post offices; churches; daycares and similar services; joint residential and commercial use; any retail business not specifically restricted herein, class 4 clubs and lodges, places of amusement and assembly, hotels.
- B. Uses / Structures Permitted on Appeal: Automobile filling stations, motels, automobile repair (minor and major), large dry cleaners and laundries, veterinary clinics / hospitals, manufacturing incidental to a retail business where articles are sold at retail on the premises, other uses not specifically restricted herein; storage structures / open storage; home based businesses; and home occupations.
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; towing company storage yard; industrial uses not specifically permitted herein; mobile / manufactured dwellings; modular dwellings; R.V.'s; and wholesale businesses.

#### 18.1.2 B-1A EXTENDED BUSINESS DISTRICT

- A. Uses / Structures Permitted: Stores selling food, restaurants / drive-in eating places, general merchandise, automobile filling stations, automobile repair (minor), apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair; pet grooming; offices; banks; post offices; office / warehouses; churches; daycares and similar services; any retail business not specifically restricted herein; class 4 clubs or lodges, places of amusement and assembly; motels and hotels; joint residential and commercial use.
- B. Uses / Structures Permitted on Appeal: Automobile repair (major); large dry cleaners and laundries, veterinary clinics/hospitals, manufacturing incidental to a retail business where articles are sold at retail on the premises, other uses not specifically restricted herein; storage structures / open storage.



C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; industrial uses not specifically permitted herein; travel trailers; mobile / manufactured dwellings; modular dwellings; wholesale businesses; and towing company storage yard.

D. Requirements:

|                                             |                                                      |
|---------------------------------------------|------------------------------------------------------|
| Minimum Depth of Front Yard                 | 30 feet                                              |
| Minimum Depth of Rear Yard                  | 20 feet                                              |
| Minimum Depth of Side Yard Abutting Street  | 30 feet                                              |
| Maximum Height (feet)                       | 85 feet                                              |
| Maximum Height (stories)                    | 6 stories                                            |
| Maximum Building Area (% of Gross Lot Area) | 50%                                                  |
| Off-Street Parking (commercial):            | See Article X, Section 10.1                          |
|                                             | 1 space for each 400 sq.ft. of habitable floor space |
| Off- Street Parking (residential):          | 2 spaces per family unit                             |
| Off-Street Loading                          | See Article X, Section 10.1.4                        |

### **18.1.3 B-2 NEIGHBORHOOD BUSINESS DISTRICT**

A. Uses / Structures Permitted: Stores selling food, restaurants, general merchandise, apparel, furniture, housewares and household goods, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and pick-up stations; barber and beauty shops; shoe repair; pet grooming; offices; banks; post offices; churches; daycares and similar services; automobile filling stations, office/warehouses; drive-in eating places, motels, automobile repair (minor); any retail business not specifically restricted herein; class 4 clubs or lodges, joint residential and commercial use, places of amusement and assembly, and hotels.

B. Uses / Structures Permitted on Appeal: Large dry cleaners and laundries; veterinary clinics and hospitals; automobile repair (major), manufacturing incidental to a retail business where articles are sold at retail on the premises, wholesale businesses, storage structures / open storage.

C. Uses Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including kennels; poultry and livestock; industrial uses not specifically permitted herein, travel trailers; mobile / manufactured dwellings; modular dwellings; and towing company storage yard.

D. Requirements:

|                                             |         |
|---------------------------------------------|---------|
| Minimum Depth of Front Yard                 | 30 feet |
| Minimum Depth of Rear Yard                  | 20 feet |
| Minimum Depth of Side Yard Abutting Street  | 30 feet |
| Maximum Height                              | 50 feet |
| Maximum Building Area (% of Gross Lot Area) | 30%     |

|                                    |                                                                                     |
|------------------------------------|-------------------------------------------------------------------------------------|
| Off-Street Parking (commercial):   | See Article X, Section 10.1<br>1 space for each 400 sq.ft. of habitable floor space |
| Off- Street Parking (residential): | 2 spaces per family unit                                                            |
| Off-Street Loading                 | See Article X, Section 10.1.4                                                       |

**18.1.4 B-3 LOCAL BUSINESS DISTRICT**

- A. Uses / Structures Permitted: Drug stores, restaurants, drive-in eating places, jewelry and gift shops, flower shops, small beauty and barber shops, small dry cleaning and pick-up stations, automobile repair (minor), local laundry and washateria parlors, shoe repair shops, pet grooming; churches; daycares; small business and professional offices, office / warehouses, joint residential and commercial use, class 4 clubs or lodges, and other similar small retail businesses units not specifically prohibited herein.
- B. Uses / Structures Permitted on Appeal: Veterinary clinics / hospitals; kennels; wholesale; storage structures / open storage.
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including industrial uses not specifically permitted herein; poultry and livestock; residential use including RV / travel trailer parks, mobile / manufactured dwelling parks, modular dwelling subdivisions; automobile filling stations; and towing company storage yard.
- D. Requirements:
- |                                             |                                                                                     |
|---------------------------------------------|-------------------------------------------------------------------------------------|
| Minimum Depth of Front Yard                 | 30 feet                                                                             |
| Minimum Depth of Rear Yard                  | 20 feet                                                                             |
| Minimum Depth of Side Yard Abutting Street  | 30 feet                                                                             |
| Maximum Height                              | 50 feet                                                                             |
| Maximum Building Area (% of Gross Lot Area) | 30%                                                                                 |
| Off-Street Parking (commercial):            | See Article X, Section 10.1<br>1 space for each 400 sq.ft. of habitable floor space |
| Off- Street Parking (residential):          | 2 spaces per family unit                                                            |
| Off-Street Loading                          | See Article X, Section 10.1.4                                                       |

**18.2 PO - PREFERRED OFFICE DISTRICT**

- A. Uses / Structures Permitted: Any governmental use or structure having characteristics compatible with this district; professional service and office uses (see definition); churches; daycares; small scale educational facilities; residential single family dwelling units; accessory dwelling units.
- B. Uses / Structures Permitted on Appeal: Mortuaries, small retail establishments related to the office use such as snack bars and pharmacies provided the sole entrance to such

establishment is inside the office structure; class 2 clubs or lodges; residential duplexes; modular dwellings; home occupations; and other uses not prohibited.

- C. **Uses / Structures Prohibited:** Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII; any retail business or establishment that is not related or incidental to the office use or any retail business or establishment that has an entrance other than from inside the office structure; veterinary clinics / hospitals; pet grooming; kennels and poultry and livestock; mobile/manufactured dwellings; recreational vehicles; towing company storage yard..

- D. **Requirements:** No minimum lot area or size requirements exist; however, when a subdivision or lot line adjustment is proposed, the lot sizes, setbacks, and building heights must align with those of the adjoining neighborhood or street to ensure a seamless transition and maintain residential character.

|                                   |                               |
|-----------------------------------|-------------------------------|
| Off-Street Loading Requirements:  | See Article X, Section 10.1.4 |
| Off-Street Parking (commercial):  | See Article X, Section 10.1.4 |
| Off-Street Parking (residential): | 2                             |

- E. **Commercial New Construction Compatibility Criteria**

The following compatibility criteria will be used to ensure that proposed office uses are consistent with the residential character of the surrounding neighborhood:

1. **Building Design and Architectural Compatibility:**
  - a. Office Buildings must resemble residential structures in style and scale.
  - b. Facade materials should match those of nearby homes, such as brick or wood siding.
  - c. Roofs must incorporate residential design elements (e.g., pitched roofs, gables) and avoid commercial flat roofs.
  - d. Front doors and windows must reflect typical residential designs, with front entrances facing the street and residential-scale windows in traditional patterns.
2. **Scale and Massing:**
  - a. Office structures must not exceed the height, bulk, or massing of neighboring homes, typically limited to 1 or 2 stories.
  - b. Setbacks should match those of surrounding homes to maintain consistency in front yards and green space.
3. **Traffic and Parking:**
  - a. Offices must generate minimal traffic, with parking located at the rear or side and screened from public view with landscaping or fencing.
  - b. Corner lot driveways should access higher-function streets (e.g., collectors) or streets with more commercial uses, rather than primarily residential streets.
  - c. Parking should be minimal and reflect residential patterns, avoiding large surface lots.
4. **Landscaping and Screening:**

- a. A landscaped buffer must be provided between the office and adjacent residential properties, using trees, shrubs, or fencing to provide privacy and reduce noise.
    - b. Parking and utility areas must be screened from public view.
  - 5. Signage:
    - a. Signs must be low-profile, unobtrusive, and consistent with the residential aesthetic.
    - b. One (1) double sided monument or single sided flat wall-mounted sign is allowed, with a maximum size of 12 square feet per face.
    - c. No electronic signs are allowed.
    - d. No direct or internal illumination of signs is allowed.
  - 6. Lighting:
    - a. All exterior lighting must be residential in style, with low-intensity fixtures that prevent glare or light spillover onto adjacent properties.
  - 7. Hours of Operation:
    - a. Office hours should generally be limited to standard business hours (e.g., 8 AM to 6 PM) to prevent disturbance to neighbors.
  - 8. Noise and Activity Levels:
    - a. Office uses must generate minimal noise, with special attention to mechanical equipment, HVAC systems, and outdoor spaces to ensure they do not create excessive noise.
- F. Residential New Construction Compatibility Criteria
- The following compatibility criteria will be used to ensure that proposed residential uses are consistent with the character of the surrounding neighborhood:
- 1. Single Family or BAA approved Duplex:
    - a. Residential structures are limited to 1 or 2 stories.
    - b. Setbacks should match those of surrounding existing homes to maintain consistency in front yards and green space.
    - c. BAA approved Duplexes must also comply with the form based code requirements for duplexes found in Section 8.5 “Duplex Form Based Code”.
  - 2. Accessory Dwelling Unit (ADU):
    - a. An ADU may not exceed 60% of the size of the principal residence.
    - b. If the ADU is to be built in conjunction with a commercial primary structure, the ADU may not exceed 60% of the ground floor square footage of the principal structure, or 60% of the size of the average square footage of the surrounding residential structures, whichever is less.
    - c. ADUs may not be located in any front yard or any street side yard on a corner lot.
    - d. ADUs must be a minimum of 10 feet from the property lines and any other structures on the same lot.
    - e. No ADU may be built prior to a primary structure on the same lot.
    - f. Only one ADU is allowed per lot.

## ARTICLE XIX - INDUSTRIAL DISTRICTS

### 19.1 M1 – LIGHT INDUSTRIAL DISTRICT

- A. Uses / Structures Permitted: Buildings used for the operation of light industrial, fabricating, processing, assembling and manufacturing, bottling and distribution plants, woodworking shops, cabinet shops, contractor or building material yards, highway maintenance yards and buildings, laundry and dry cleaning plants and printing establishments; wholesale sales. Retail sales of products fabricated, processed, assembled and/or manufactured on the same site of the larger manufacturing use is permitted subject to the additional site design requirements found in the Zoning Ordinance.
- B. Uses / Structures Permitted on Appeal: Any use permitted in districts B-1, B-2, or B-3, and other industrial or commercial uses not specifically prohibited; self-storage warehouses and towing company storage yards.
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including any residential use or structure, except that of a watchman or caretaker; Class 1, 2, 3 & 4 clubs or lodges, poultry and livestock; churches; daycares; storage of junk or wrecked automobiles other than for repair or service, explosive products manufacture, garbage disposal plants or sanitary landfills; or borrow pits.
- D. Requirements:
- |                                    |                               |
|------------------------------------|-------------------------------|
| Minimum Depth of Front Yard        | 75 feet                       |
| Minimum Depth of Rear Yard         | 35 feet                       |
| Minimum Depth of Side Yard         | 35 feet                       |
| Maximum Building Area              | 50%                           |
| Maximum Building Height (feet):    | 50 feet                       |
| Maximum Building Height (stories): | 3                             |
| Off-Street Loading Requirements    | See Article X, Section 10.1.4 |
| Off-Street Parking Spaces:         | See Article X, Section 10.1   |

### 19.2 PID – PLANNED INDUSTRIAL DISTRICT

- A. Uses Permitted / Prohibited:
- Within a Planned Industrial District as shown on the official Zoning Maps of the City of Foley, Alabama, the following regulations shall apply:
1. Uses Permitted: Examples of uses permitted include but are not limited to: Commercial heliports and/or helipads; Aviation manufacturers & associated uses; Computer and data processing services; Educational, scientific, and research

organizations; Engineering, architectural, and design services; Federal, state, county, city or public utilities owned or operated buildings and uses; Manufacturing, processing, fabrication or assembly of the following: Apparel; automotive and implements; electrical and electronic machinery, equipment and supplies; food and similar products intended for human consumption; lumber and wood products; machinery other than electrical; metal and metal products; plastics, glass and rubber products; printing and publishing; professional, scientific, and controlling instruments; research and development operations; textile mill products; and transportation equipment; Medical and dental laboratories; Office buildings for general office purposes; Retail uses compatible to other allowed uses in a PID; Office Warehouses; Wholesale / Distributing; Warehousing, interior storage, and distribution in conjunction with manufacturing, assembly and office use; Exterior storage in conjunction with the above mentioned uses, completely screened from adjacent property lines and streets; and Accessory structures and uses to those permitted herein.

2. Uses Prohibited: Junkyards, including wrecker yards; explosive products manufacturing; garbage disposal plants; sanitary landfills; asphalt and concrete plants, class 1, 2, 3 & 4 clubs and lodges, churches; daycares; borrow pits and other uses that are detrimental to the health, safety, morals and general welfare of the community and the area.

- B. Required Yards: Yards facing an existing or proposed street other than a controlled access highway shall be considered front yards. Such yards shall have a minimum depth of 20 feet. All other yards shall have a minimum depth of 10 feet.

All required yards shall be kept clear of parking except for the following:

1. Off-street parking for visitors, executives and handicapped persons may be permitted in the required front yard but shall not encroach within 20 feet of an existing or proposed street.
2. Off-street parking areas and access ways in required rear and side yards are not permitted within 20 feet of any side or rear property line.

- C. Density Controls: Buildings shall not cover an area greater than 60 percent of the total area of the tract. Maximum number of stories is 3 and maximum height is 50 feet.

- D. Off-Street Parking Requirements: The minimum number of off-street parking spaces for the following types of uses shall be provided as follows:
  1. One space for each 400 square feet of floor area for non-manufacturing uses to include offices, laboratories and technical support.
  2. One space for each 500 square feet of manufacturing and assembly area.
  3. One space for each 1,000 square feet of warehouse and storage area.

All parking areas shall be durable and properly drained. No parking shall be permitted any place other than in approved parking areas.

Loading areas shall not be placed within any front yard and shall be located and properly screened, as well as practicable, so as to not be visible from any existing or proposed street.

- E. Landscaping Requirements: Every building site on which a building shall be placed shall be landscaped in compliance with City of Foley ordinances.
- F. Signs: Signs shall be permitted in accordance with the City of Foley Zoning Ordinance.

### **19.2.1 PID – PLANNED INDUSTRIAL DISTRICT**

- A. Purpose: The purpose and intent of the Planned Industrial District (PID) is to provide for a comprehensively planned district for the orderly growth and development of certain industrial uses which are, by virtue of controls, mutually harmonious with other industries permitted in the District and also harmonious with residential, commercial, and other uses permitted in nearby districts.
- B. Approval: Subject to the approval of the City Council after a review and report by the Planning Commission.
- C. Submission: A rezoning application for a development plan of a PID shall be filed with the Community Development Department. The purpose of the development plan is to provide the City with information in respect to the type, character, scale and intensity of development. The following information shall be submitted with the application:
  - 1. The location and size of the site including its legal description.
  - 2. The recorded ownership interests including liens and encumbrances.
  - 3. The relationship of the site to existing development in the area, and physical features of the land.
  - 4. The density or intensity of land use to be allocated to all parts of the site to be developed together with tabulations by acreage and percentages thereof.
  - 5. The engineering feasibility and proposed method of providing required improvements such as streets, water supply, storm drainage and sewage collection in preparation for submitting the requirements for preliminary plat approval as set forth in the City of Foley Subdivision Regulations.
  - 6. The provisions for parking vehicles and the function and location of vehicular and pedestrian system facilities.
  - 7. Any additional data, plans or specifications as the applicant or City may believe are pertinent to the proposed PID.
  - 8. A Master Signage Plan meeting criteria of Article XXII, Section 22.7.
- D. Performance Standards: The following performance standards shall be required for all uses located in the Planned Industrial District:
  - 1. Air Pollution – Every use shall be so operated as to comply with the emission limitations specified by Federal, State, City and other applicable ordinances.

2. Odor – No odors shall be emitted that are detectable without instruments at or beyond any property line.
3. Vibration – Maximum permitted vibration from any cause shall not exceed the following, when measured at the lot line:
 

| Frequency<br>(Cycles per Second) | Displacement<br>(Inches) |
|----------------------------------|--------------------------|
| 10 & below                       | .0008                    |
| 10 – 20                          | .0005                    |
| 20 - 30                          | .0003                    |
| 30 – 40                          | .0002                    |
| 40 – 50                          | .0001                    |
| 50 & above                       | .0001                    |
4. Noise – Every use shall be so operated as to comply with Federal, State, City and other applicable ordinances.
5. Fire and Explosion Hazard – All activities and all storage of flammable and explosive materials shall be in accordance with the National Board of Fire Underwriters publications and other local ordinances.
6. Glare – No direct or reflected glare shall be produced so as to be visible at or beyond any lot line.
7. Radiation – Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the Alabama Department of Public Health, Bureau of Radiological Health and other applicable ordinances.
8. Radioactive Materials –The handling of radioactive materials, the discharge of such materials into air or water, and the disposal of radioactive wastes, shall be in conformance with the regulations of the Alabama Department of Public Health, Bureau of Radiological Health and other applicable ordinances.
9. Electromagnetic Interference – Industries shall emit only that amount of unshielded spurious electromagnetic radiations as is necessary for the conduct of their operations. Federal Communications Commission requirements shall govern maximum radiation which tends to interfere with meaningful signals.
10. Water Pollution – No effluent shall be discharged in any stream.
11. Waste – All industrial wastes shall be treated and disposed of in such a manner as to comply with all federal, state, city and other applicable standards.



## **ARTICLE XX - AGRICULTURE / OPEN SPACE DISTRICTS**

### **20.1 AO – AGRICULTURAL OPEN SPACE**

- A. Uses / Structures Permitted: Farms, residential uses and structures not prohibited, modular dwellings, parks, playgrounds, Class 2 clubs or lodges, public and private forests, wildlife refuges, stables, kennels, home occupations, home based businesses, churches, schools, daycares, public buildings, and other accessory uses to the above.
- B. Uses / Structures Permitted on Appeal: Temporary and unenclosed roadside stands for the sale of agricultural products, public and private utilities, airports, radio or television broadcasting towers, hospitals, institutions, mausoleums and cemeteries, and single mobile / manufactured dwellings (in accordance with provisions of Article XVI, Section 16.1.3).
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII, including any business or industry not contained in Sections 14.9A and 14.9B, billboards, and the excavation of minerals, or the removal of surface material.
- D. Requirements:
 

|                                      |                        |
|--------------------------------------|------------------------|
| Minimum Lot Area                     | 1 acre per family unit |
| Minimum Lot Width at Building Line   | 150 feet               |
| Minimum Depth of Front Yard          | 50 feet                |
| Minimum Depth of Rear Yard           | 50 feet                |
| Minimum Width of Each Side Yard      | 25 feet                |
| Maximum Building Area (% Gross Area) | 25 %                   |
| Maximum Building Height (feet):      | 50 feet                |
| Maximum Building Height (stories)    | 2                      |
| Off-Street Parking:                  | 1                      |

### **20.2 OSP – OPEN SPACE / PRESERVATION DISTRICT**

- A. Uses / Structures Permitted: Athletic facilities, public parks, playgrounds, country club with associated recreational facilities, hiking and nature trails, wildlife sanctuary, nature preserve, canoe, kayak and boat launches, incidental accessory uses, incidental accessory retail and service uses, offices accessory to a permitted use, essential services facility, and other similar uses.
- B. Uses / Structures Permitted on Appeal: Uses and structures not specifically permitted.

C. Uses / Structure Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

|                                      |         |
|--------------------------------------|---------|
| Minimum Lot Area                     | N/A     |
| Minimum Depth of Front Yard          | 50 feet |
| Minimum Depth of Rear Yard           | 50 feet |
| Minimum Width of Each Side Yard      | 25 feet |
| Maximum Building Area (% Gross Area) | 25%     |
| Maximum Building Height (feet):      | 50 feet |
| Maximum Building Height (stories)    | 2       |

# ARTICLE XXI - PLANNED DEVELOPMENTS

(formerly titled MIXED USE DEVELOPMENTS)

## 21.1 RESIDENTIAL PLANNED DEVELOPMENTS:

All residential planned developments shall at a minimum submit the following information at time of site plan / initial zoning or rezoning:

- A. A preliminary traffic analysis indicating the probable effect of the proposed development on traffic patterns and capacities of adjacent streets in the immediate area;
- B. Official letters of commitment of utility services to the proposed development including water, sewer, electric, gas and other utilities.

### 21.1.1 R-3 RESIDENTIAL MULTI-FAMILY

- A. Uses / Structures Permitted: Residential structures containing one or two family dwelling units; apartments containing a maximum of twelve (12) units per acre; recreational uses including club houses, swimming pools, tennis courts, open space and other recreational facilities as are deemed appropriate by the Planning Commission; garages and carports; maintenance buildings to serve only one complex; and home based businesses.
- B. Uses / Structures Permitted on Appeal: Home occupations, modular dwellings; lodges and clubs not operated for a profit; professional and business offices; and hotels.
- C. Uses / Structures Prohibited: Agriculture, poultry and livestock. Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII, including mobile / manufactured dwellings and Recreational Vehicles.

D. Requirements:

|                                             |                    |
|---------------------------------------------|--------------------|
| Minimum Lot Area (Single family)            | 8,500 square feet* |
| Minimum Lot Width at Building Line          | 75 feet            |
| Minimum Depth of Front Yard                 | 30 feet            |
| Minimum Depth of Rear Yard                  | 30 feet            |
| Minimum Width of Each Side Yard             | 10 feet            |
| Minimum Depth of Side Yard Abutting Street  | 30 feet            |
| Maximum Building Area (% of Gross Lot Area) | 40%                |
| Minimum Open Space                          | N/A                |
| Maximum Building Height (feet):             | 50 feet            |
| Maximum Building Height (stories):          | 2                  |

|                                             |   |
|---------------------------------------------|---|
| Off-Street Parking Spaces (per family unit) | 2 |
| Maximum Density Per Acre                    | 5 |

\* or meet Health Department requirements.

|                                             |                     |
|---------------------------------------------|---------------------|
| Minimum Lot Area (Two family/Duplex**)      | 10,500 square feet* |
| Minimum Lot Width at Building Line          | 100 feet            |
| Minimum Depth of Front Yard                 | 30 feet             |
| Minimum Depth of Rear Yard                  | 30 feet             |
| Minimum Width of Each Side Yard             | 10 feet             |
| Minimum Depth of Side Yard Abutting Street  | 30 feet             |
| Maximum Building Area (% of Gross Lot Area) | 40%                 |
| Minimum Open Space                          | N/A                 |
| Maximum Building Height (feet):             | 50 feet             |
| Maximum Building Height (stories):          | 3                   |
| Off-Street Parking Spaces (per family unit) | 2                   |
| Maximum Density Per Acre                    | 8                   |

\* or meet Health Department requirements.

\*\*See Section 8.5 "Duplex Form Based Code" for additional requirements.

|                                             |          |
|---------------------------------------------|----------|
| Minimum Lot Area (Multi-Family)             | 1 Acre   |
| Minimum Lot Width at Building Line          | 200 feet |
| Minimum Depth of Front Yard                 | 40 feet  |
| Minimum Depth of Rear Yard                  | 30 feet  |
| Minimum Width of Each Side Yard             | 25 feet  |
| Minimum Depth of Side Yard Abutting Street  | 40 feet  |
| Maximum Building Area (% of Gross Lot Area) | 40%      |
| Minimum Open Space                          | 25%      |
| Maximum Building Height (feet):             | 50 feet  |
| Maximum Building Height (stories):          | 4        |
| Off-Street Parking Spaces (per family unit) | 2        |
| Maximum Density Per Acre                    | 12       |

\* or meet Health Department requirements.

Where multi-family is located adjacent to single family residential, the minimum setbacks shall be a minimum of fifty (50') feet for 1 story. An additional 50' of setback will be required per story. A maximum of 2 stories can be built adjacent to single family residential. Planning Commission may require additional height and location restrictions adjacent to single family residential including but not limited to a berm & fence. Buffer areas cannot be clear cut without written approval from our Environmental Department (see Environmental regulations for landscaping). A landscape plan will be required as well.

- E. Special Provisions: Multiple family housing, because of increased densities, often generates large, bulky buildings and large parking areas. This type of development can be incompatible with surrounding uses. If these developments are not properly designed the large buildings and parking areas can dominate the site and leave only small remnants of open space that does not adequately provide for the recreational needs of the residents.

1. Location:

Multiple family residential sites shall be located on a Major or Collector Roads as designated on the Major Road Plan. These sites shall be consistent with the Comprehensive Plan and shall only be permitted where multiple family residential land use is indicated on the adopted plan.

2. Application Requirements:

All applications for R3 shall furnish the following information to the Planning Commission:

- a. A preliminary traffic analysis indicating the probable effect of the proposed development on traffic patterns and capacities of adjacent streets in the immediate area.
  - b. Official letters of commitment of utility services to the proposed Multiple Family Residential from the appropriate water, sewer, electric, gas and other utilities.
3. Site Plan Review: Site Plan review shall be required for all R-3 Multiple Family Residential Developments as provided in Article 11.1 of this Ordinance.
4. Site Design Guidelines: Building Orientation
- a. Each multiple family development shall reflect a site orientation suited to the surrounding topography, neighborhood setting and community. When adjacent to single family residential, the site orientation shall take into account the height, bulk, and character of the surrounding development to avoid conflicts. The developments shall be designed in a manner to integrate them into the neighborhood rather than an abrupt intrusion into the neighborhood.
  - b. Arrange buildings to provide functional public and private outdoor spaces. Avoid developments that are “facing inward” and offer no relationship to the adjoining neighborhoods and greater community.
  - c. Orient multiple family buildings to the adjacent public streets by providing large windows, porches, balconies and entryways or other entry features on the street side of the buildings. Avoid the creation of blank street-facing walls that create unattractive streetscapes.
  - d. Building ends shall contain windows and active spaces to provide additional security and visual interest.
  - e. Site Plans shall be designed with a variation in both the street patterns and the sighting of structures so the appearance of the streetscape does not become overly repetitive. Avoid continuous lines of buildings with the same setback.
5. Off Street Parking:
- a. Off street parking shall be designed in a way to minimize the visual prominence of vehicles and to minimize the potential pedestrian conflicts.
  - b. Parking shall not be located in the front yard of the development. The parking shall be located behind the street setback to the side and rear of the buildings, wherever possible.
  - c. Parking areas visible from the public street rights-of-way and adjacent properties shall be screened from view with landscape

elements, low profile walls or berms, or other types of visual barriers and screens.

- d. Landscaping and walkways shall be located between buildings and paved parking areas. Avoid parking vehicles directly against a building or structure.
- e. Shade trees shall be designed into all parking areas to provide for natural shading and provide for proper aesthetics.
- f. Enclosed garages and carports may be permitted. All carport roofs visible from public streets or adjacent properties shall reflect the overall design and character of the residential structures in the development.
- g. All garages, carports, exterior storage of boats, recreational vehicles and trailers shall be fully enclosed or sufficiently screened when visible from public street or adjacent properties.

6. Open Space:

- a. The open space provided in multiple family residential developments shall address both active and passive outdoor open space uses. Open space shall be designed to enhance the overall appearance and compatibility of the development.
- b. Include sufficient open spaces in the form of squares, greens and parks. A minimum of 25% of open space shall be provided in all multiple family developments. Stormwater retention areas are not included in this 25% open space requirement, unless it is properly designed and determined to be acceptable open space by the Planning Commission. The City's Land Development Ordinance also contains guidance and requirements for Conservation Green Space that must be met in conjunction with this Zoning Ordinance Open Space requirement.
- c. Retain existing mature trees within the new project design and landscaped areas where possible. Extra effort should be made to retain existing trees and vegetation adjacent to single family residential areas.
- d. Open space shall be distributed throughout the development and easily accessible to all residents. Open space should not be concentrated in large areas that are inconvenient to residents of the development.

7. Landscaping:

- a. Adequate landscape screens shall be provided along the perimeter of all multiple family developments. Where multiple family developments are located adjacent to single family residential, a dense landscape screen shall be provided.
- b. On perimeter streets, sidewalks, streetscape plantings shall be provided. These screens shall include street trees and landscaping where necessary to screen parking and other areas.
- c. Dense landscaping and/or architectural elements shall be provided to screen unattractive views and features, such as outdoor storage

areas, trash enclosures, mechanical equipment and other similar equipment.

- d. Landscape plans shall include placement of deciduous shade trees around the east, west and south sides of residential buildings to help reduce cooling loads during the summer and permit solar gain during the winter months.
  - e. Wall-mounted or ground-mounted utility equipment such as transformers, electric and gas meters, electrical panels, junction boxes and transformers shall be screened by walls, berms, fences and/or landscaping.
  - f. All utility lines including electric, telephone, gas and cable television lines shall be placed underground in each development.
8. Accessory Structures and Elements:
- a. Accessory structures and amenities, such as community rooms, recreation facilities, swimming pools, mail rooms / kiosks, laundry rooms, garages and carports shall be centrally located and easily accessible by residents.
  - b. Multiple family developments with 150 or more dwelling units shall provide a recreation facility and swimming pool. The design of accessory structures and elements shall be consistent with the predominant architectural theme of the residential buildings with regard to roof pitch, exterior materials and colors.
  - c. Trash and garbage storage areas shall be enclosed by solid, durable and attractive walls with solid screen doors. The materials shall be similar in color to the residential buildings. These enclosures shall be screened with appropriate landscaping. They shall be situated to minimize views from public streets and to avoid impacting adjoining properties.
  - d. Trash and garbage storage areas shall be located convenient to all residents. These enclosures shall be sufficient to accommodate both waste disposal and recycling containers.
9. Lighting:
- a. All exterior lighting shall be architecturally integrated with the building style, materials, and colors.
  - b. Parking areas, entry drives, and pedestrian walks shall be illuminated to allow for proper vehicular movements and promote pedestrian safety and security. All lights shall be pedestrian in scale and spaced for proper energy efficiency. This lighting shall be inward directed and not impact adjacent properties. Light standards shall be no taller than 16 feet in height. The use of building lights to illuminate parking areas is prohibited.
  - c. Landscape plantings and lighting shall be coordinated. Appropriate light pole locations shall not conflict with mature landscaping.
10. Additional Requirements:
- The Special Requirements provided above are specific requirements to multiple family developments. Other requirements may be provided in the Zoning Ordinance and other City Ordinances and Regulations that further

impact the design and development of multiple family properties. Additional requirements include but are not limited to: signage; parking and loading; landscaping and screening requirements and engineering and stormwater retention requirements.

### **21.1.2 TH-1 RESIDENTIAL TOWNHOUSE**

- A. Uses / Structures Permitted: Attached Townhouses and home based businesses
- B. Uses / Structures Permitted on Appeal: Residential structures including modular dwellings/uses specifically permitted in R-1C zones; home occupations.
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Sections 13.1.1 or 13.1.2 of Article XIII.

D. Requirements:

|                                             |                    |
|---------------------------------------------|--------------------|
| Minimum Area                                | 1 acre             |
| Minimum Lot Area                            | 2,400 square feet* |
| Minimum Lot Width at Building Line          | 24 feet            |
| Minimum Depth of Front Yard                 | 20 feet            |
| Minimum Depth of Rear Yard                  | 15 feet            |
| Minimum Width of Side Yard (on end unit)    | 16 feet            |
| Minimum Depth of Side Yard Abutting Street  | 16 feet            |
| Minimum Open Space if <5 ac                 | 20%                |
| Minimum Open Space if ≥5 ac                 | 25%                |
| Maximum Building Height (feet):             | 50 feet            |
| Maximum Building Height (stories):          | 3                  |
| Off-Street Parking Spaces (per family unit) | 2                  |
| Maximum Density Per Acre                    | 15                 |

\* or meet Health Department requirements.

Where multi-family is located adjacent to single family residential, the minimum setbacks shall be a minimum of fifty (50') feet for 1 story. An additional 50' of setback will be required per story. A maximum of 2 stories can be built adjacent to single family residential. Planning Commission may require additional height and location restrictions adjacent to single family residential including but not limited to a berm & fence. Buffer areas cannot be clear cut without written approval from our Environmental Department (see Environmental regulations for landscaping). A landscape plan will be required as well.

- E. Townhouses shall be designed in such a manner as to be in harmony with the character of the surrounding neighborhood and area. Where conditions are attached by the City Council in zoning an area for townhouses, these conditions shall be included as part of the building permit.
- F. It is the intent of this Zoning Ordinance that townhouses:



1. May be appropriately intermingled with other types of housing;
  2. Shall not form long, unbroken lines of row housing;
- G. Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space and serving the public purposes of zoning by means alternative to conventional arrangements of yards and building areas.
- H. In line with the general considerations above, the following site plan and design criteria are established:
1. Not more than six (6) contiguous townhouses shall be built in a row with the same front line, and not more than twelve (12) townhouses shall be contiguous. In groups of townhouses consisting of more than six (6) units, the required difference in front line shall be a minimum of three (3) feet.
  2. Minimum width for the portion of the lot on which a townhouse is to be constructed shall be twenty-four (24) feet.
  3. Minimum lot area shall be two thousand four hundred (2,400) square feet.
  4. No portion of a townhouse or accessory structure in or related to one townhouse complex shall be closer than twenty (20) feet to any portion of the townhouse or accessory structure related to another townhouse complex, or to any building outside the townhouse area.
  5. Each townhouse shall be constructed on its own lot.
  6. No side yards shall be required except at the unattached ends of a townhouse complex, in which case the minimum width shall be sixteen (16) feet. Minimum depth of front yards shall be twenty (20) feet.
  7. Each townhouse shall have on its own lot, one yard containing not less than four hundred (400) square feet, reasonably secluded from view from streets or from neighboring property.
  8. Off-street parking shall be provided at the rate of two (2) spaces per townhouse. Insofar as practicable, off-street parking facilities shall be grouped in bays, whether adjacent to streets or in the interior of blocks. No off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route from a door of the dwelling unit it is intended to serve.
  9. Townhouse developments with a total area less than five (5) acres shall have at least twenty (20) percent common open space and five (5) acres or greater shall have at least twenty-five (25) percent of the total area devoted to common open space, exclusive of parking areas, accessory buildings, or required drainage. Such common open areas may include recreational facilities. In addition, the developer of a townhouse development or homeowners association created by the developer by recorded covenants and restrictions, shall preserve for the owners and occupants of the development such lands set aside for open areas, parks, or recreational use, and the common off-street parking spaces established for the development. The City's Land Development Ordinance also contains guidance and requirements for Conservation Green Space that must be met in conjunction with this Zoning Ordinance Open Space requirement.

## 21.2 MIXED USE PLANNED DEVELOPMENTS:

All mixed use planned developments shall at a minimum submit the following information at time of site plan / initial zoning or rezoning:

- A. A preliminary traffic analysis indicating the probable effect of the proposed development on traffic patterns and capacities of adjacent streets in the immediate area;
- B. Official letters of commitment of utility services to the proposed development including water, sewer, electric, gas and other utilities.

### 21.2.1 PUD – PLANNED UNIT DEVELOPMENT

Requirements:

- A. A PUD must have a minimum of three (3) or more contiguous acres that are not separated by any right-of-way.
- B. PUDs will not increase density but should attempt to create larger and more significant open spaces through the use of reduced lot sizes, setbacks, clustering of dwellings, etc.
  - 1. Residential Lot Size: Housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features. However if public water and sewer is not available, Department of Public Health regulations must be met.
  - 2. Open Space Reservation: Not less than 25% of the PUD site shall be reserved collectively in contiguous units accessible to all the building sites in the PUD and maintained by the property owners for open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and for conserving visually pleasing elements of the environment. This open space does not include areas reserved for drainage purposes. If the PUD is developed in stages, the amount of open space reserved and developed for use in each stage will constitute no less than an equivalent proportional amount to the area being developed. The City's Land Development Ordinance also contains guidance and requirements for Conservation Green Space that must be met in conjunction with this Zoning Ordinance Open Space requirement.
  - 3. Municipal Responsibility: Nothing in this section shall be construed as a responsibility or liability of the City of Foley to construct, operate, or maintain any private street, drainage, open area, park, recreational facility, or any other facility in the PUD, and a hold harmless clause to this effect shall be incorporated into the covenants and deeds running with the land. The developer/owner(s) may dedicate

and petition the City Council for City maintenance of streets if they are built to City specifications; however, the City is under no obligation to accept these.

4. Appearance of Public Facilities: All utility structures and other public facilities in the PUD shall be architecturally compatible and landscaped in keeping with the overall design and appearance of the PUD as approved by the Planning Commission.

C. Principal Uses: PUDs may have a mixture of principal uses selected from any of the following categories:

1. Residential Uses: Single family dwellings, attached dwellings, Townhomes and multi-family dwellings including Modular Structures. Excluding: Mobile / Manufactured Homes & Recreational Vehicles.
2. Neighborhood Commercial Uses: Commercial retail and services to include health clubs, child day care and adult day care, cafes, drinking establishments and restaurants including those with outdoor seating, professional services such as real estate, insurance, doctors, dentists, attorneys, architects, engineers, and lawyers, convenience goods such as groceries, drug stores, boat store, ice cream shops, snack shops, card shops, gift shops, framing studios, beer and liquor sales, laundry and dry cleaners, hardware stores, apparel stores, art studios, artist supplies, florists, bookstores, newsstands, and video / electronic rentals, class 4 clubs or lodges, and other similar uses that are related to needs of residents and employees in the area.
3. Civic and Institutional Uses: Places of assembly, places of worship, schools, public facilities, non-profit service agencies, assisted living facilities, hospitals and medical facilities with related offices, health centers, nursing homes, and related offices, parks, open space, outdoor and indoor recreation
4. Accessory Uses: Garages, parking garages, carports, residential storage buildings, bikeways, trails, golf courses, swimming pools, tennis courts, and other forms of outdoor recreation community room, exercise or health club, video / game arcade and other forms of indoor recreation, clubhouses and incidental parking.
5. Prohibited Uses: Outdoor storage, heavy commercial, industry, adult entertainment, building materials, pawn shops, tattoo parlors, auto body shops, auto sales, parts and services, towing company storage yards and junkyards.

D. PUD Development Requirements - Single Family/Duplex\*

|                                       |              |
|---------------------------------------|--------------|
| Minimum Lot Area                      | 6,000 sq.ft. |
| Minimum Lot Width at Building Line    | 60 feet      |
| Minimum Depth of Front Yard           | 20 feet      |
| Minimum Depth of Rear Yard            | 15 feet      |
| Minimum Depth of Rear Yard with Pool/ | 10 feet      |

## Screen Enclosure

|                                             |         |
|---------------------------------------------|---------|
| Minimum Width of Side Yard                  | 10 feet |
| Maximum Building Area (% of Gross Lot Area) | 50%     |
| Maximum Building Height                     | 50 feet |
| Maximum Number of Stories                   | 3       |
| Off-Street Parking Spaces (per family unit) | 2       |
| Maximum Density Per Acre                    | 11      |

\*See Section 8.5 "Duplex Form Based Code" for additional Duplex requirements

## E. PUD Development Requirements - Multifamily

|                                       |         |
|---------------------------------------|---------|
| Minimum Lot Width at Building Line    | 25 feet |
| Minimum Depth of Front Yard           | 20 feet |
| Minimum Depth of Rear Yard            | 15 feet |
| Minimum Depth of Rear Yard with Pool/ | 10 feet |

## Screen Enclosure

|                                             |         |
|---------------------------------------------|---------|
| Minimum Width of Side Yard                  | 5 feet  |
| Maximum Building Area (% of Gross Lot Area) | 50%     |
| Maximum Building Height                     | 50 feet |
| Maximum Number of Stories                   | 3       |
| Off-Street Parking Spaces (per family unit) | 2       |
| Maximum Density Per Acre                    | 14      |

(reference Townhome zone for specific requirements for THs)

Where multi-family is located adjacent to single family residential, the minimum setbacks shall be a minimum of fifty (50') feet for 1 story. An additional 50' of setback will be required per story. A maximum of 2 stories can be built adjacent to single family residential. Planning Commission may require additional height and location restrictions adjacent to single family residential including but not limited to a berm & fence. Buffer areas cannot be clear cut without written approval from our Environmental Department (see Environmental regulations for landscaping). A landscape plan will be required as well.

## F. PUD Development Requirements - Commercial

|                                             |         |
|---------------------------------------------|---------|
| Minimum Lot Width at Building Line          | 40 feet |
| Minimum Depth of Front Yard                 | 20 feet |
| Minimum Depth of Rear Yard                  | 15 feet |
| Minimum Width of Side Yard                  | 0 feet  |
| Maximum Building Area (% of Gross Lot Area) | 50%     |
| Maximum Building Height                     | 85 feet |
| Maximum Number of Stories                   | 6       |
| Off-Street Parking Spaces (per family unit) | 2       |
| Maximum Density Per Acre                    | 14      |

## **21.3 PUD – PLANNED UNIT DEVELOPMENT REQUIREMENTS**

### **21.3.1 PURPOSE**

The purpose of planned unit development regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economical provision of streets, utilities and public spaces; and to preserve the natural and scenic qualities of open areas.

The procedure is intended to permit diversification in the location of structures and improve circulation facilities and other site qualities while ensuring adequate standards relating to public health, safety, comfort, order, appearance, convenience, morals and general welfare both in the use and occupancy of buildings and facilities in planned groups.

### **21.3.2 APPROVAL**

Subject to the approval of the City Council after a review and report by the Planning Commission and after a public hearing is held, as required for all zoning applications, planned unit developments may be zoned for the specific uses submitted.

### **21.3.3 PRE-APPLICATION CONFERENCE**

To expedite the review of a planned unit development, coordinate its local review in respect to the provisions of this Ordinance with necessary county, state and federal agency reviews, and to inform the City of a planned unit development in the preparation, a Pre-Application Plan Review shall be processed as required by this ordinance and in accordance with the procedures established by the Community Development Department. The pre-application review will serve several purposes and focus on the following items:

To inform the City of any planned unit development plans in progress together with the scale and character of the plan so that the City may recognize the proposed development in any of its physical or facility planning for the entire City.

To inform the applicant of the City's informal response as to the scale and character of the proposed development and to alert the applicant of any specific areas of concern that the City may have for that specific site or proposed plan.

To clarify and inform both the applicant and the City in respect to the development plan approval procedure including an anticipated application time and review period. To enable the applicant to inform the City of the requirements, procedures and status of the various county, state and federal agency reviews.

**21.3.4 SUBMISSION REQUIREMENTS**

In order to provide an expeditious method for processing a plan for a planned unit development under the terms of this Ordinance, it is hereby declared to be in the public interest that all procedures with respect to the approval or disapproval of a plan for a planned unit development, and the continuing administration thereof, shall be consistent with the following provisions:

- A. A zoning application for a development plan for a planned unit development shall be filed by or on behalf of the landowner with the Community Development Director. The purpose of the development plan is to provide the City with information in respect to the type, character, scale and intensity of development as well as the time phasing of the proposed planned unit development in order for the City to evaluate the impact of the development upon the City. Once the PUD master plan has been approved, each phase must be approved by staff and the Planning Commission prior to any permits being issued.
  
- B. The applicant for any type of PUD shall provide a drawing and a written narrative specifically calling out all zoning relaxations that are being requested through the PUD. These may include reduced right-of-way width, clustering of units, reduced lot size and setbacks, use considerations, building height variances, design considerations, etc., and shall also identify the benefits of the PUD, including but not limited to:
  - 1. Public Benefits- Traffic and utility improvements, regional and local bicycle / pedestrian improvements, buffering from adjacent sites, aesthetic improvements, dedication of school or park sites, enhancement of property values, sign enhancements, preservation of natural areas and views, creating public access to water or other popular sites.
  - 2. Private Benefits - Amenities for site users, open space and recreation, clustering of uses, creation of neighborhoods, landscaping, traffic circulation, multi-modal circulation, private space for units, parking, tree preservation, preserving unique views and natural areas in common areas for the use and enjoyment of all residents/guests, enhanced architecture and site layout.
  
- C. The following information shall be submitted with the applications:
  - 1. The location and size of the site including its legal description.
  - 2. The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
  - 3. The relationship of the site to existing development in the area, including streets, utilities, residential and commercial development, and physical features of the land including pertinent ecological features.
  - 4. The density or intensity of land use to be allocated to all parts of the site to be developed together with tabulations by acreage and percentages thereof.
  - 5. The location, size and character of any common open space, common owned facilities and the form of organization proposed to own and maintain any common open space and common owned facilities.
  - 6. The use and type of buildings, i.e., single-family detached, townhouses, or garden apartments, proposed for each portion of the area included within the outline development plan.

7. The engineering feasibility and proposed method of providing required improvements such as streets, water supply, and storm drainage and sewage collection.
8. The substance of covenants, grants or easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements for public utilities.
9. The provisions for parking vehicles and the function and location of vehicular and pedestrian system facilities.
10. The provisions for the disposition of open space including its development or non-development character and function.
11. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
12. Any additional data, plans or specifications as the applicant or the City may believe are pertinent to the proposed planned unit development.
13. An Application and fee as required for processing.
14. A Master Signage Plan meeting the criteria of Article XXII, Section 22.7

- D. The application for development approval of a planned unit development shall include a written statement by the landowner or any other entity having a cognizable interest in the land, describing fully the character and intended use of the planned unit development and setting forth the reasons why, in his opinion, a planned unit development would be consistent with the City's statement of purposes on planned unit development.

#### **21.4.5 REVIEW PROCEDURE**

An application for a development plan of a planned unit development shall be filed with the Community Development Director. Upon receipt of said application, the Community Development Director shall review said application to determine its appropriateness and completeness and accept or reject the application. Upon acceptance of the application, the City's administrative staff shall review said application and submit the application, together with all supporting documentation and their recommendations thereof to the Planning Commission. The Planning Commission shall report on recommendations to the City Council. Once the property has been zoned PUD, and the final plan has been completed, if any changes, a site plan must be submitted to the Community Development Director. The final plan must include at a minimum the site plan contents listed in the City of Foley Zoning Ordinance, Section 11.1.1.

#### **21.5 PDD – PLANNED DEVELOPMENT DISTRICT**

- A. Purpose: The purpose of the Planned Development District is to achieve more flexibility and orderly mixed use developments in a unified development than would be possible through the strict application of the existing business and commercial zoning districts. This district is intended to encourage innovative development that is integrated with adjacent land uses through the zoning approval process.

- B. The PDD should be located to assure maximum compatibility with neighboring developments. It is the intent of the regulations to encourage a mixed use development approach in appropriate locations identified in the Comprehensive Plan. A mixture of uses should be functionally and physically integrated with a pedestrian scale and orientation and the economical provision of utilities with open space preservation objectives, through the utilization of an overall planned design.

Planned Development Districts should be located to minimize traffic impacts; therefore its use is intended for large lot developments and locations along or near thoroughfares that are capable of handling the proposed traffic.

- C. Requirements: Prior to the rezoning or initial zoning of an area to a PDD district, a conceptual master plan with supporting plans and narrative for the entire proposed development, including all phases, must be submitted to the Planning Commission and then to the City Council. PDDs should conform to the City of Foley Comprehensive Zoning Plan and should be located in primarily non-residential zones.
- D. The applicant for any type of PDD shall provide a site plan, architectural elevations of proposed structures, land use plan, open space plan, landscape plan, lighting plan, vehicular and pedestrian circulation plan with street cross sections, accompanied by a written narrative specifically calling out all zoning relaxations that are being requested through the PDD. These may include reduced right-of-way width, clustering of units, reduced lot size and setbacks, use considerations, building height variances, design considerations, etc., and shall also identify the benefits of the PDD, including but not limited to:
1. Public Benefits - Traffic and utility improvements, regional and local bicycle / pedestrian improvements, buffering from adjacent sites, aesthetic improvements, dedication of school or park sites, enhancement of property values, sign enhancements, preservation of natural areas and views, creating public access to water or other popular sites.
  2. Private Benefits - Amenities for site users, open space and recreation, clustering of uses, creation of neighborhoods, landscaping, traffic circulation, multi-modal circulation, private space for units, parking, tree preservation, preserving unique views and natural areas in common areas for the use and enjoyment of all residents/guests, enhanced architecture and site layout.
- E. A Site Plan shall also be submitted to the Planning Commission for each development phase. The proposed development may provide, through an agreeable design, deviations from development standards otherwise applicable under regular zoning district requirements. Minimum setbacks, lot sizes, and height restrictions may be waived, provided that the intent of this article is complied with in the plan.

The Planning Commission / City Council may establish certain restrictions and prohibitions for a particular development when it determines that such is required to preserve the purpose and intent of the Zoning Ordinance.



- F. A Master Signage Plan meeting the criteria of Article XXII, Section 22.7.
- G. There shall be a minimum of at least twenty percent of the gross lot area (20%) designated open space in a PDD exclusive of all drives, walkways, parking areas and required drainage. Access roads and drainage infrastructure, water, sewer, electricity, telephone and other utilities shall be provided to serve the development at the completion of construction of each development phase. Performance bonds may not be posted for drainage and sewer work. The City's Land Development Ordinance also contains guidance and requirements for Conservation Green Space that must be met in conjunction with this Zoning Ordinance Open Space requirement.

### **21.5.1 PDD – DEVELOPMENT STANDARDS**

- A. Uses / Structures Permitted: Hotel, motel, conference center, theater, indoor or outdoor entertainment center, recreation facility, museum, community center, restaurant, night club, bar, shopping center, retail store, retail service, personal service, craft studio, bank, professional office, business office, and other similar tourist related entertainment, recreation, service or commercial uses, class 4 clubs or lodges, churches; daycares and high density residential.
- B. Uses / Structures Permitted on Appeal: Automobile filling stations; and amusement parks.
- C. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this section or in Section 13.1.1 or 13.1.2 of -Article XIII, including any residential, commercial, industrial, or agricultural use or structure not specifically permitted by the City Council when zoning an area as a PDD; major automobile repairs; outdoor storage, heavy commercial, industry, adult entertainment, building materials, pawn shops, tattoo parlors, auto body shops, auto sales, parts and services, towing company storage yards and junkyards.
- D. Requirements:
 

|                                                 |                               |
|-------------------------------------------------|-------------------------------|
| Minimum District Area                           | 5 Acres                       |
| Maximum Building Area (% of Gross Project Area) | 60%                           |
| Maximum Building Height (feet):                 | 85 feet                       |
| Maximum Building Height (stories):              | 6 Stories                     |
| Maximum Residential Density per Acre            | 20 units*                     |
| Off-Street Parking (commercial):                | See Article X, Section 10.1   |
| Off-Street Parking (Residential)                | 2 per family unit             |
| Off-Street Loading                              | See Article X, Section 10.1.4 |

\* A minimum of 25% of the total project cumulative floor area must be mixed use. The use, building type, ratio of density and intensity and design characteristics of a mixed use project shall be determined through guidance contained in Comprehensive Plan and with consideration of adjoining development patterns.

Unless a specific integration method of building type and use deemed compatible with adjacent development is specifically approved by the Planning Commission, Multi-family when located adjacent to single family residential, the minimum setbacks shall be a minimum of fifty (50') feet for 1 story. An additional 50' of setback will be required per story. A maximum of 2 stories can be built adjacent to single family residential. Planning Commission may require additional height and location restrictions adjacent to single family residential including but not limited to a berm & fence. Buffer areas cannot be clear cut without written approval from our Environmental Department (see Environmental regulations for landscaping). A landscape plan will be required as well.

- E. Landscape Regulations: In addition to the landscape section contained in the Zoning Ordinance, native vegetation shall be preserved and incorporated into the development, ensuring the preservation of environmentally sensitive areas.

## ARTICLE XXII - SIGN REGULATIONS

### 22.01 PURPOSE

Signs are an important visual communication tool that benefits our community and its citizens. The City has determined that signs may be unduly distracting to motorists and pedestrians, and thereby create a traffic hazard and reduce the effectiveness of signs needed to direct the public and therefore regulations are necessary. This sign ordinance is adopted under the zoning authority of the City in furtherance of the more general purposes set forth in the Zoning Ordinance. In the interest of furthering the purpose of this Zoning Ordinance, these sign regulations are herein established to provide for the use, location, and size of signs in a manner that ensures that signs are in harmony with the character of the associated use and surrounding area. More specifically, the purposes of these regulations are to:

- To encourage the effective use of signs as a means of communication;
- To maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
- To minimize the possible adverse effect of signs on nearby public and private property and maintain attractive, high value residential, commercial and industrial areas;
- Control the size, location, and general design so that signs will be aesthetically harmonious and in context with the area in which they are located;
- Eliminate any conflict that would be hazardous between signs and traffic control signs and traffic control devices; Ensure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment; and
- To enable the fair and consistent enforcement of these sign restrictions.

### 22.02 OBJECTIVES

The objectives of this article are to create a set of guidelines that will result in signs that are an asset to the aesthetic appeal of the community, that are restrained in character, are no larger than necessary for adequate identification and advertising, and are of such design as is consistent with the high graphic standards

### 22.03 DEFINITIONS

Except as specifically defined therein, each word used in this article has its customary dictionary definition. For the purpose of this article, certain words or terms used are herein defined as follows:

Abandoned: A permitted sign which was erected on property in conjunction with a particular use, which use has been discontinued for a period of thirty (30) days or more, or a permitted temporary sign for which the permit has expired. Suggested rephrasing - A permitted sign erected in conjunction with a use that has been discontinued for thirty (30) days or more, or a permitted temporary sign with an expired permit.

Administrator: The person designated to administer and enforce the provisions of this article.

Area: The square foot area enclosed by the perimeter of the sign face but shall not include any supporting structure or backing.

Back to Back: A sign constructed on a single set of supports with messages visible on any side, provided that double message boards are physically contiguous.

Banners, Pennants, Balloons: Any sign not designed or intended for permanent use made of lightweight fabric or any other similar non-rigid material with no enclosing framework which is mounted to a pole, building, or any other structure at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move. An airport, landing pad, lighthouse, water tower, telecommunications tower, or any other beacon required for health and safety purposes and not used for the purpose of calling attention to a business, product, or other commercial activity, is not considered a beacon for purposes of this Ordinance.

Board of Adjustment and Appeals: The duly appointed Board authorized by the appropriate authority to hear and act upon any appeal of a decision of the Administrator or any request for a variance from any provision of this article.

Billboard: An off-premise or off-site sign, other than a locator sign, advertising an establishment, merchandise, product, service, entertainment, etc. which is not sold, provided, manufactured or furnished on the property on which said sign is located.

Billboard, Standard: A billboard (off-premises sign) that does not have an electronic changeable copy sign face.

Billboard Double Stacked: A single freestanding billboard sign structure that has two sign faces aimed in the same direction of travel where one sign face is positioned above the other sign face. A Billboard Double Stacked Sign may or may not have one or more sign faces aimed in the opposite direction of travel.

Billboard Merged Stack: A billboard double stacked sign that has been lawfully converted into a single billboard sign face in compliance with all applicable laws and this Zoning Code.

Campaign: A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

Canopy: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Changeable Copy: A sign upon which the copy may be manually changed, rearranged, or altered or removed without altering the structure of the sign face or support.

Commercial Message: Any sign wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

Construction: Any sign advertising or listing principal contractors, architects, engineers, and/or any establishment involved in the construction being conducted on any construction site.

Copy: The lettering, parts of letters, words, numerals, figures, phrases, sentences, emblems, devices, designs, trade names, or combinations thereof, either permanent or temporary, that creates the advertisement display on the sign surface or face in either permanent or removable letter form.

Dilapidated: Any sign which is structurally unsound, has defective parts or is in need of painting or maintenance.

Directional: A sign permanently erected or permitted in the public right-of-way or on private property by a governmental agency to provide information to the public.

Directory Sign: A sign listing only the names, use and/or location of more than one (1) business, activity or professional office conducted within a building, group of buildings or commercial center.

Double Faced: A sign with two (2) display areas against each other or where the interior angle formed by the display area is sixty (60) degrees or less, where one (1) face is designed to be viewed from one (1) direction and the other side from another direction.

Electrical: A sign or sign structure in which electric wiring, connections and/or fixtures are used as part of the sign.

Electronic Changeable Copy: A sign or portion thereof that displays electronic information in which each character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays.

Existing: Any sign that was erected, mounted or displayed prior to the adoption of this article.

Façade: The entire building wall, including main street wall face and parapet, fascia, windows, doors, canopy and roof on any complete elevation.

Face: The surface area of the sign structure where the copy is displayed.

Face Area: The surface area of any sign structure upon which any copy is displayed, generally but not limited to the entire area contained within the frame or the outside edges of any particular shape, and which is held in place by structural support, or which is mounted to any surface. Only one side of a double-faced sign shall be included in a computation of sign face area.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political division, or other entity or used as a decorative feature.

Flashing: Any lighted or electrical sign which emits light in sudden transitory bursts.

**Freestanding:** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

**Frontage:** The length of the property line of any one (1) premises parcel serving as a public right-of-way line.

**Frontage Wall Face:** The building façade, excluding parapet, fascia, soffit, mansard and roof, which faces a frontage on the premises.

**Ground:** Any outdoor advertising display sign which is supported by structures or supports in or upon the ground and independent of support from any building.

**Height:** The vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher.

**Identification:** A sign indicating the nature, logo, trademark or other identification symbol, address, or any combination of the name, symbols and address of the building, business, development or establishment on the premises where it is located.

**Illuminated:** A sign designed or arranged to reflect light from an artificial source.

- A. Direct Illumination: Light sources, including spotlights and neon tubing, which is attached to the sign face or structure and directed toward the copy area.
- B. Electric Message Center: Light sources arranged in rows, intended and designed to be individually and sequentially lit in such a manner to form letters and/or graphics which may blink on and off, travel, or flash.
- C. Indirect Illumination: Light sources not attached to the sign structure or face area, but which are designed to be directed onto the sign face area.
- D. Internal Illumination: Light sources enclosed in a sign face.

**Incidental:** A sign, generally informational, , such as “no parking”, “entrance”, “exit”, “loading only”, “drive-through”, “menu boards”, and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**Inflatable:** A sign that is either expanded to its full dimensions or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.

**Ingress / Egress:** A sign which designates only the direction of ingress or egress of a parking area or driveway, such as *In, Out, One Way, Do Not Enter or No Exit*.

**Temporary Locator:** One sign which identifies one or more businesses located within an unfinished shopping center or commercial complex which is shared by the existing businesses in the shopping center or complex and which is located on a part of the shopping center or complex and which is intended to remain only until other users in the shopping center or complex are identified and a permanent Locator Sign can be erected in its place.

**Moving Message Board:** Any electrical sign having a continuous message flow across its face by italicization of lights or other electrical impulses forming various words or designs, such as time and temperature.

Marquee: A projecting sign which is attached to or hung from a canopy, or a covered structure projecting from or supported by a building, extending beyond the building line.

Monument: A sign mounted to the ground and designed with a continuous structural element of approximately the same dimension from the ground to the top of the sign.

Multi-Tenant Locator: A single ground sign which identifies multiple businesses which are all tenants in a single structure, shopping center or complex. A Multi-Tenant Locator Sign must be located on the property that is being leased by the businesses who are displayed on the sign face unless otherwise allowed in this ordinance.

Mural: A decoration or artwork painted on the exterior wall of a building which may be classified as a sign when it contains lettering, trade emblems or logos. When such items are incorporated, the sign specifications shall be as follows:

- A. Lettering shall be localized and the area measured to conform to the size limitations of this Ordinance.
- B. Trade emblems and logos- the entire area of the mural shall be considered to be the sign face area and shall meet the size limitations contained in this Ordinance.

Name Plate: A name plate not to exceed two (2) square feet in area, to identify the owner or occupant of a dwelling or building.

Nonconforming: Any sign which does not meet the requirements of Zoning Ordinance.

Occupancy: Any use or activity upon the premises.

Off Premise: A sign relating to its subject matter which is not located on the site.

On Premise: A sign relating its subject matter to the site on which it is located.

Painted Wall: A sign that is not a mural, but which is painted directly on the surface of a structure.

Panel: The primary surface of a sign upon which the message of the sign is carried.

Parapet: A vertical false front or wall extension above the roof line.

Pennant: See Banners, Pennants and Balloons

Permitted: A sign for which a valid permit has been issued.

Plaque: Any sign indicating the name of a building and date and incidental information about its construction.

Pole: Any sign supported by a pole, or poles, and otherwise separated from the ground by air.

Political: A sign erected by a political candidate, group or agent thereof, for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the City may vote.

Portable: A movable sign that is not permanently attached to either the ground or a structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; handheld signs; caricature signs; balloons and inflatables used as signs; umbrellas used for advertising.

Premises: The plat of record which is affected either directly or indirectly by the contents of this Article.

Projecting: Any sign affixed to any building or structure, extending beyond the building wall, structure, or building line by more than twelve (12) inches.

Public Property / Right-of-Way: Any sign which is suspended, projected, or placed on or above a public right-of-way. Any sign projecting from a building or extending over public property shall maintain a clear height of nine (9) feet above the sidewalk and all such signs shall extend no more than within eighteen (18) inches of the curb line.

Real Estate: A temporary sign that advertises the sale, lease, rental or development of property upon which the sign is located.

Revolving: Any sign erected or constructed to rotate by any electrical, mechanical or natural means.

Roof: Any sign which is erected, constructed, or maintained above the roof of any building or structure, and gains its principal support from the roof or building facade.

Integral Roof: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Seasonal / Holiday: A sign used for emphasizing the celebration of an historic American holiday which is erected for a limited period of time.

Shopping Center: See Sign, Multi-Tenant Locator.

Sidewalk / Sandwich: A movable sign not secured or attached to the ground or any building or structure.

Sign: Any outdoor display of lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks or combination thereof, are arranged, intended, designed, or used as an advertisement, announcement or direction, or to otherwise make known the designation of an individual, firm, association, profession, business, commodity, or product and which may be visible from any public way, regardless of the method of display.

Special Events: A sign advertising a planned temporary activity for commercial purposes.



Structure: A supporting structure erected, used or intended for the purpose of identification or attracting attention, with or without a sign thereon, situated upon or attached to the premises upon which any sign may be fastened, affixed, displayed or applied, provided however this definition shall not include a building, fence, wall, gate or earthen berm.

Snipe: A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences, or to other objects and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located.

Suspended / Swinging: A sign that is suspended from the underside of a horizontal plane surface and is supported by such a surface.

Temporary: Any sign that is used only temporarily and is temporarily mounted to supports.

Time / Temperature: An electrical sign utilizing lights going on and off periodically to display the current time and temperature to the community.

Vehicle: Any permanent or temporary sign painted, drawn or affixed to or on a vehicle including an automobile, truck, or trailer which is displayed to public view which circumstances indicate that the primary purpose of said display is to attract the attention of the public rather than to serve the business.

Wall: A sign entirely affixed directly to the wall of a building or the slope of a mansard-type roof, and/or projecting to a point less than twelve (12) inches beyond the wall surface.

Window: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the right-of-way.

Window Temporary: A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including but not limited to, signs for sales, specials, going out of business and grand openings.

## **22.1 - GENERAL PROVISIONS**

- A. PERMITS REQUIRED - Except as otherwise provided in this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move, alter or convert any sign in the City or cause the same to be done, without first obtaining a Building Permit for each sign from the Community Development Department.
  - 1. APPLICATION FOR PERMIT - The City's online application process shall be followed to request a sign permit. The following information is required to assure compliance with all appropriate laws and regulations of the City:
    - a. Name and address of owner of the sign.

- b. Name and address of owner or the person in possession of the premises where the sign is located or to be located.
  - c. Clear and legible drawings with description definitely showing the location of the sign which is subject of the permit and all other existing signs for that particular business at that location. Signs located at intersections should also provide required Vision Clearance Areas on the drawing as defined in section 22.1.D below.
  - d. Drawings showing the dimensions, construction supports size, electrical wiring, components, illumination method, materials of the sign and method of support.
  - e. If the sign is or will be located within the Local Downtown Historic District, a Certificate of Appropriateness (COA) must be received prior to permit application.
- 2. DENIAL OF PERMIT - When a permit is denied by the Community Development Director, notice shall be given to the proper applicant with a written statement of the reason or reasons for the denial. Said statement shall be made as an attachment to the permit application.
- 3. APPEAL OF PERMIT DENIAL - If the denial is based on the interpretation or enforcement of the Zoning Ordinance, any aggrieved party may appeal the decision or interpretation of the Community Development Director to the Zoning Board of Adjustment and Appeals.
- 4. USES PERMITTED AND USES PERMITTED ON APPEAL - Signs allowed for Article XIII - District Regulations (Section 13.1.1 "Uses Permitted", and Section 13.1.2 - "Uses Permitted on Appeal") shall meet the requirements of the zoning district in which they are located.
- 5. PERMIT EXCEPTIONS - The following activities shall not require a permit from the City of Foley, but the sign shall comply with the other provisions of this ordinance:
  - a. Altering the advertising copy or message on an existing approved sign or marquee which is specifically designed for the use of replacement copy.
  - b. Painting, cleaning or other normal maintenance and repair of a sign not involving structural changes.
- B. MAINTENANCE / UNSAFE SIGNS - Every sign in the City shall be maintained in good structural condition. The Community Development Director may inspect and shall have the authority to order the painting, repair, alteration or removal of signs which become dilapidated or abandoned or which constitute a physical hazard to public safety. Any repair, painting, alteration, or removal will be at the sign owner's expense.

C. LOCATION

1. All signs shall be on premise and may not extend beyond the property lines of the property on which the sign is located nor interfere with any public right-of-way or public easement, except as permitted specifically within this Ordinance or other City ordinances.
2. No signs shall be erected in public right-of-way or on public sidewalks, except those necessary for regulatory, statutory or traffic control purposes, or other directional signs placed by the City of Foley, Baldwin County, the State of Alabama, or the United States, except as permitted specifically within this Ordinance or other City ordinances.

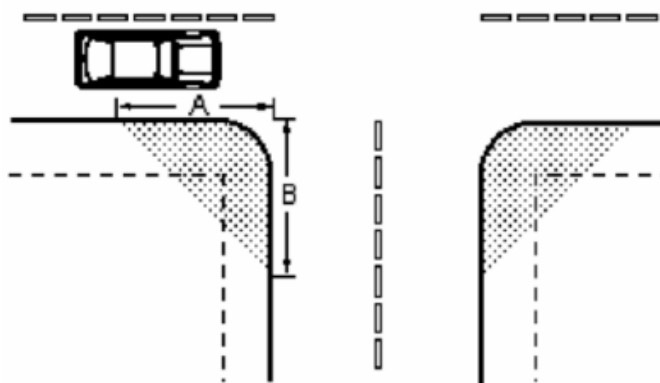
#### D. VISIBILITY

1. No sign shall be located so as to cause a public hazard, obstruct or impair motorists' vision, diminish safe ingress and egress to any property or impede flow of pedestrian or vehicular circulation in parking areas, sidewalks, or public roads.
2. Signs may not be located within the vision clearance areas, the triangular shaped areas located at the intersection of any combination of streets, alleys or driveways (as defined below). Nothing may be 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. The sides of the triangle extend from the intersection of the pavement or other vehicle travel areas.

##### a. Required Vision Clearance Area distances

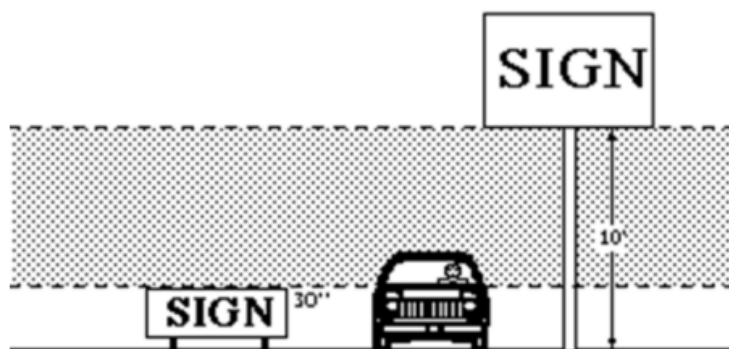
| Visibility Requirement by Street Classification |                    |                       |              |                    |
|-------------------------------------------------|--------------------|-----------------------|--------------|--------------------|
| A<br>Distance<br>in Feet                        | Street Type        | B<br>Distance in Feet |              |                    |
|                                                 |                    | Driveway              | Local Street | Collector/Arterial |
| 25                                              | Driveway           | 25                    | 30           | 100                |
| 30                                              | Local Street       | 25                    | 30           | 100                |
| 100                                             | Collector/Arterial | 25                    | 30           | 100                |

##### b. Vision Clearance Areas



3. Signs must be located to provide unobstructed visibility and shall not be located between the heights of two and one-half (2 1/2) feet and ten (10) feet from grade within the Vision Clearance Areas. Structures and supports must have a combined total width of 12 inches or less and the combined total depth of 12 inches or less.

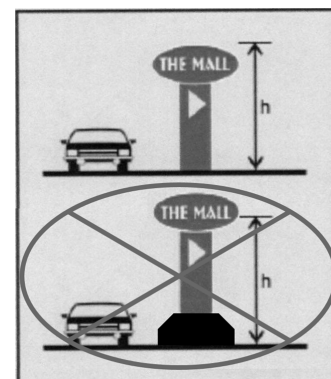
a. Vision Clearance Area Height



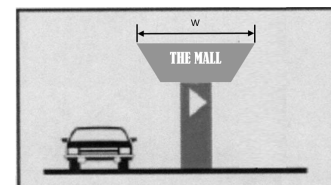
## E. MEASUREMENT AND CALCULATION STANDARDS

### 1. SIGN HEIGHT

- a. The height of a sign shall be computed as the distance from the base of the sign at normal grade (average grade at the base of the sign) to the top of the highest attached component of the sign.
- b. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely undertaken for the purpose of locating or increasing the height of sign.



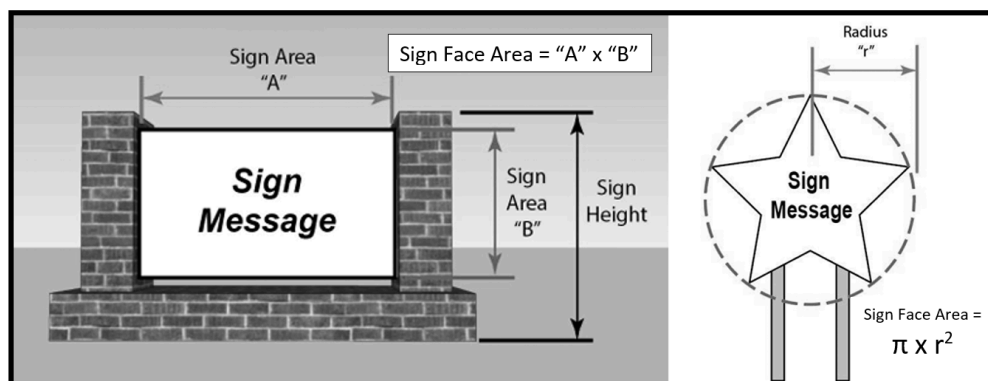
### 2. SIGN WIDTH



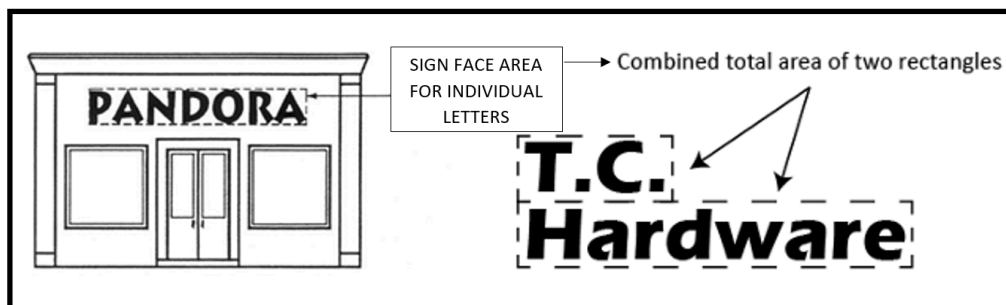
- a. The width of a sign shall be measured across the widest portion of a sign that runs parallel to the ground at the base of the sign.
- b. The sign width shall include all structure elements of a sign (e.g., support posts, sign cabinet, etc.).

### 3. SIGN FACE AREA

- a. For sign copy mounted or painted on a background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that encompasses the extreme limits of the background panel, cabinet, or surface.



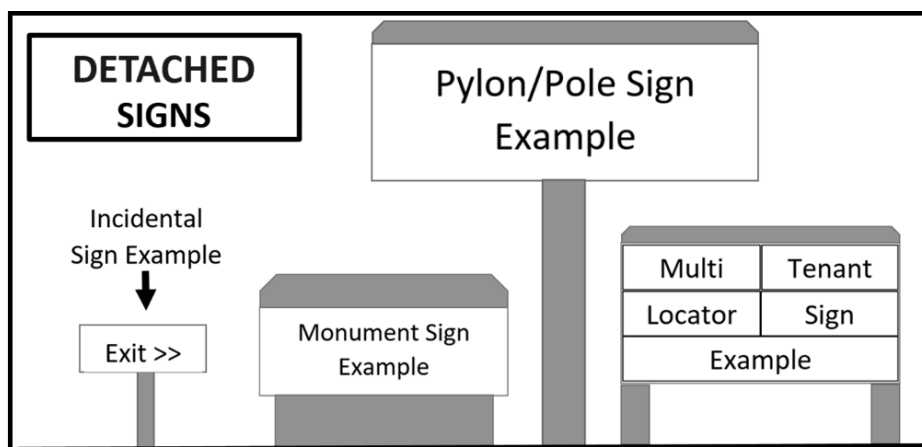
- b. For sign copy where individual letters or elements are mounted or painted on a building façade where there is no background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the combination of the smallest square, circle, rectangle, triangle, or combination thereof that encloses all the letters or elements associated with the sign.



- c. The calculation of sign area shall not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text or other commercial message, as determined by the Community Development Director.

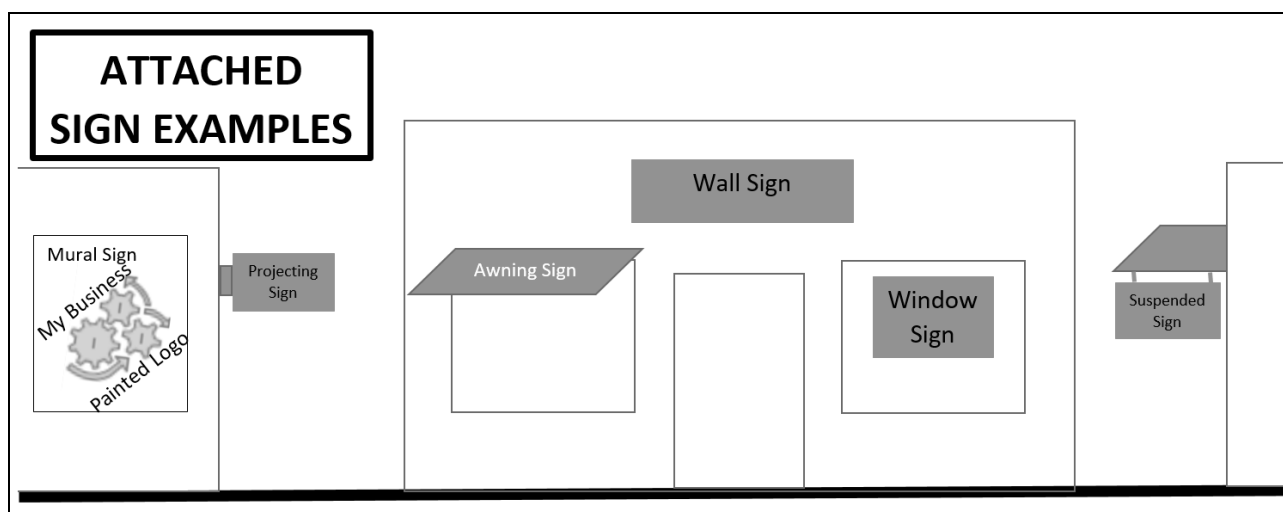
## F. SIGN TYPES

1. **DETACHED / FREESTANDING SIGNS** - Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
  - a. **Monument Signs** - A sign mounted to the ground and designed with a continuous structural element of approximately the same dimension from the ground to the top of the sign.
  - b. **Pole/Pylon Signs** - Any sign supported by a pole, or poles, and otherwise separated from the ground by air.
  - c. **Multi-tenant Locator Signs** - A single ground sign which identifies multiple businesses which are all tenants in a single structure, shopping center or complex. Must be located on the property that is being leased by the businesses who are displayed on the sign face unless otherwise allowed in this ordinance.
  - d. **Incidental/Directional Signs** - A sign, generally informational, such as “no parking”, “entrance”, “exit”, “loading only”, “drive-through”, “menu boards”, and other similar directives. No sign with a commercial message legible from a position off the zoned lot on which the sign is located shall be considered incidental.



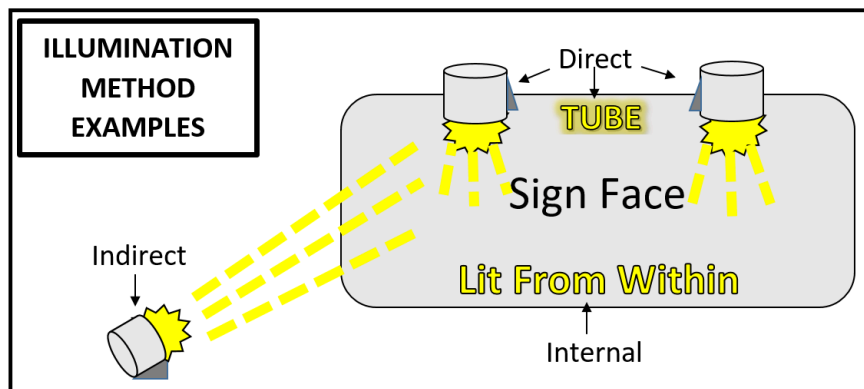
2. **ATTACHED SIGNS**
  - a. **Wall Signs** - A sign entirely affixed directly to the wall of a building or the slope of a mansard-type roof, and/or projecting to a point less than twelve (12) inches beyond the wall surface.
  - b. **Suspended/Hanging Signs** - A sign that is suspended from the underside of a horizontal plane surface and is supported by such a surface.
  - c. **Projecting Signs** - Any sign affixed to any building or structure, extending beyond the building wall, structure, or building line by more than twelve (12) inches and no more than eighteen (18) inches. (For Local Downtown Historic District properties, refer to the Design Guidelines)
  - d. **Canopy/Awning Signs** - Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

- e. Marquee Signs - A projecting sign which is attached to or hung from a canopy, or a covered structure projecting from or supported by a building, extending beyond the building line.
- f. Mural Signs - A decoration or artwork painted on the exterior wall of a building which may be classified as a sign when it contains lettering, trade emblems or logos. When such items are incorporated, the sign specifications shall be as follows:
  - 1. Lettering- shall be localized and the area measured to conform to the size limitations of this Ordinance.
  - 2. Trade emblems and logos- the entire area of the mural shall be considered to be the sign face area and shall meet the size limitations contained in this Ordinance.
- g. Painted Wall Signs - A sign that is not a mural, but which is painted directly on the surface of a structure.
- h. Window Signs - Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the right-of-way.



### 3. METHODS OF ILLUMINATION

- a. DIRECT - Light sources, including spotlights and neon tubing, which is attached to the sign face or structure and directed toward the copy area.
- b. INDIRECT - Light sources not attached to the sign structure or face area, but which are designed to be directed onto the sign face area.
- c. INTERNAL - Light sources enclosed in a sign face.
- d. ELECTRIC MESSAGE CENTER - Light sources arranged in rows, intended and designed to be individually and sequentially lit in such a manner to form letters and/or graphics which may blink on and off, travel, or flash. (See section 22.6 for further details and requirements.)



## G. NON-CONFORMING SIGNS

1. **SIGNS ELIGIBLE TO BE CONSIDERED "LEGAL NON-CONFORMING"** - Any sign located within the city limits on the date of the adoption of this Ordinance or located in any area annexed to the City hereafter which does not conform to the provisions of this Ordinance, is eligible for characterization as a "Legal Non-Conforming" sign and is permitted, provided it meets the following requirements:
  - a. A permit had been issued for the construction of such sign prior to the date of the adoption of this Ordinance.
  - b. If a sign was in compliance with all applicable regulations and laws prior to being annexed into the City of Foley, but is either prohibited or fails to conform with the Zoning Ordinance after annexation, then such sign may be considered a legal non-conforming sign.
2. **LOSS OF LEGAL NON-CONFORMING STATUS** - A legal non-conforming sign shall immediately lose its legal non-conforming status upon the occurrence of one or more of the events listed in this Zoning Ordinance, pursuant to state law, or when there is a change in:
  - a. The type of use or occupancy type on the property on which the sign is located;
  - b. The location, size, height, or type of sign; or
  - c. The amount of frontage such that the existing sign would not be permitted by this Ordinance.
  - d. A sign, being a structure, is also subject to the provisions of section 6.2.2 of this ordinance in regard to a prohibition of restoration after damage greater than 50% of its current replacement value.

## 22.2 - PROHIBITED SIGNS

Except as may be hereinafter specifically permitted, the following signs are prohibited in the City of Foley, and no permits for the construction of these signs will be issued, and all existing signs of this



nature that are now in the corporate limits of the City of Foley or may hereafter come into the corporate limits of the City of Foley will either be classified as legal non-conforming or unlawful.

- A. Billboards, provided, however, the Planning Commission may, as part of its approval of the Master Signage Plan (MSP) for a PUD, PDD, or PID, grant one or more lots in the development the option to locate their ground sign(s) in specifically defined locations in a common area of that same PUD, PDD, or PID.
- B. Signs located in public areas or right-of-ways. With the exception of: Signs erected by or on behalf of the governmental entity responsible for maintenance and repair of said right-of-way, including signs posting legal notices, identifying public property, conveying public information, and signs directing or regulating pedestrian or vehicular traffic to businesses or other locations; bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes, or facilities; and awnings, projecting and suspended signs which conform to the conditions of these regulations.
- C. Vehicle Signs: except those vehicles used in normal day-to-day operations of the business. Vehicles parked for more than three (3) consecutive days are not considered regularly used in the conduct of normal day-to-day business. Vehicle signs used in normal day-to-day business shall be parked to the rear or side of businesses when possible. When rear and side parking is not possible vehicles shall be parked at a minimum of 100 feet from all highways and expressways. No vehicle signs shall be parked in the City right-of-way, unless the business has no other parking areas on premise.
- D. Portable Signs: A moveable sign that is not permanently attached to either the ground or a structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign converted to A- or T- frames; menu and sandwich board signs; feather flags; handheld signs; caricature signs; inflatable's; umbrellas (used for advertising), except those permitted as Special Event Signs in 22.4 EXEMPT PERMIT SIGNS or those which may be allowed in an applicable Overlay District.
- E. Roof top signs.
- F. Beacons and Revolving signs.
- G. Flashing signs, traveling lights or intensely lighted signs.
- H. Snipe signs.
- I. Sidewalk / Sandwich signs.
- J. Banners, pennants, balloons, flags, portable signs and inflatable signs. See temporary signs and Special Event signs for exceptions.
- K. Off-Premise signs.
- L. Any sign that emits any sound, odor or smoke.
- M. Any sign which obstructs free ingress or egress to a required door, window, fire escape or other required exit way.
- N. Any sign or sign structure which obstructs the view of, may be confused with or purports to be a governmental or traffic direction / safety sign.
- O. Signs painted on or attached to trees, fence posts, pavement, rocks or other natural features, telephone or utility poles.
- P. Abandoned or dilapidated signs.

**22.3 - TEMPORARY SIGNS NOT REQUIRING PERMIT**

The following temporary signs are allowed with the following conditions, and do not require a permit. This section specifically excludes Special Event Signs/Displays as described in 22.4 EXEMPT PERMIT SIGNS.

- A. Temporary signs shall not be illuminated.
- B. Drives or events of a not for profit, civic, educational or religious nature are allowed to advertise for a period of two (2) weeks immediately preceding an event provided that:
  - 1. The sign face must be less than thirty-two (32) square feet.
  - 2. They may be located on and/or off premise, provided it is not in the public right-of-way nor causing a traffic hazard (see 22.1 D - Visibility).
- C. New businesses in the City are allowed to advertise with a single sign for a period of (3) three weeks provided that:
  - 1. The sign is non-electric.
  - 2. The sign face must not exceed thirty-two (32) square feet.
  - 3. The sign is located on premises and is not located in the public right-of-way nor causing a traffic hazard (see 22.1.D - Visibility).
- D. Real Estate Signs:
  - 1. Real Estate "For Sale" or Rental Signs (Residential):
    - a. Two (2) signs per property advertising the sale or rental are allowed on-premise and two (2) signs are allowed off-premise.
    - b. Must not exceed four (4) square feet of copy area per sign.
    - c. Such signs shall not be permitted for a period longer than thirty (30) days after closing the sale or rental of the property.
  - 2. On-Premise Real Estate "For Sale" or "For Rent" Signs (Commercial):
    - a. One (1) real estate "For Sale" or "For Rent" sign for commercially zoned properties is allowed for properties with up to 500 linear feet of frontage. An additional sign is allowed for each additional 500 feet of frontage.
    - b. Must be located entirely within the property.
    - c. Must not exceed thirty-two (32) square feet of copy area per sign.
    - d. Such sign(s) shall be removed within thirty (30) days of closing the sale or rental of the property.
  - 3. Off-Premise Real Estate "For Sale" or "For Rent Signs (Commercial):
    - a. One (1) sign advertising the selling or rental of such property is permitted
    - b. Must not exceed four (4) square feet of copy area.
    - c. Such sign shall be removed within thirty (30) days of closing the sale or rental of the property.
  - 4. Construction Signs:
    - a. Must not exceed thirty-two (32) square feet of sign face.

- b. May be placed no sooner than actual demolition or construction activities begin and may continue until the permanent sign is erected or the certificate of occupancy is issued, whichever comes sooner.
    - c. Such sign shall not be located in the public right-of-way nor cause a traffic hazard (see 22.1.D - Visibility).
  - 5. Model Homes:
    - a. Temporary A-frame signs shall be allowed in residential zones only to be located on the lot of the model home during the business hours in which an agent(s) is present.
- E. Campaign or Election Signs are exempt provided that:
- 1. Signs advocating or opposing a public office or a position on an issue to be determined at an election shall not exceed twelve (12) square feet in residential districts. In all other zoned districts, signs shall not exceed thirty-two (32) square feet.
  - 2. Signs advocating or opposing a public office or position on an issue to be determined at an election shall be removed within ten (10) days after the election for which they were erected. In the event of a runoff election, signs may be displayed until the runoff election and then shall be removed within ten (10) days of the runoff election.
  - 3. Property owners shall be held responsible for violations of campaign and election signs.
  - 4. No signs shall be allowed in the public right-of-way, project into or overhang any right-of-way or be attached to any utility pole within the right-of-way.
- F. Decorative Displays
- 1. Single balloons under twenty-four (24) inches in circumference that do not contain copy are considered decorative.
  - 2. Flags that display seasonal, holiday, governmental and political displays are considered decorative.
- G. Alterations / Maintenance
- A permit is not required prior to engaging in sign alternations if such alterations involve only:
- 1. The changing copy on a permitted changeable copy sign.
  - 2. The painting or refinishing of the surface of a sign face or sign structure of a permitted sign so as to keep the appearance of such sign as it existed on the date such sign received a permit.
  - 3. Changes of copy by an owner necessary to correctly identify the business, i.e. phone number, etc. as long as the quality and graphics of the original permitted sign remain the same.

## 22.4 - SPECIAL EVENT SIGNAGE / DISPLAYS

Temporary special use or event signs and displays are allowed but only under the following conditions and requirements:

- A. Special event signage and displays require an Exempt Permit (no fee required) found in the City's online permitting system under Planning & Zoning - Special Event Signs/Displays prior to the erection and placement of any such temporary sign or display. Such signs and displays shall be specifically described in writing as to their type and reason for special event.

1. Signs shall not exceed five (5) feet in height except for portable billboards.
2. Such signs shall not be illuminated.
3. For all lots containing multiple businesses, the property owner shall be responsible for all signage placed on the property, regardless of who erects the sign.
4. All such signs shall not be placed within ten (10) feet of the street right-of-way or in any other way as to obstruct the view of motorists or pedestrians.
5. An individual business shall be allowed a maximum of six (6) special event sign permits per calendar year, each of which shall be valid for seven (7) consecutive days starting from the date of registration issuance or as noted on the registration.

- B. The following types of signs/displays which attract attention to a particular business may be registered as special event signs/displays:

| <b>SPECIAL EVENT SIGN / DISPLAY</b> |                         |                            |
|-------------------------------------|-------------------------|----------------------------|
| <b>Sign Type</b>                    | <b>Quantity Allowed</b> | <b>Max Size Allowed</b>    |
| Balloons & Inflatables              | 1                       | 20 ft in height from grade |
| Feather Flags                       | 2                       | 20 ft in height from grade |
| Hand-held signs                     | 1                       | 6 sf sign face             |
| A or T frame signs                  | 1                       | 12 sf sign face            |
| Menu/Sandwich Boards                | 1                       | 12 sf sign face            |
| Banners                             | 1                       | 30 sf sign face            |
| Plastic/wire frame signs            | 1                       | 12 sf sign face            |
| Flags (not otherwise exempt)        | 1                       | 15 sf                      |
| Portable Billboards                 | 1                       | 10'x13' or 130 sf          |

**22.5 - SIGNS REQUIRING A PERMIT**

- A. **PLANNED DISTRICT SIGNAGE** - A Master Signage Plan (MSP) is designed to benefit the community in administering its sign regulations within a planned development and is required for the following zoning designations: Planned Unit Development (PUD), Planned Development District (PDD), and Planned Industrial District (PID). The Planning Commission will review the location, size, and other information to approve ground signs in common areas advertising specific businesses within a development. The Planning Commission may also review and approve any unique requests for other signage in these zones. The required information includes:
1. An accurate plot plan of the Development at a legible scale;
  2. Location of signage for common areas, buildings, parking lots, driveways, amenities, landscaped areas and others;
  3. An accurate indication of the proposed location of each present and future sign.
  4. Size of the total Sign Face Area, the area of each individual sign, the height of the signs, an outline of the Sign Structure, and any electronic signage being requested.
  5. A detailed description of any relaxation or exception that is being requested from the sizes shown in the following charts.
  6. Documentation of who will be responsible for the maintenance and upkeep of the ground signs.

**B. RESIDENTIAL SIGNAGE**

1. The following Zones are considered “residential” for the purposes of these sign regulations: R-1R, R-1A, R-1B, R-1C, R-1D, R-2, R-3, R-4, GPH-1, TH-1, MH-1, RV Park, and residential areas of a PUD, PDD, or AO

| <b>RESIDENTIAL SIGNAGE ALLOWED</b>             |                  |                          |                |                   |                     |                                                            |                            |
|------------------------------------------------|------------------|--------------------------|----------------|-------------------|---------------------|------------------------------------------------------------|----------------------------|
| <b>Purpose</b>                                 | <b>Sign Type</b> | <b>Max Area per Face</b> | <b># Faces</b> | <b>Max Height</b> | <b>Illumination</b> | <b>Number Signs</b>                                        | <b>Electronic allowed?</b> |
| Primary Entrance Neighborhood Identification   | Ground           | 50 sf                    | 2              | 6 ft              | Direct or Indirect  | 1 at Main entrance                                         | no                         |
| Secondary Entrance Neighborhood Identification | Ground           | 32 sf                    | 2              | 4 ft              | Direct or Indirect  | 1 per Secondary entrance                                   | no                         |
| Home Occupation                                | Ground           | 4 sf                     | 2              | 4 ft              | PROHIBITED          | 1                                                          | no                         |
| Bed & Breakfast                                | Ground           | 4 sf                     | 2              | 4 ft              | Direct or Indirect  | 1 containing only name, street address, and occupancy info | no                         |

**C. COMMERCIAL/INDUSTRIAL SIGNAGE**

1. The following Zones are considered “commercial/industrial use” for the purposes of these sign regulations: B-1, B-1A, B-2, B-3, M-1, Commercial & Industrial areas of a PUD or PDD
2. Painted Murals on the sides of buildings are allowed and are not considered to be a sign unless copy is included which advertises a business or service. If copy is included, this is a sign and must comply with this ordinance.
3. If a business does not have a ground sign, the wall sign may be increased by the square footage of the allowed ground sign.
4. Signs for free standing single tenant retail establishments in excess of 100,001 sf may increase by 10% for each additional 100,000 sf.
5. Based on street frontage, the total sign face area (wall & ground) as determined by following Commercial charts below may be increased as follows:

| <b>SIGN FACE AREA BY STREET FRONTAGE</b> |                   |                   |                   |                    |                    |
|------------------------------------------|-------------------|-------------------|-------------------|--------------------|--------------------|
| <b>FRONTAGE</b>                          | <b>200-400 ft</b> | <b>401-600 ft</b> | <b>601-800 ft</b> | <b>801-1000 ft</b> | <b>&gt;1000 ft</b> |
| Increase to Sign Face Area               | 10%               | 20%               | 30%               | 40%                | 50%                |

6. The square footage of structures listed in the Purpose column of the chart below refers to the footprint of the ground foundation.

| <b>COMMERCIAL/INDUSTRIAL SIGNAGE ALLOWED (excluding B-1)</b> |                  |                          |                |                                |                     |                               |                            |
|--------------------------------------------------------------|------------------|--------------------------|----------------|--------------------------------|---------------------|-------------------------------|----------------------------|
| <b>Purpose</b>                                               | <b>Sign Type</b> | <b>Max Area per Face</b> | <b># Faces</b> | <b>Max Height</b>              | <b>Illumination</b> | <b>Number Signs</b>           | <b>Electronic allowed?</b> |
| Free standing Single Tenant Structures <2,900 sf             | Wall             | 80 sf                    | 1              | not to exceed highest roofline | Internal            | 1 per Facing Street/ Driveway | Yes, except Historic.      |
|                                                              | Ground           | 120 sf                   | 2              | 20 ft                          | Internal            | 1 per 500 ft of frontage      | Yes, except Historic.      |
| Free standing Single Tenant Structures 2,901 - 15,000 sf     | Wall             | 80 sf                    | 1              | not to exceed highest roofline | Internal            | 1 per Facing Street/ Driveway | Yes, except Historic.      |
|                                                              | Ground           | 160 sf                   | 2              | 25 ft                          | Internal            | 1 per 500 ft of frontage      | Yes, except Historic.      |
| Free standing Single Tenant Structures 15,001 - 30,000 sf    | Wall             | 200 sf                   | 1              | not to exceed highest roofline | Internal            | 1 per Facing Street/ Driveway | Yes, except Historic.      |
|                                                              | Ground           | 200 sf                   | 2              | 25 ft                          | Internal            | 1 per 500 ft of frontage      | Yes, except Historic.      |
| Free standing Single Tenant Structures 30,001 - 50,000 sf    | Wall             | 200 sf                   | 1              | not to exceed highest roofline | Internal            | 1 per Facing Street/ Driveway | Yes, except Historic.      |
|                                                              | Ground           | 210 sf                   | 2              | 25 ft                          | Internal            | 1 per 500 ft of frontage      | Yes, except Historic.      |
| Free standing Single Tenant Structures                       | Wall             | 220 sf                   | 1              | not to exceed highest roofline | Internal            | 1 per Facing Street/ Driveway | Yes, except Historic.      |

**CITY OF FOLEY ZONING ORDINANCE - SEPT 2025**

|                                                                                                        |                    |                                              |              |                        |                                                                               |                                                                                     |                       |
|--------------------------------------------------------------------------------------------------------|--------------------|----------------------------------------------|--------------|------------------------|-------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-----------------------|
| 50,001 - 100,000 sf                                                                                    | Ground             | 220 sf                                       | 2            | 30 ft                  | Internal                                                                      | 1 per 500 ft of frontage                                                            | Yes, except Historic. |
| Building Front signs for Establishments in Multi-tenant Buildings (only allowed if store has frontage) | Wall or Projecting | Not covering more than 30% of store frontage | W: 1<br>P: 2 | not to exceed roofline | Internal                                                                      | 1 per Facing Street/ Driveway                                                       | Yes, except Historic. |
| Multi-tenant Locator Signs ≤ 10,000 sf                                                                 | Ground             | 100 sf ***                                   | 2            | 25 ft                  | Internal                                                                      | 1                                                                                   | Yes, except Historic. |
| Multi-tenant Locator Signs 10,001 - 30,000 sf                                                          | Ground             | 150 sf ***                                   | 2            | 30 ft                  | Internal                                                                      | 1 per Facing Street, total sign face area of all locator signs not to exceed 200 sf | Yes, except Historic. |
| Multi-tenant Locator Signs ≥ 30,001 sf                                                                 | Ground             | 300 sf ***                                   | 2            | 35 ft                  | Internal                                                                      | 1 per Facing Street, total sign face area of all locator signs not to exceed 400 sf | Yes, except Historic. |
| Parking Lot Identification                                                                             | Ground             | 32 sf                                        | 2            | 5 ft                   | Non-oscillating, concealed light source. (spotlight or floodlight prohibited) | 1 per entrance                                                                      | No                    |

| <b>B-1 COMMERCIAL SIGNAGE ALLOWED</b> |                    |                                                          |              |                                                                            |                                                                                |                                                    |                     |
|---------------------------------------|--------------------|----------------------------------------------------------|--------------|----------------------------------------------------------------------------|--------------------------------------------------------------------------------|----------------------------------------------------|---------------------|
| Purpose                               | Sign Type          | Max Area per Face                                        | # Faces      | Max Height                                                                 | Illumination                                                                   | Number Signs                                       | Electronic allowed? |
| Business Identification               | Ground             | 32 sf                                                    | 2            | 5 ft                                                                       | Direct, Indirect, or Internal                                                  | 1 per facing street                                | no                  |
| Business Identification               | Wall or Projecting | 40 sf max - may not exceed 30% of the buildings frontage | W: 1<br>P: 2 | W: 20 ft, or at Roofline, whichever is lower<br>P: Min 9 ft above sidewalk | Direct, Indirect, or Internal                                                  | 1 per facing street / driveway                     | no                  |
| Multi tenant Business Identification  | Wall or Projecting | 2 sf                                                     | 1            | W: 20 ft, or at Roofline, whichever is lower<br>P: Min 9 ft above sidewalk | n/a                                                                            | 1 per tenant at the entrance of each tenants space | no                  |
| Parking Lot Identification            | Ground             | 32 sf                                                    | 2            | 5 ft                                                                       | Non- oscillating, concealed light source. (spotlight or floodlight prohibited) | 1 per entrance                                     | no                  |

**D. OFFICE SIGNAGE**

1. The following areas are considered “office use” for the purposes of these sign regulations: Office areas of a PUD or PDD

| OFFICE SIGNAGE ALLOWED                  |                    |                   |              |                                           |                                                                                |                               |                     |
|-----------------------------------------|--------------------|-------------------|--------------|-------------------------------------------|--------------------------------------------------------------------------------|-------------------------------|---------------------|
| Purpose                                 | Sign Type          | Max Area per Face | # Faces      | Max Height                                | Illumination                                                                   | Number Signs                  | Electronic allowed? |
| Office Buildings ≤ 10,000 sf floor area | Ground             | 32 sf             | 2            | 5 ft                                      | Direct, Indirect, or Internal                                                  | 1 per Facing Street           | no                  |
| Office Buildings ≤ 10,000 sf floor area | Wall or Projecting | 32 sf             | W: 1<br>P: 2 | 12 ft                                     | Direct, Indirect, or Internal                                                  | 1 per Facing Street/Driveway  | no                  |
| Office Buildings ≥ 10,001 sf floor area | Ground             | 50 sf             | 2            | 9 ft                                      | Direct, Indirect, or Internal                                                  | 1 per Facing Street           | no                  |
| Office Buildings ≥ 10,001 sf floor area | Wall or Projecting | 32 sf             | W: 1<br>P: 2 | 20 ft, or at Roofline, whichever is lower | Direct, Indirect, or Internal                                                  | 1 per Facing Street/Driveway  | no                  |
| Parking Lot Identification              | Ground             | 32 sf             | 2            | 5 ft                                      | Non- oscillating, concealed light source. (spotlight or floodlight prohibited) | 1 per entrance to parking lot | no                  |

#### E. OTHER SIGNAGE

| OTHER SIGNAGE ALLOWED |                                                                                           |                   |         |                                          |                     |                |                     |
|-----------------------|-------------------------------------------------------------------------------------------|-------------------|---------|------------------------------------------|---------------------|----------------|---------------------|
| Zone                  | Sign Type                                                                                 | Max Area per Face | # Faces | Max Height                               | Illumination        | Number Signs   | Electronic allowed? |
| AO                    | ZBAA approved temporary Roadside Stand                                                    | 32 sf             | 2       | 5 ft                                     | None                | 1              | No                  |
| OSP                   | Ground                                                                                    | 200 sf            | 2       | 25 ft                                    | Indirect / Internal | 1 per entrance | yes                 |
|                       | Promotional/Sponsorship materials within Park boundaries are exempt from Sign Regulations |                   |         |                                          |                     |                |                     |
| PO                    | Choice of one of the following:                                                           |                   |         |                                          |                     |                |                     |
|                       | Monument                                                                                  | 12 sf             | 2       | 4 ft                                     | Indirect            | 1              | no                  |
|                       | Wall                                                                                      | 12 sf             | 1       | 12 ft or at roofline, whichever is lower | Indirect            | 1              | no                  |
|                       | Ground                                                                                    | 36 sf             | 2       | 6 ft                                     | Indirect            | 1              | no                  |

FMOD



|  |      |       |   |                                             |          |   |    |
|--|------|-------|---|---------------------------------------------|----------|---|----|
|  | Wall | 36 sf | 1 | 20 ft or at roofline,<br>whichever is lower | Indirect | 1 | no |
|--|------|-------|---|---------------------------------------------|----------|---|----|

## 22.6 - ELECTRONIC SIGN REGULATIONS

Electronic changeable copy (ECC) signs may be permitted as a detached freestanding or attached flat sign as follows:

- A. Not allowed in the City of Foley Downtown Historic Overlay District, regardless of zone.
- B. Allowed in zones: B1A, Extended Business District; B2, Neighborhood Business District; B3, Local Business District; M1, Light Industrial District; and Open Space/Preservation District.
- C. Allowed in the commercial or industrial portions of a Planned Zone (PID, Planned Industrial District; PUD, Planned Unit Development; or PDD, Planned Development District), when specifically included as a part of a Master Signage Plan (see section 22.5.D.1).
- D. The signs must meet all size and Vision Clearance Area requirements for the zoning and/or overlay district in which they are located.
- E. May not display messages that do not pertain to business conducted on the premises on which the sign is located, unless otherwise exempted or a public service announcement.
- F. Display of any message must be static. There shall be no effects of movement, flashing, scintillation, or similar effects in the individual images.
- G. DETACHED FREESTANDING ELECTRONIC SIGN REQUIREMENTS
  - 1. The ECC sign must be located on the site of the use identified or advertised by the sign.
  - 2. No more than one (1) ECC sign with a maximum of two (2) parallel sides is permitted per lot of record.
  - 3. Lots with multiple businesses shall be allowed one (1) detached freestanding ECC sign per public frontage to service all businesses located on that lot.
  - 4. ECC signs may not display colors, words, or images that interfere with or mimic a traffic control signal or device. (ie. - "STOP", "GO", "DANGER", etc.).
  - 5. Sign display technology shall be programmed so that the message or image on the sign changes no more than one (1) time per fifteen (15) seconds.
  - 6. Changes of image shall be substantially instantaneous as seen by the human eye and shall not use fading, rolling, window shading, flashing, spinning, rotating, dissolving, or similar effects as part of the change.

7. Detached ECC signs must form an integrated portion of an on-premises detached sign. The electronic changeable copy portion of the detached sign may be separated from the remainder of the sign. If the electronic message center portion of the sign is being utilized after sunset, the existing static portion of the sign must be functioning, illuminated, and readable.
8. The area of the ECC sign may comprise no more than fifty percent (50%) of the surface area of the allowable detached sign of which it is a part. Neither shall any portion of the ECC sign project above the height of the permanent detached signage. ECC message centers are secondary to the permanent non-changeable portions of the sign and should be designed in this regard.
9. An ECC sign shall be included in the calculation of the total permitted sign area of the detached sign of which it is a part.
10. Electronic changeable copy signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level (10% of max brightness) for the time period between one-half hour before sunset and one-half hour after sunrise. In addition, it must also be able to respond to lighting level changes occurring due to atmospheric conditions.
11. The leading edge of an ECC sign located in any district must be a minimum distance of one hundred (100) feet from an abutting occupied single-family residential district boundary. An ECC sign may not face an abutting residential district.
12. ECC signs must be separated from other ECC signs by at least fifty (50) feet.
13. All ECC signs will be maintained in proper working order.
  - a. If at any time the programming or technology that controls the brightness, time/date on message, or any other required visual display characteristic fails or malfunctions and is determined to be a hazard to the safety of the traveling public, the sign shall be immediately turned off, disconnected or disabled.
  - b. Any dead zones or non-illuminated portions of the signs shall be replaced or repaired within fourteen (14) working days, or as soon as possible conditions allowing, or the use of the sign shall be discontinued.
14. If at any time subsequent to the adoption of this Section of the Zoning Ordinance any portion of these regulations is deemed to be a safety hazard by the City of Foley, the City reserves the right to modify said regulations and all existing signs shall be modified to conform to the safety-related modifications.

#### H. ATTACHED FLAT ELECTRONIC SIGN REQUIREMENTS

1. A maximum of one (1) single sided attached ECC wall sign is permitted for a site that does not contain any other ECC sign, detached or wall mounted.
2. Such signs may not exceed thirty-two (32) square feet in area and will be counted toward the calculation for maximum signage for the building and must comply with all other applicable provisions of this ordinance.
3. Wall mounted signs shall not be oriented toward adjacent residential uses.

4. A digital fuel price sign located on a fuel canopy or the front wall of a building that is only used for the display of current fuel pricing is exempt from being counted in 22.6.H.1, however is still subject to 22.6.H.2 & 3.

## **22.7 - SIGNS LOCATED IN OVERLAY DISTRICTS**

If a property is located within an overlay district, that Overlay District's specific signage rules and relaxations will override the rules stated within Article XXII in the event of a conflict.

## ARTICLE XXIII - REGULATION OF BILLBOARDS ALONG THE FOLEY BEACH EXPRESS

### 23.1 AUTHORITY

Pursuant to Act Number 2000-429 of the Alabama Legislature, the City of Foley has the exclusive zoning authority to regulate billboards along the Foley Beach Express (Eastern Corridor) in its police jurisdiction. Pursuant to Code of Alabama, Section 11-52-1, et.seq, and City of Foley Ordinance 387-87, and the amendments thereto, Foley has the exclusive zoning authority within its corporate limits.

### 23.2 DECLARATION OF POLICY

The City of Foley hereby finds and declares that the erection and maintenance of billboards in the adjacent areas and visible from the Foley Beach Express should be prohibited in order to protect the public investment in said road, to promote the safe and orderly travel along said road, to promote the recreational value of public travel, and to preserve natural beauty.

### 23.3 DEFINITIONS

For the purposes of this Article, unless otherwise indicated, the following terms shall have the following meanings:

1. Adjacent Area: An area which is adjacent to and within 660 feet of the nearest edge of the right-of-way of the Foley Beach Express.
2. Advertising Copy: The artistic and/or written material on the sign face which is designed, intended or used to convey a message or information to the viewer.
3. Billboard: Any outdoor advertising sign, display, device, notice, figure, painting, drawing, message, placard, poster or thing which is designed, intended or used to advertise or inform the public of a business, a service, a location, a place, a commodity, or any other thing offered or available at a location other than the premises on which such sign is located.
4. Community Development Director: The Community Development Director appointed by the City of Foley and his/her designee. Such person responsible for the administration and enforcement of certain provisions of this Ordinance. The Community Development Director may be the same or different person as the Planner, Planning & Zoning Coordinator or any other designee.
5. Centerline: A line equidistant from the edges of the median separating the main-traveled ways of the Foley-Beach Express where it is divided or the centerline of the main-traveled way of the Foley-Beach Express where it is not divided.
6. Digital Billboard: A billboard (off-premises sign) with an electronic changeable copy sign face.

7. Erect: To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of the advertising copy.
8. Foley-Beach Express: That road connecting Highway 59 at a point North of Foley to Highway 180 in Orange Beach, Alabama.
9. Footcandle: A term used to describe a unit of measure of the density of light that falls on a surface. A footcandle is equal to one lumen per square foot. A footcandle measures the amount of illumination on a surface from a light source.
10. Legal Non-Conforming Billboard: Any billboard which (1) was legally permitted prior to the effective date of this Article and which is properly constructed during the initial permit period or (2) was legally constructed and in existence prior to the effective date of this Article. A legal nonconforming billboard may lose its legal status pursuant to Section 22.6.
11. Maintain: To allow to exist.
12. Maintraveled Way: The through traffic lanes exclusive of frontage roads, auxiliary lanes and ramps.
13. Nit: A term used to describe a unit of measure for luminance intensity per unit area that is projected in a given direction. A nit is equal to one candela per square meter. A nit measures the luminance of a light source which is closely related to the perceived "brightness" of the light source.
14. Non-Conforming Billboard: Any billboard which does not conform to this Article or which would not be permitted to be erected because of this Article.
15. Sign Face: That area of a billboard which is designed, intended or used as the area on which the advertising copy is applied, attached or located.
16. Sign, Billboard Double Stacked: A single freestanding billboard sign structure that has two sign faces aimed in the same direction of travel where one sign face is positioned above the other sign face. A Billboard Double Stacked Sign may or may not have one or more sign faces aimed in the opposite direction of travel.
17. Sign, Billboard Merged Stack: A billboard double stacked sign that has been lawfully converted into a single billboard sign face in compliance with all applicable laws and this Zoning Code.
18. Standard Billboard: A billboard (off-premises sign) that does not have an electronic changeable copy sign face.

## **23.4 APPLICABILITY**

This Article shall apply to all areas within the corporate limits or police jurisdiction of the City of Foley, as they exist now and in the future, which are within the adjacent areas of the Foley-Beach Express. This Article shall also apply to all billboards which are in the corporate limits or police jurisdiction of the City of Foley whose advertising copy (in whole or in part) can be comprehended, viewed or read from the main-traveled way of the Foley-Beach Express.

## **23.5 ERECTION OF BILLBOARDS – PROHIBITED IN CERTAIN AREAS**

No billboard shall be erected in an adjacent area of the Foley-Beach Express. Furthermore, no billboard shall be erected when its advertising copy (in whole or in part) can be read from the main-traveled way of the Foley-Beach Express even if beyond or outside of the adjacent area.

### **23.6 NONCONFORMING BILLBOARDS**

- A. Legal nonconforming billboards may be continued in use provided it is in a safe and good condition. The advertising copy of a legal nonconforming billboard may be changed as desired.
- B. A legal nonconforming billboard may not be:
  - 1. Structurally altered, amended or repaired so as to prolong or enhance the useful life of the billboard; or
  - 2. Altered, changed or moved in any manner that increases its size, shape, location, angle, or height; or
  - 3. Rebuilt, reestablished or repaired after the sign face and/or structural support is damaged or destroyed by more than 50% as determined by the Community Development Director.
- C. A nonconforming billboard which is not a legal nonconforming billboard, or which has lost its legal nonconforming status pursuant to subsection B above shall be removed at the owner's expense by either the owner or by the City of Foley.

### **23.7 ERECTION AND MAINTENANCE OF BILLBOARDS, EXCEPTIONS TO SECTIONS 23.5 AND 23.6**

The provisions of Sections 23.5 and 23.6 shall not be applicable to billboards of less than one (1) square foot in area, excluding the support, which are erected or maintained by a public utility to mark the location of any buried telephone cable, electric power line, gas line, waterline or other underground public utility facility, for the protection of the facilities of the public utility.

### **23.8 PENALTY FOR VIOLATION OF ARTICLE**

Whoever erects, causes to erect, alters or maintains a billboard in violation of the provisions of this Article shall be guilty of a misdemeanor and shall be subject to a maximum fine of five hundred dollars (\$500.00) and/or a maximum sentence of imprisonment or hard labor for a period not exceeding six (6) months. Any billboard erected, altered or maintained in violation of the provisions of this Article which is not a legal nonconforming billboard shall be removed at the owner's expense by either the owner or by the City of Foley.

### **23.9 APPEALS AND VARIANCES**

Any person, corporation or entity aggrieved by the decision or ruling of the Community Development Director shall have a right to appeal such decision or ruling to the Board of Adjustment and Appeals pursuant to Article XXV of the Foley Zoning Ordinance. Any person, corporation or entity seeking a variance from the regulations contained in this Article may seek a variance from the Board of Adjustment and Appeals pursuant to Article XXV of the Foley Zoning Ordinance.

### **23.10 ARTICLE CUMULATIVE AND SUPPLEMENTAL**

The provisions of this Article are cumulative, supplemental and in addition to the provisions found in Article XXI and the other Articles of the Foley Zoning Ordinance, and in the event of an inconsistency or conflict between this Article and any other provision, the more burdensome and stringent rule or remedy shall apply.

### **23.11 FOLEY DIRECTIONAL SIGNS EXEMPT**

Signs erected by or on behalf of the City of Foley in the public right of way pursuant to City ordinances and regulations directing travelers to business locations from intersections are exempt from the prohibitions and requirements of this Article.

### **23.12 CONVERSION OF LEGAL NONCONFORMING BILLBOARDS TO DIGITAL BILLBOARDS**

Notwithstanding anything else contained in this Zoning Code to the contrary, a legal nonconforming standard billboard sign face may be converted into a digital billboard sign face without losing its legal nonconforming status, but only in the following circumstances and only subject to the following conditions:

- A. The owner of the billboards must first apply for and receive a Billboard Conversion Permit from the Community Development Department which is both a building permit for the to-be-converted billboard and a demolition permit for the to-be-removed billboards;
- B. The digital billboard sign face must be located on the same pole or vertical support structure that currently exists for the standard billboard being converted, and that the pole or support structure must not be moved in any manner;
- C. The digital billboard sign face must be installed at the same angle and direction of travel as the standard sign face being replaced;
- D. The digital billboard sign face must be no higher than the standard sign face being replaced (or for previously stacked sign faces, no higher than the lowest sign face);
- E. The digital billboard sign face must be no larger in square feet than the standard billboard sign face being replaced;
- F. The digital billboard sign face must be no larger than 672 square feet;
- G. The digital billboard must be at least 2,000 feet from the nearest other digital billboard aimed in the same direction of travel.

- H. The digital billboard sign face must not be located beside, above, or below any other standard billboard sign face or digital billboard sign face on the same pole or support structure (no double faced billboards in which one or both sign faces aimed in the same direction of travel is an electronic changeable copy sign).
- I. The digital billboard sign face may not be located in a historic district, a residential district, or be visible from either residentially zoned property or from property being used for residential purposes.
- J. The digital billboard must at all times adhere to the then-current technical specifications established by the City of Foley, which may be amended from time-to-time, but which currently provide as follows:
  - 1. Digital billboards may only display static messages or images and they may not have any effects or appearance of movement, travel, fade, pulse, blinking, animation, scrolling, flashing, or similar effects;
  - 2. Digital billboard messages or images cannot change more frequently than once every eight (8) seconds;
  - 3. Digital billboard images must transition instantly as seen by the human eye, and shall not use blinking, fading, rolling, shading, dissolving, or similar effects as part of the image transition or change.
  - 4. Each digital billboard shall be equipped with automatic light intensity controls and automatic ambient light monitors to control their level of illumination. The digital billboard must automatically adjust based on ambient light conditions to ensure that each sign face does not exceed illumination changes of 0.3 (three-tenths) of a foot-candle over ambient light levels if measured from the nearest property line of an abutting landowner (excluding public rights-of-way) or from 250 feet away from the sign face (for 672 SF signs), from 200 feet away from the sign face (for 378 SF signs, from 150 feet away from the sign face for signs smaller than 378 SF, whichever is closer. Certification must be provided to the City demonstrating that each sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may periodically be required by the City in its reasonable discretion, and when required it shall be completed within thirty (30) days at the sign owner's expense. During an inspection, one hour or more following sunset, a properly calibrated light meter shall be used to obtain an ambient light reading in footcandles for the location with the digital sign either turned off or displaying a solid black copy, then the digital sign shall be turned on to full, standard white copy (color temperature 6,500 degrees Kelvin) to take another reading with the same meter at the same location. If the difference between the two readings is 0.3 (three-tenths) of a footcandle or less, then the illumination level from the sign relative to ambient light is properly adjusted.
  - 5. Notwithstanding ambient light levels, each digital billboard sign shall be programmed so that its luminance does not exceed certain maximums. No digital billboard shall exceed 6,500 nits when measured from the sign's face at its maximum brightness between the time of one half hour after sunrise and one half hour before sunset as per the National Weather Service. No



digital billboard shall exceed 300 nits when measured from the sign's face at its maximum brightness between the time of one half hour before sunset and one half hour after sunrise as per the National Weather Service. Certification must be provided to the City demonstrating that each sign has been preset to these maximum limits. Re-inspection and recalibration may periodically be required by the City in its reasonable discretion, and when required it shall be completed within thirty (30) days at the sign owner's expense. During an inspection a luminance meter shall be used to obtain a reading in Nits when the digital sign is turned on to full, standard white copy (color temperature 6,500 degrees Kelvin).

6. Written certification from the digital sign manufacturer must be provided certifying that the light intensity of the sign has been preset to be within the brightness levels specified in this Ordinance, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.
  7. Each digital billboard sign face shall contain a default design that will freeze the device and message or image in one position with a maximum luminance of 300 nits if any malfunction occurs.
  8. Each digital billboard sign face shall contain a "kill switch" which can cause the sign face to go dark regardless of the nature of any type of malfunction, and any malfunction that causes an image or message to be displayed causing movement, flashing or any similar effects, or exceeding the brightness levels established hereby, must be remedied or caused to go dark or static within six (6) hours.
- K. For each standard billboard sign face that the owner desires to convert to a digital billboard sign face, the owner must first remove a minimum of four (4) eligible standard billboard sign faces (including the standard sign face that is being converted). Eligible standard billboard sign faces being removed and not converted are those that are:
1. Located inside the corporate limits of the City of Foley;
  2. Located on the same road as the proposed digital billboard (unless the owner and the Community Development Director agree otherwise to facilitate the removal of billboards on a National Scenic Byway, a residential area, a historic district area, or other such locations where billboards are deemed more out of character).
  3. Not otherwise in violation of law or that are not otherwise required to be removed pursuant to government action;
- L. The operator of a digital billboard shall immediately, upon request, publish emergency information on each digital billboard such as weather alerts, Amber alerts, and similar law enforcement emergencies and announcements;
- M. The operator of a digital billboard shall, if reasonably requested, donate available advertising spots to the City of Foley for public announcements

**23.13 CONVERSION OF LEGAL NONCONFORMING BILLBOARD DOUBLE STACKED SIGN INTO ONE SIGN FACE**

Notwithstanding anything else contained in this Zoning Code to the contrary, a legal nonconforming billboard double stacked sign may be converted into a single sign face by filling in the gap area between the legal nonconforming sign faces without losing its legal nonconforming status, but only in the following circumstances and only subject to the following conditions:

- A. The owner of the billboard double stacked sign must first apply for and receive a Double Stacked Billboard Conversion Permit from the Community Development Department which is both a building permit for the to-be-converted billboard sign faces and a demolition permit for the to-be-removed billboard or billboard sign face;
- B. The legal nonconforming billboard sign faces being merged together must remain in their same location, at their same angle and direction of travel, with the top of the higher sign face no higher than before and the bottom of the lower sign face no lower than before;
- C. The only allowed increase in the size of the sign faces shall be the area of the gap located between the legal nonconforming sign faces that are stacked one on top of the other;
- D. The billboard merged stack sign may not be a digital billboard or have any electronic changeable copy;
- E. For each billboard double stacked sign that the owner desires to convert to a billboard merged stack sign, the owner must first remove or decommission one eligible billboard sign face. Multiple conversions may be proposed on the same application or on contemporaneously filed applications by the same owner to maximize the use of the removal or decommission credit. Decommission in this context means to leave the sign face up, but permanently remove it from displaying any advertising copy and only have it display trees, clouds, and other non-commercial City of Foley approved images until such time as the entire billboard support structure and all sign faces are removed. Unless the entire billboard, including the pole and all sign faces, is being removed, the sign faces shall be decommissioned rather than physically removed for aesthetic reasons. At the time all the sign faces on a particular billboard support structure are decommissioned or due to be decommissioned, the owner shall remove the entire billboard support structure. Billboard sign faces that are eligible for removal or decommission credit are those that are:
  - 1. Located inside the corporate limits of the City of Foley;
  - 2. Not otherwise in violation of law or that are not otherwise required to be removed pursuant to government action;
  - 3. In existence at the time of the application

# ARTICLE XXIV - SEXUALLY ORIENTED BUSINESSES

## 24.1 POWER AND AUTHORITY

The City of Foley has the power and authority to adopt and enforce the terms, conditions and regulations established in this Ordinance pursuant to its police powers to protect the public health, safety, morals and general public welfare, to address, mitigate and if possible eliminate the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such sexually oriented business activities are located.

## 24.2 DEFINITIONS

Unless the context clearly indicates otherwise, for the purposes of this Ordinance, the following words, combinations of words, terms and phrases shall have the following meanings:

City: The City of Foley, Alabama.

Mixed-Use District: A zoning district which permits a combination of residential and commercial uses within a single development, such as a Planned Unit Development (PUD) or a Planned Development District (PDD).

Park: A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian / bicycle path, wilderness area, or other similar public land within the City which is under the control, operation, or management of either the City, Baldwin County, the State of Alabama, or the United States Government.

School: A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. This term includes all of the school grounds and connected or related facilities.

Sexually Oriented Business: Any adult arcade, adult bookstore, adult motion picture theater, adult motion picture rental, adult mini-motion picture theater, adult steam room / bathhouse / sauna facility, adult companionship establishment, adult rap / conversation parlor, adult massage parlors, adult health / sport club, adult cabaret, adult novelty store, adult motion picture arcade, adult modeling studio, adult hotel / motel, adult body painting studio, escort, escort agency, sexual encounter establishment, nude studio, or any other commercial or business enterprise which has as a primary focus of its business the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the customer, or which places an emphasis on the presentation, display, depiction or description of sexual activities or of nude persons. The term Sexually Oriented Business, however, shall not be construed to include:

- A. Professional offices or schools of licensed physicians, chiropractors, psychologists, physical therapists, teachers or similar licensed professionals performing functions authorized under the license(s) held; or
- B. Establishments or businesses operated by or employing licensed cosmetologists or barbers, performing functions authorized under licenses held.

### **24.3 PROHIBITED IN CERTAIN AREAS:**

Sexually Oriented Businesses are prohibited in the corporate limits of the City of Foley in the following areas, locations, and zones:

- A. within any zoning district other than those where Sexually Oriented Businesses are expressly permitted in Section 24.4 below;
- B. within 1,000 linear feet of a residential zoning district or a residential area of a mixed- Use District;
- C. within 500 linear feet of any pre-existing residence located in a non-residential zone;
- D. within 100 linear feet of any non-residential zoning district or non-residential area of any Mixed-Use District which does not expressly permit Sexually Oriented Businesses;
- E. within 1,000 linear feet of a pre-existing place of worship, School, Park, museum, library, cemetery, or funeral home;
- F. within 2,000 linear feet of any other Sexually Oriented Businesses;
- G. within the same building, structure, or portion thereof, as any other Sexually Oriented Business;
- H. within 2,000 linear feet of the Foley Beach Express Overlay District;
- I. within 1,000 linear feet of County Road 20, County Road 26, or County Road 65; or
- J. within 2,000 linear feet of Alabama Highway 59, U.S. Highway 98, or the Foley Beach Express.

For purposes of this section, all measurements shall be made in a straight line without regard to the intervening structures or objects and shall be made from the property line of the premises on which the Sexually Oriented Business operates or wishes to operate to the nearest property line of the subject district, area, use or premises.

### **24.4 PERMITTED IN CERTAIN AREAS**

Subject to the spacing and minimum distance prohibitions contained in this Ordinance, a Sexually Oriented Business is a permitted use only within those areas of the City zoned B-1A Extended Business District or M-1 Light Industrial District.

## ARTICLE XXV - OVERLAY DISTRICTS

### 25.1 "HISTORIC OVERLAY DISTRICT"

#### A. DEFINITIONS

1. Historic District shall mean the Foley Downtown Area Historic District.
2. Historic District Overlay shall mean the site development regulations and criteria applicable within the Historic District Overlay Boundaries.
3. Historic District Overlay Boundaries shall mean all property located within the Foley Downtown Area Historic District.

#### B. PURPOSE

The purpose of the Historic District Overlay is to establish flexible land development requirements that preserve and maintain the existing character of historically significant areas by formulating site development regulations and criteria that allow compatible or similar development within the Foley Downtown Area Historic District.

#### C. APPLICABILITY

The regulations and criteria of the Historic District Overlay are applicable to the geographic area within the Historic District Overlay Boundaries. The underlying zoning standards regulating the use of land within the Historic District Overlay Boundaries remain applicable. Properties within the Historic District Overlay Boundaries shall comply with the Historic District Overlay in addition to the existing regulations of the underlying zoning classification(s).

#### D. REGULATIONS AND CRITERIA

The Historic District Overlay shall be subject to the following regulations and criteria:

1. Shall be determined by the underlying zoning classification(s).
2. All new construction and all alterations and demolition to existing structures and buildings and any material changes in the exterior appearance of a property, building, structure, site, object or work of art within the Historic District Overlay Boundaries, in addition to compliance with the above district requirements (as set forth in the underlying zoning district), and other adopted ordinances.

#### E. FOLEY ZONING MAP

A layer defining the Historic Overlay District boundary will be provided in the online Foley Zoning Map.

#### F. REPEALER

All ordinances and laws of the City of Foley, Alabama, or parts thereof, which are in conflict with the provisions of this ordinance, are hereby repealed.

G. SEVERABILITY

In the event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or held invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no manner affect the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or held invalid or unconstitutional were not originally a part thereof.

H. EFFECTIVE DATE

This ordinance shall become effective immediately upon its adoption and publication.

**25.2 “FOLEY DOWNTOWN OVERLAY DISTRICT (FDOD)”**

The FDOD focuses on the preservation and rehabilitation of historic buildings and/or new structures and their elements. The goal for alterations to non-contributing buildings and new construction in the FDOD is to ensure compatibility with existing and new development. The intent is to foster a strong viable downtown as a walkable commercial, civic, residential and cultural art center with its own unique identity.

A. APPLICABILITY

The FDOD is established to serve as an overlay to the established base zoning district. Base districts within the FDOD include B1 (Central Business District) and B1A (Extended Business District). Except as modified by the FDOD, the provisions of the base district shall apply to all development within the boundary. In the event the regulations conflict, the applicable FDOD regulations shall apply.

B. ESTABLISHMENT OF FDOD BOUNDARIES

A map of the FDOD overlay boundary is included in the Zoning Ordinance (see Appendix Exhibit A), and a layer containing the FDOD boundary will be provided in the online Foley Zoning Map.

C. LAND USES

Uses / Structures Permitted: Stores selling food; restaurants; general merchandise such as apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; pet grooming; offices; banks; post offices and similar services; any retail business not specifically restricted herein; hotels / motels; joint residential and commercial use.

1. Uses / Structures Permitted on Appeal: Manufacturing incidental to a retail business where articles are sold at retail on the premises; and pet stores.

2. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII

including kennels; pawn shops; tattoo and body art shops; towing company storage yards; industrial uses not specifically permitted herein; mobile / manufactured dwellings; RV's; and wholesale business.

D. SIGNS

Sandwich-type board signs are allowed on the sidewalk / right-of-way but shall not be an impediment to pedestrian traffic or block required ingress / egress paths of existing businesses. The signs are only allowed during the hours the business is open to the public and must be placed in front of the store front. The signs cannot exceed six (6) square feet.

E. DISPLAYS

Merchandise may be allowed on the sidewalk / right-of-way but shall not be an impediment to pedestrian traffic or block required ingress / egress paths of existing businesses. Only merchandise permitted to be sold on the premises may be displayed outdoors. Merchandise is only allowed during the hours the business is open to the public and must be placed directly at the store front.

F. OUTDOOR DINING

Sidewalk dining areas, extending from existing restaurants, on the public right-of-way must be approved by City staff. If City staff has any concerns with the request, it may be forwarded to City Council for a decision. The areas cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The number of allowable outdoor seats shall be no greater than thirty (30%) percent of the total permitted occupancy inside the restaurant. This use may require temporary buffers for the safety of the diners.

G. MOBILE MERCHANDISE VENDORS

Temporary approval may be granted on the sidewalk / right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress / egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

H. MOBILE FOOD / SIDEWALK / STREET VENDORS

Temporary approval may be granted on the sidewalk / right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress / egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

**25.3 “FOLEY BEACH EXPRESS OVERLAY DISTRICT (FBEOD)”**

The FBEOD focuses on providing good traffic flow by incorporating limited access along the roadway and easy ingress/egress to developments. The FBEOD establishes a defined corridor for appropriate consideration of annexation, zoning, and overall consistency of architectural and streetscape elements. The Future Land Use map recommends the following land uses: Mixed Use: Commercial / Residential; Retail Commercial Nodes at Major Intersections; Greenspace/Greenway as Civic or Public Benefit; and Industrial Parks. The intent is to foster an

atmosphere of creative development allowing the Foley Beach Express to become a destination for living, recreation and working.

A. APPLICABILITY

The FBEOD is established to serve as an overlay to the established base zoning district. Except as modified by the FBEOD, the provisions of the base district shall apply to all development within the boundary. In the event the regulations conflict, the applicable FBEOD regulations shall apply.

B. ESTABLISHMENT OF FBEOD BOUNDARIES

A map of the FBEOD overlay boundary is included in the Zoning Ordinance.

C. LAND USES

1. Uses / Structure Permitted based on individual zoning districts including: Stores selling food; restaurants / drive-in eating places; general merchandise such as apparel, furniture, housewares and household wares, drugs and sundries, jewelry, gift items, flowers, sporting goods, and similar types; small dry cleaning and laundry pick-up stations; barber and beauty shops; shoe repair shops; offices; banks; post offices and similar services; automobile filling stations; auto repair, minor; major automobile dealerships with incidental repair services; any retail business not specifically restricted herein; places of amusement and assembly; hotels/motels; joint residential and commercial use; any residential use not prohibited; office / warehouses; professional offices; mixed uses based on approved PUD and PDD.
2. Uses / Structures Permitted on Appeal: Manufacturing incidental to a retail business where articles are sold at retail on the premises.
3. Uses / Structures Prohibited: Any use or structure not specifically permitted or permitted on appeal in this Section or in Section 13.1.1 or 13.1.2 of Article XIII including kennels; pawn shops; tattoo and body art shops; towing company storage yards; automobile repair, major; industrial uses not specifically permitted herein; and mobile / manufactured dwellings.

D. SITE LAYOUT

Proposed development must submit to the Planning Commission for approval a detailed site layout plan or master plan. Each development should have an individualized layout and street grid pattern supporting internal traffic circulation with limited access to the Foley Beach Express and alternative access to feeder roads and adjacent residential areas.

Site Plan Contents:

1. Most recent survey showing all property boundaries and easements.
2. All bordering streets, avenues, roadways, or other public ways.
3. Parking lots, ingress and egress, proposed and existing landscaping.
4. Placement and dimensions of proposed and existing structures.
5. Proposed colors and facades of structures.
6. Locations and types of signage.
7. Use / Occupancy type of the property and structures.
8. Tax parcel number of lot or lots proposed for use.



9. The site plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that can readily interpret the site plan, and shall include more than one drawing where required for clarity.

E. BUILDING SCALE

Building heights including parapets and other architectural embellishments should be varied reflecting the individualized character of retail architecture. All street level units should serve a retail or commercial purpose; upper stores may serve additional retail, commercial, professional office space or residential uses.

F. BUILDING ORIENTATION

No matter which way a structure faces, buildings adjacent to the Foley Beach Express should present an architectural façade, or use landscaping areas, on the Foley Beach Express side of the structure for aesthetic appeal. In some developments it may be appropriate to incorporate service alleys for facilitating development of multiple-sided street frontages. However, other parts of a development may benefit from holding street activity to one side, while the back side may incorporate a parking deck or other parking facilities as well as service accommodations.

G. ACCESS AND ENTRY POINTS

While primary entry points would relate to major intersections along the Foley Beach Express, site development patterns should facilitate internal traffic circulation and incorporate multiple options for gaining access to and from the development. This reduces the need for local traffic on the Foley Beach Express by ensuring connection to the surrounding neighborhoods. Entry points should address the Foley Beach Express with Gateways. Entry streets should contain building facades oriented in a manner to provide interest to the Foley Beach Express travelers.

H. ARCHITECTURAL STYLE AND EXTERIOR FINISHES

All exterior finishes should reflect local or regional design, consistent within the development. As with building heights, materials, size and placement of windows and doors, awnings, overhangs and paint selections should be varied throughout the development. The plan would discourage the City from approval of architectural specifications which contain repetitive features often referred to as “cookie cutter” design schemes.

I. PARKING DESIGN WITH TREE CANOPY AND GREEN BUFFERS

Traditional street front parking should be incorporated for purposes of convenience and in keeping with the typical and desirable look of an active, populated, and vibrant town center. Additional parking should be buffered with landscape and vegetated material in accordance with City landscape standards.

J. WALKABILITY, BIKING AND OTHER ALTERNATIVE MODES OF TRANSPORTATION

The City encourages sidewalks, bicycle accommodations and other methods of alternative transportation. Sidewalks should be of comfortable width (in no case less than five (5') feet) and may have varied surfaces ranging from concrete to brick and stone. Sidewalks and bike lanes should connect throughout any development and adjacent neighborhoods. Attractive bicycle racks should be incorporated throughout the development. The adopted Bicycle and Pedestrian Plan should be used as a guideline.

**K. PROPOSED GREENWAYS**

If applicable, each site review should include connection to the proposed greenway system adopted as part of the City of Foley Comprehensive Plan.

**L. SIGNS**

Sandwich-type board signs are allowed on the sidewalk/right-of-way but shall not be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The signs are only allowed during the hours the business is open to the public and must be placed in front of the store front. The signs cannot exceed six (6) square feet.

**M. DISPLAYS**

Merchandise may be allowed on the sidewalk / right-of-way but shall not be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Only merchandise permitted to be sold on the premises may be displayed outdoors. Merchandise is only allowed during the hours the business is open to the public and must be placed directly at the store front.

**N. OUTDOOR DINING**

Sidewalk dining areas, extending from existing restaurants, on the public right-of-way must be approved by City staff. If City staff has any concerns with the request, it may be forwarded to City Council for a decision. The areas cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. The number of allowable outdoor seats shall be no greater than thirty (30) percent of the total permitted occupancy inside the restaurant. This use may require temporary buffers for the safety of the diners.

**O. MOBILE MERCHANDISE VENDORS**

Temporary approval may be granted on the sidewalk / right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress / egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

**P. MOBILE FOOD / SIDEWALK / STREET VENDORS**

Temporary approval may be granted on the sidewalk / right-of-way but must be approved by City Council. The vendors cannot be an impediment to pedestrian traffic or block required ingress/egress paths of existing businesses. Vendors must have proper licenses to operate including but not limited to a City of Foley business license.

## 25.4 ALABAMA COASTAL CONNECTION SCENIC BYWAY

The purpose of the Alabama Coastal Connection Scenic Byway is “to identify, preserve, protect and enhance scenic, historic, natural, recreational, cultural and archeological resources; enhance recreation; and, promote economic development through tourism and education in the history, culture and natural beauty of the City of Foley and coastal Alabama.” A map of the Byway can be found at [www.alabamascoastalconnection.com](http://www.alabamascoastalconnection.com).

## 25.5 “FOLEY MEDICAL OVERLAY DISTRICT (FMOD)”

- A. **Purpose.** The purpose of the Foley Medical District Overlay District is to allow areas for the concentration of medical facilities and related uses in a campus like setting to enable the provision of a wide range of medical services to enhance the public’s health, safety and general welfare and allow for the continuation and flexible expansion of the hospital, medical clinics and associated uses in a planned and coordinated manner so existing and future uses can respond and adapt to changes in technology, the medical profession, and society as a whole.

The primary uses in the Medical District Overlay District are hospitals, medical clinics, pharmaceutical businesses, medical technology research and related uses. Related uses may be located within the hospital or clinic buildings or as independent uses within the overlay district area. The overlay zone is intended to enhance the underlying zones.

- B. **Applicability.** Provisions of the FMOD apply to all properties within the boundaries of the FMOD as shown on the boundary map, Exhibit C. Where there is a conflict between the provisions of the FMOD and those of other portions of the Zoning Ordinance, the provisions of this overlay district shall control.
- C. **Permitted Uses.** Irrespective of the current zoning of properties within the Medical Overlay District following uses shall be permitted by right subject to applicable standards and processes:
1. Medical and health care uses including hospitals, outpatient clinics, continuing/long term care services, hospice services, laboratories, medical research facilities, medical educational facilities, urgent or emergency medical services, offices of doctors, physical therapists, dentists and other health care providers (both public and private).
  2. Medical staff facilities and similar uses, including but not limited to administrative offices, educational and meeting facilities and staff sleeping quarters;
  3. Childcare and adult care services, including respite care;
  4. Short term residential uses dependent upon or directly related to medical care, including convalescent care facilities, skilled nursing facilities, group homes for the disabled and overnight accommodations;
  5. Health care related retail (i.e. pharmacy, medical supplies and equipment, medical cannabis dispensaries\*);

6. Social service providers including counseling centers and alcohol and drug treatment facilities;
7. Accessory parking;
8. Utilities and public facilities
9. Retail Stores with the following stipulations:
  - a. Must be ancillary or common to areas around medical facilities. Examples include but are not limited to: coffee shops, pharmacies, book stores, florists, medical supply stores, and retail banking.
  - b. All retail facilities shall have a maximum square footage of 10,000 square feet.

[\*] Approval is subject to any and all rules or regulations promulgated by the Alabama Medical Cannabis Commission and applicable State Law.

**D. Conditional Uses.** The following uses require an additional conditional use permit for approval:

1. Medical helicopter landing pad on the following conditions:
  - a. The landing pad meets the Alabama Department of Transportation and Federal Aviation Administration requirements and conditions.
2. Facilities for the treatment and/or temporary storage of biomedical, radioactive and hazardous waste generated within the overlay district; provided however that no materials may be transported to the site from other facilities for storage or treatment purposes.

**E. Site Plan Requirements.** All development within the Medical Overlay District shall be governed by a site plan, constituted as a binding site plan and shall be reviewed and approved by the Planning Commission. In addition to other applicable sections of the Zoning Ordinance, the site plan shall include the following:

1. Architectural elevations of proposed structures. There should be continuity of character and building materials throughout the development and with adjacent development in the Medical Overlay to enhance a campus setting. Building(s) design must provide focal points highlighting the primary entrance(s), and architectural articulation and embellishments to avoid long blank walls and a scale appropriate to the setting. Building heights including parapets and other architectural embellishments should be varied reflecting the individualized character of medical and office architecture. Any part of a building, visible from a public right of way must present an architectural façade, or use landscaping areas, to present an aesthetically appealing appearance.
2. Open active space plan. When two or more buildings are proposed for a site, a plaza or courtyard should be incorporated into the site design with the intent to create a useful courtyard or plaza setting for users of the facilities. A site plan indicating the location, type and extent must be provided. These areas should be designed with pavers or other acceptable hardscape and landscaped areas in order to provide a place for the public to sit and enjoy the outdoors
3. Landscape plan. Minimum landscaping shall be as required in Section 10.2.3; provided however, that additional landscaping may be required by the by the

Planning Commission at the time of site plan approval to achieve the following effects:

- a. Effective screening of off-street parking areas and eliminating monotony of parking areas;
  - b. Effective buffering of adjacent residential uses;
  - c. Enhance the building architecture and on-site landscaping;
  - d. Streetscape plantings are required as part of the site plan; including street trees.
  - e. Additional landscaping within setback areas to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent residential properties from new development may be required.
4. Lighting plan. A Lighting plan shall be provided indicating type and height of lighting throughout the site and along all pedestrian paths and building entrances. Lighting spillover offsite is discouraged. Lighting wall packs and similar lightning techniques and methods are prohibited.
5. Vehicular and pedestrian circulation plan. The development should have accessible pedestrian connections beyond standard sidewalks along the street and between buildings. Special attention should be paid to crosswalks, connections between parking lots serving adjacent uses and interior walkway connections. Connectivity should be carefully planned to prevent pedestrian-vehicle conflicts in vehicular ways and parking spaces.
6. Rooftop Equipment. All rooftop equipment must be organized, proportioned, detailed and screened with parapet walls that are colored or finished with materials that make them an integral element of a building.,
7. Fencing/Walls. The use of fencing shall ensure that nonresidential properties are integrated into a campus style of development yet still provide an appropriate barrier or separation from adjacent residential properties.
8. Signage. Limited to ground and wall signs only. Low-profile signs shall not exceed six feet in height and 36 square feet per side with a maximum of two sides. When multiple buildings are proposed, a consistent wayfinding system is encouraged.

## **ARTICLE XXVI - BOARD OF ADJUSTMENT AND APPEALS**

### **26.1 APPOINTMENT, DUTIES AND RESPONSIBILITIES**

In accordance with Code of Alabama, 1975, article 11-52-80 A Zoning Board of Adjustment and Appeals is hereby established by the legislative body of City of Foley. 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 subsection 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.

### **26.2 PROCEEDINGS OF THE BOARD OF ADJUSTMENT**

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. 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/her 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.

### **26.3 POWERS AND DUTIES OF THE BOARD**

#### **A. Appeals**

In exercising its authority, the Zoning Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as the Board deems proper and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the Zoning Board of Adjustment and Appeals shall be necessary to reverse, affirm or modify 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 act. For purposes of this section, an appeal shall be filed with the board of adjustment at the Zoning Board of Adjustment and Appeals at the

Community Development Department in Foley, Alabama, or by and shall be deemed filed when received regardless of the method of delivery.

Any party aggrieved by a final judgment or decision of a board of adjustment may within 15 days thereafter, appeal there from to the Circuit Court of Baldwin County, Alabama, by filing with the circuit court and the board of adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken and specifying in sufficient detail the grounds for appeal so that the non-appealing party may reasonably frame a responsive pleading.

**1. Administrative Decision**

An Administrative Decision refers to any written order, requirement, decision, or determination made by the Community Development Director in the enforcement of the zoning ordinance. This includes but is not limited to decisions regarding building permits, site plan approvals, zoning interpretations, and other zoning-related matters.

**2. Filing of Appeal**

To initiate an appeal, the appellant must submit a written notice of appeal to the Board of Adjustment. The notice must specify the grounds of the appeal, citing any errors or issues with the application of the zoning ordinance.

**3. Transmission of Record**

Upon receipt of the notice of appeal, the Community Development Director must promptly forward all records, documents, and papers constituting the basis for the decision to the Board of Adjustment in accordance with meeting schedules. This ensures the Board has the necessary materials to review the case.

**4. Stay of Proceedings**

Filing an appeal automatically stays all proceedings related to the decision under appeal. However, if the Community Development Director certifies that continuing the stay would cause imminent peril to life or property, the stay may be lifted.

**5. Hearing and Decision**

The Board of Adjustment shall fix a reasonable time for the hearing in accordance with standard meeting schedule, provide public notice, and notify all interested parties. During the hearing:

- a. **Burden of Proof** The burden of proof rests with the appellant, who must demonstrate that the decision of the Community Development Director was in error or inconsistent with the provisions of the zoning ordinance. To successfully appeal, the aggrieved party must establish that the decision involved one or more of the following errors:
  - i. **Misapplication of Ordinance Provisions** – The appellant must show that the Community Development Director incorrectly applied specific terms or provisions of the ordinance. This may include, but is not limited to, errors in the classification or designation of land uses, dimensional standards, or procedural requirements.
  - ii. **Improper Interpretation** – The appellant must demonstrate that the Community Development Director misinterpreted the language,

intent, or purpose of the ordinance, leading to a decision that conflicts with the goals, objectives, or legal standards established within the ordinance.

b. **Substantial Evidence and Testimony**

The Board's decision must be based on substantial evidence presented during the hearing. The appellant is responsible for providing credible testimony, documentation, or expert evidence to support their claim. The Board is also required to consider all relevant evidence and testimony provided by other parties or public participants during the hearing.

c. **Decision**

The Board of Adjustment must issue a written decision within a reasonable time after the hearing. This decision must include clear factual findings and conclusions that demonstrate how the evidence presented supports or does not support the appeal. The Board has the authority to affirm, reverse, or modify the decision of the Community Development Director, ensuring that the outcome is fair, consistent with the zoning ordinance, and based on the evidence provided.

B. **Special Exceptions**

The Board of Adjustment and Appeals (ZBAA) shall hear and decide special exceptions to the terms of the zoning ordinance where such authority is conferred under the ordinance.

**Standards for Approval of a Special Exception**

The ZBAA may grant a special exception from the zoning ordinance only if the following criteria are met:

1. **Consistency with the Zoning Ordinance**

The special exception must be a permitted use under the applicable zoning district and explicitly authorized by the zoning ordinance. It must comply with all zoning ordinance regulations, such as setbacks, height, and bulk requirements. The board shall ensure that the proposed use is consistent with the intent and purpose of the ordinance for the district in which it is located.

2. **No Detriment to Public Health, Safety, or Welfare**

The proposed use shall not adversely affect public health, safety, morals, comfort, or general welfare. It must be demonstrated that the special exception will not create conditions that pose risks to the community or cause harm to neighboring properties.

3. **Compatibility with Surrounding Land Uses**

The special exception must be compatible with the existing uses and character of the surrounding properties. The use should not generate excessive traffic, noise, light, odor, or other nuisances that could negatively affect adjacent properties.

4. **Consistency with the Comprehensive Plan**



The proposed special exception should be consistent to the City's comprehensive plan. The use should support the long-term vision for development, land use, and growth management in the area, as outlined in the comprehensive plan.

**5. Mitigation of Potential Adverse Impacts**

The board may impose conditions as necessary to mitigate potential adverse impacts of the special exception. These conditions may include restrictions on hours of operation, buffering requirements, noise control, traffic management, or other safeguards to protect neighboring properties and the community.

**6. No Substantial Alteration of Neighborhood Character**

The proposed use shall not substantially alter the essential character of the neighborhood or district in which it is located. The special exception must not disrupt the balance of land uses or undermine the existing neighborhood character.

**7. Substantial Evidence Required for Special Exceptions**

The decision to grant or deny a special exception must be based on substantial, credible evidence presented during the public hearing. The applicant bears the burden of proof to demonstrate that the proposed use meets the applicable standards of the zoning ordinance, supported by appropriate documentation such as expert testimony, property surveys, or impact studies.

The board's decision must be based solely on the evidence presented and documented with clear factual findings and conclusions. These findings must explain how the evidence supports or fails to support compliance with the ordinance, ensuring the decision is fair, consistent, and not arbitrary.

The board may impose reasonable conditions to mitigate any potential adverse impacts or ensure consistency with the zoning ordinance's intent. These conditions must be directly related to the evidence presented and tailored to address the specific circumstances of the special exception request.

**C. Variances**

**1. Standards for Approval of a Variance**

The Board of Adjustment and Appeals (ZBAA) may grant a variance from the zoning ordinance only if all the following criteria are met:

**a. Unnecessary Hardship**

- i. The hardship must arise from unique physical characteristics of the property, such as irregular shape, topography, or size, which make strict compliance with the zoning ordinance impractical. Financial difficulty or convenience alone does not justify a variance.
- ii. The hardship must prevent the applicant from making reasonable use of the property while adhering to the zoning ordinance. Compliance must effectively render the property unusable for its intended purpose.

**b. Hardship Not Self-Imposed**

- i. The hardship cannot result from actions taken by the applicant or property owner. For example, subdividing the property, making alterations in violation of the zoning ordinance, or purchasing the property with knowledge of the existing zoning restrictions does not qualify as an undue hardship.
    - ii. The hardship must originate from factors beyond the control of the property owner, ensuring the variance addresses inherent property issues rather than problems created by the owner's actions.
  - c. **No Adverse Impact on the Public Interest**
    - i. The variance must not negatively affect the character of the surrounding area or undermine the objectives of the zoning ordinance.
    - ii. It must not alter the essential character of the neighborhood or cause adverse effects on neighboring properties. The variance should align with the broader goals and intent of the zoning regulations.
  - d. **Minimum Necessary to Afford Relief**
    - i. The variance granted must be the minimum adjustment necessary to address the identified hardship. The relief provided should be as limited as possible while still addressing the hardship.
    - ii. The ZBAA may consider alternative solutions that could mitigate the hardship without requiring a full variance, such as modifications to the property layout or design adjustments.
  - e. **Variance Consistent with Zoning Ordinance Intent**
    - i. The variance must not contradict the spirit or intent of the zoning regulations.
    - ii. It must support the long-term goals and planning vision for the zoning district, ensuring compatibility with surrounding uses and preserving the community's character.
  - f. **Not for Personal Benefit**
    - i. The variance request must address the unique needs of the property, not provide personal or financial gain to the applicant.
    - ii. Variances cannot be granted solely due to financial inconvenience or potential profit loss. The hardship must be directly related to the physical characteristics of the land.
- 2. **Substantial Evidence Required for Variances**

The decision to grant or deny a variance must be based on substantial, credible evidence presented during the public hearing. The applicant bears the burden of proof to demonstrate that strict enforcement of the zoning ordinance would result in an unnecessary hardship unique to the property and that the requested variance is the minimum necessary to alleviate that hardship.

The ZBAA's decision must be supported by a detailed record of factual findings and legal conclusions that clearly explain how the request satisfies the legal criteria for a variance. This ensures the decision is fair, consistent, and not arbitrary.

**3. Conditions and Safeguards**

In granting any variance, the Board is authorized to impose conditions and safeguards to ensure compliance with the intent of its decision and the spirit of this Ordinance. These conditions and safeguards are designed to uphold the integrity of the Board's decision and the objectives of the Ordinance. Should any condition or safeguard imposed by the Board be violated, the variance granted shall be considered null and void. Furthermore, such a violation shall be deemed a breach of this Ordinance, subject to all legal remedies available to address and remedy the violation.

**26.3.1 APPEALS**

In exercising its authority, the Zoning Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as the Board deems proper and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of the Zoning Board of Adjustment and Appeals shall be necessary to reverse, affirm or modify 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 act. For purposes of this section, an appeal shall be filed with the board of adjustment at the Zoning Board of Adjustment and Appeals at the Community Development Department in Foley, Alabama, or by and shall be deemed filed when received regardless of the method of delivery.

Any party aggrieved by a final judgment or decision of a board of adjustment may within 15 days thereafter, appeal there from to the Circuit Court of Baldwin County, Alabama, by filing with the circuit court and the board of adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken and specifying in sufficient detail the grounds for appeal so that the non-appealing party may reasonably frame a responsive pleading.

**26.4 DECISIONS OF THE BOARD OF ADJUSTMENT AND APPEALS**

In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirements, 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 this Ordinance, or to effect any variation in the application of this Ordinance.

**26.5 DUTIES OF THE BOARD OF ADJUSTMENT AND APPEALS, CITY GOVERNMENT AND COURTS ON MATTERS OF APPEAL**

It is the intent of the governing authority of the City that all questions of interpretation and enforcement of this Ordinance shall be presented first to the Building Official or Community Development Director. Other than those applications and matters upon which the terms and provisions of this Ordinance may require action and decision by the Board, only the appeals taken in the manner and form as provided in this Ordinance from the actions and decision of the Building Official or Community Development Director will be considered and acted upon by the Board. However, any interested party who is aggrieved by any action or decision of the Board may take an appeal there from to a Circuit court of law, as provided for in the State Law.

**26.6 BOARD OF ADJUSTMENT AND APPEALS FEES**

All applications to the Board for interpretations, special exceptions, or variances must be accompanied by a credit card payment via Citizenserve, a check made payable to the City of Foley, or cash in the amount of \$150.00.

## **APPENDIX**

Maps, Examples, Charts, Grids, etc.



Exhibit B. Foley Beach Express Overlay District

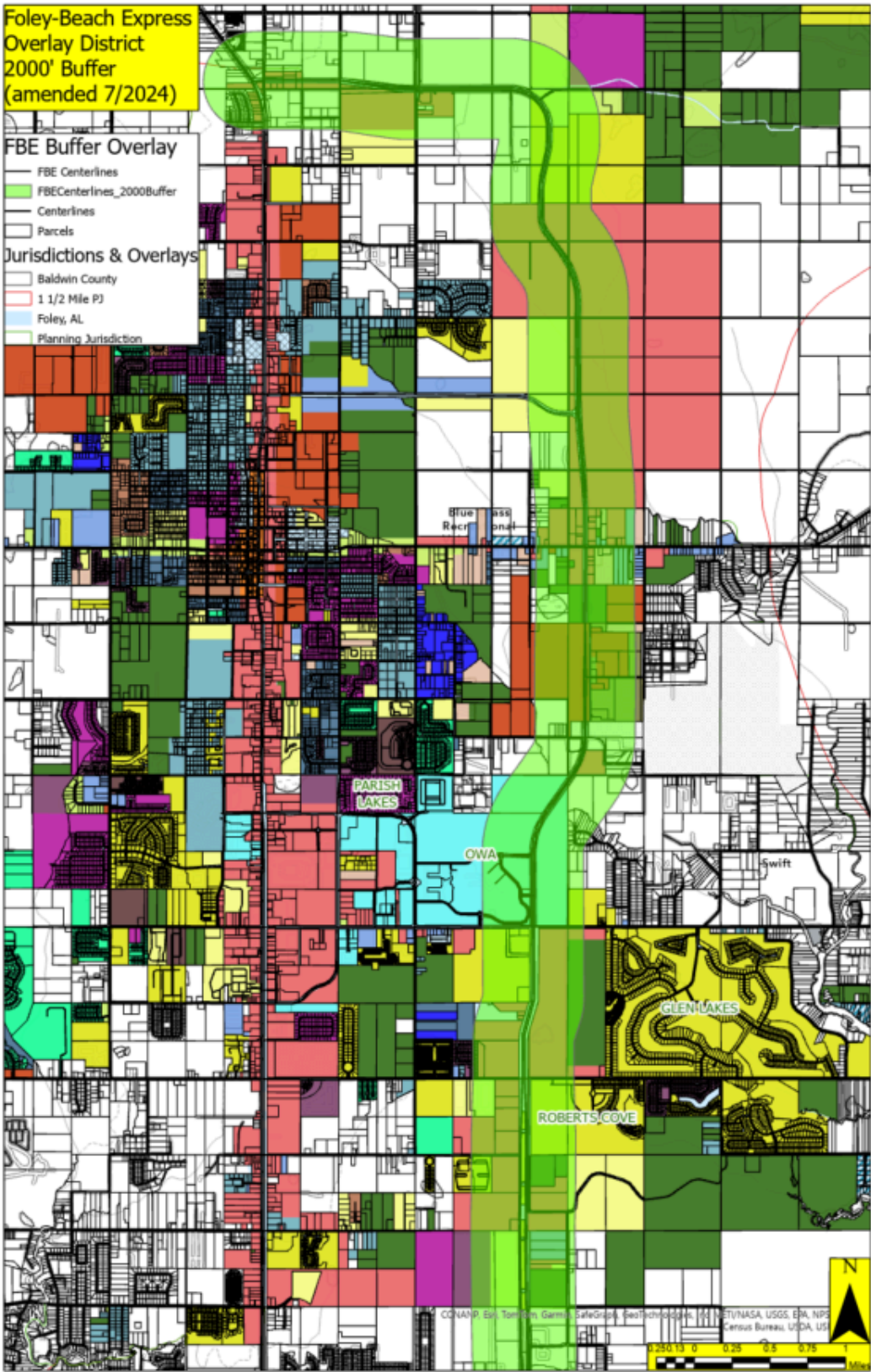




Exhibit C. Foley Medical Overlay District (FMOD) map

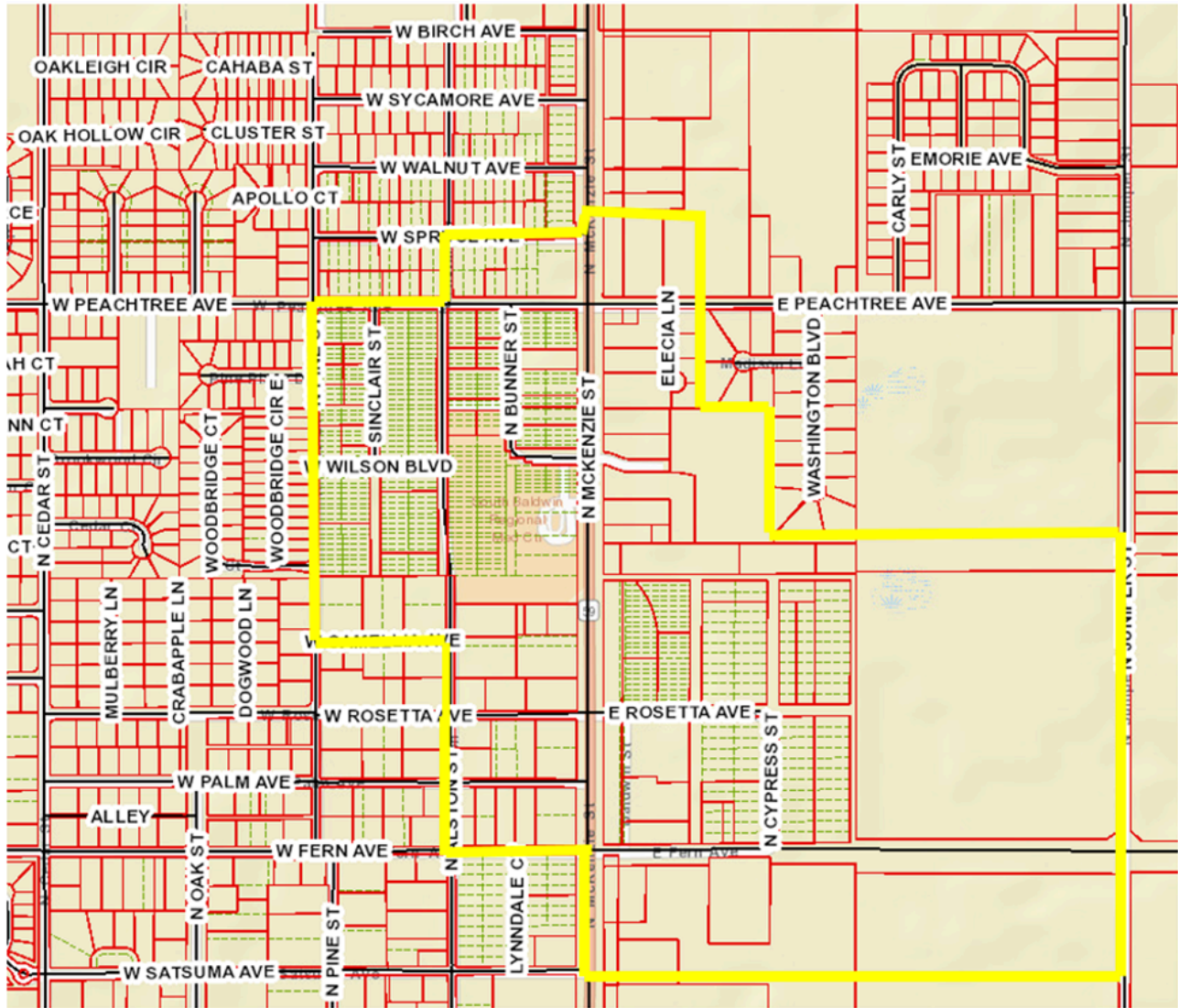




Exhibit D. Fence Guideline Examples

Approved Styles:



Post and Rail



Typical Two-Rail



Typical Three-Rail



Kentucky Rail



Timber Pole



English Hurdle



Post & Plank



Post & Plank w/ Pickets



Post & Plank, Cross Pattern



Picket



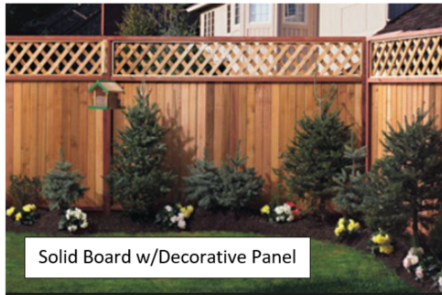
Solid Board



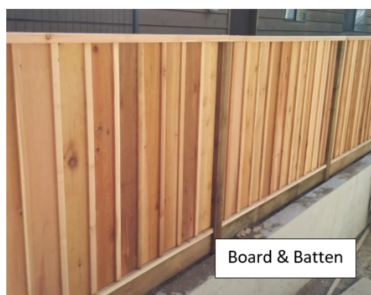
Solid Board, Cross Pattern



Solid Board, Scalloped



Solid Board w/ Decorative Panel



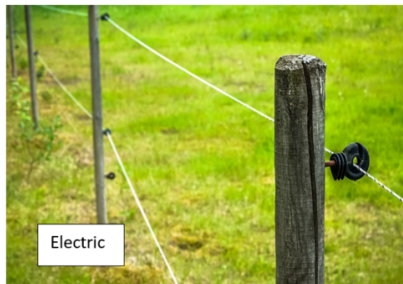
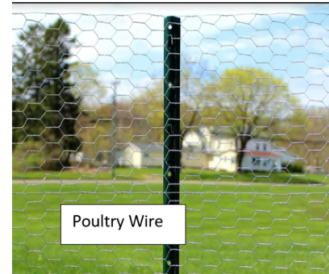
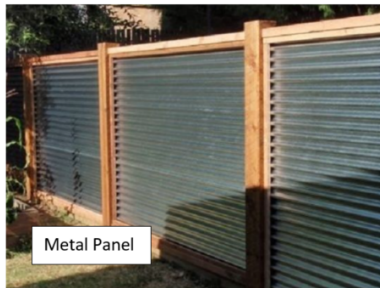
Board & Batten



Approved Styles, cont.



Disallowed Styles:





Fences for temporary use in Construction Sites only:



Exhibit E. Functionally Classified Roads

Figure 5.1 – Proposed Functional Classification Network

