

# **CITY OF HAMILTON**

## **ZONING ORDINANCE 2013-12**

Prepared by:  
City of Hamilton Planning Commission  
**ZONING ORDINANCE  
OF THE  
CITY OF HAMILTON, ALABAMA**

**ADOPTED  
DECEMBER 2, 2013**

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## ZONING ORDINANCE OF THE CITY OF HAMILTON

AN ORDINANCE REGULATING THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES, THE DENSITY AND DISTRIBUTION OF POPULATION, AND THE USES OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, RESIDENCE, RECREATION, AGRICULTURE, FORESTRY, CONSERVATION, AIRPORTS AND APPROACHES THERETO, WATER SUPPLY, SANITATION, PROTECTION AGAINST FLOODS, PUBLIC ACTIVITIES, AND OTHER PURPOSES; CREATING DISTRICTS FOR SAID PURPOSES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN REGULATIONS, RESTRICTIONS AND BOUNDARIES OF SUCH DISTRICTS; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR METHODS OF ADMINISTRATION AND PENALTIES FOR VIOLATION; AND ESTABLISHING A BOARD OF ADJUSTMENT.

### ARTICLE I - AUTHORITY AND ENACTMENT CLAUSE

In pursuance of the authority granted by Title 11, Chapter 52, Code of Alabama, 1975, as amended, the City Council of the City of Hamilton, Alabama, hereby ordains and enacts into law the following articles and sections.

### ARTICLE II - SHORT TITLE

This ordinance shall be known as the "Zoning Ordinance of the City of Hamilton, Alabama," and the map herein referred to as the Zoning Map of the City of Hamilton and further identified by the signature of the Mayor of Hamilton and attested by the City Clerk. The Zoning Map of the City of Hamilton and all explanatory matter thereon are hereby adopted and made a part of this Ordinance. Such map shall be filed in the office of the City.

### ARTICLE III - PURPOSE

The zoning regulations and districts as herein set forth are made in accordance with a comprehensive plan for the purpose of guiding development in accordance with existing and future needs and in order to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity, and general welfare. These are designed to lessen congestion on the streets; to secure safety from fire, panic, and other dangers, to promote the public health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to protect scenic areas; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. These regulations are made with reasonable consideration, among other things, of the character of each area and its peculiar suitability for particular uses, and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures and conserving the value of land and buildings and structures.

## **ARTICLE IV - APPLICATION OF REGULATIONS**

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

## **ARTICLE V - ESTABLISHMENT OF DISTRICTS**

### **SECTION 50. ZONING DISTRICTS**

For the purpose of this Ordinance, the City of Hamilton is hereby divided into the following zoning districts:

- FAR Forestry, Agricultural and Rural Residential District
- R-1 Single-family Residential District
- R-2 Multi-family Residential District
- MH-1 Manufactured Home Park District
- B-1 General Business District
- B-2 Central Business District
- M-1 Light Manufacturing District
- M-2 Heavy Manufacturing District

### **SECTION 51. DISTRICT BOUNDARIES ESTABLISHED**

The boundaries of each district are indicated upon the Zoning Map of the City of Hamilton, Alabama, which is hereto made a part of this Ordinance. Said map and all notations, references and other information shown thereon shall be as much a part of this Ordinance as if fully described herein. Said map shall be retained in the office of the City Clerk.

### **SECTION 52. INTERPRETATION OF DISTRICT BOUNDARIES**

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

52.1 Where such district boundaries are indicated as approximately following center lines of streets and alleys, lot lines, stream center lines, property lines or corporate limit lines, such lines shall be considered to be such boundaries.

52.2 In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing on the Zoning Map.

52.3 Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by the preceding rules, the Board of Adjustment shall interpret the district boundaries.

**SECTION 53. ANNEXATION**

Any area annexed to the City of Hamilton shall be classified FAR until further action, preferably within 90 days, can be taken by the City Council to permanently classify the new area according to this ordinance.

## ARTICLE VI - DISTRICT USE REGULATIONS

### SECTION 60. USE REGULATIONS FOR RESIDENTIAL DISTRICTS

#### 60.1 FAR FORESTRY, AGRICULTURAL AND RURAL RESIDENTIAL DISTRICT.

This district exists for the protection of areas of low density rural agriculture and single-family dwellings. Accordingly, the use of land and buildings within such areas is limited to low intensity agricultural uses and single-family detached dwellings and to such non-residential uses as generally support and harmonize with such agricultural and residential uses. Within a FAR Forestry, Agricultural and Rural Residential District, a building or land shall be used only for the following purposes:

##### Uses Permitted:

Single-Family dwellings;

Manufactured Housing, in accordance with the requirements of Section 127 of this Ordinance;

Agricultural uses, including farms, truck gardens, and nurseries, provided that no greenhouse heating plant shall be located within sixty (60) feet of any front lot line or within twenty five (25) feet of any other lot line, and animal husbandry and livestock, provided that no keeping of animals shall constitute a nuisance;

Home occupations as defined in Article X of this Ordinance;

Churches, synagogues, and other places of worship including parish houses, rectories, and other facilities normally incidental to places of worship but excluding funeral homes;

Public schools and private or parochial, elementary and high schools having a curricula approximately the same as ordinarily given in public, elementary and high schools;

Public parks and playgrounds;

Bed and Breakfast facilities;

Cemeteries;

Cultural activities not carried on as a gainful business including clubs, community centers, libraries, and museums;

Public and private colleges and universities including dormitories connected with such institutions;

Recreation facilities and country clubs excluding residential accommodations and any activity carried on as a gainful business other than incidental concessions;



Reservoirs, dams, public utility substations and pumping stations, police stations, fire stations, transmission lines and towers, and water tanks, provided that the structures are placed not less than fifty (50) feet from any property line, there is no industrial activity, and no vehicles or equipment stored on the premises.

**60.2 R-1 SINGLE FAMILY RESIDENTIAL DISTRICT.** This district exists for the protection of neighborhoods consisting of single-family dwellings. Accordingly, the use of land and buildings within such areas is limited to single-family detached dwellings and to such non-residential uses as generally support and harmonize with a medium-density single-family residential area. Within a R-1 Residential District, a building or land shall be used only for the following purposes:

Uses Permitted:

Single family dwellings;

Any use permitted by right in the FAR District, excluding manufactured homes and excluding agricultural uses not clearly incidental to single-family residences.

**60.3 R-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT.** This district exists to provide areas for medium to high density development that will afford the protection of varied housing types found in more densely populated neighborhoods. The use of land and buildings is limited to such non-residential uses as generally support and harmonize with sound residential development. Within a R-2 Residential District, a building or land shall be used only for the following purposes:

Uses Permitted:

Any use permitted by right in the R-1 Residential District.

Two family Dwellings

Multi-Family Dwellings.

Uses Permitted on Appeal:

Day nurseries and kindergartens meeting all requirements of appropriate State regulations and standards.

General and special hospitals, outpatient clinics and public health centers; excluding private offices for doctors, convalescent homes, rest homes, nursing homes, sanitariums, homes for the aged and handicapped, and orphanages, and provided that the main entrance shall be provided on a major thoroughfare with ingress and egress so designed

as to minimize traffic congestion and no building or structure shall be located less than 150 feet from any property line;

Rooming and boarding houses.

**60.4 MH-1 MANUFACTURED HOME PARK DISTRICT.** This district is established in order to provide standard areas for the development of manufactured home parks. The intent is to provide areas of standard environmental conditions for the location of manufactured homes in stable, convenient, and well-designed locations. Development standards are required to assure the creation of an orderly and sound residential environment. Within the MH-1 Manufactured Home Park District, a building or land shall be used only for the following purposes:

Uses Permitted:

Manufactured homes parks, provided that a manufactured home park shall meet the following site standards and regulations:

- A. the minimum area for any manufactured home park shall be four (4) acres;
- B. the maximum density is ten (10) manufactured home sites per acre;
- C. minimum front, side, and rear yard setbacks shall be seventy five (75) feet;
- D. all minimum interior side yard and rear yard setbacks shall include a minimum of a fifteen (15) foot wide planting area of trees and shrubs to act as a screen between the manufactured home park and abutting property;
- E. access points shall be located on public streets providing safe and convenient access;
- F. no sign or other form of advertising shall be permitted other than that necessary to identify the manufactured home park;
- G. all manufactured home sites shall abut upon a driveway not less than twenty six (26) feet in width. All driveways shall be hard surfaced, well marked and lighted by the manufactured home owner;
- H. the entire area shall be adequately serviced by water and sewer and all manufactured homes shall meet the requirements of Section 127 of this Ordinance;
- I. no accessory building or structure shall be erected or maintained in any required minimum setback area for the manufactured home park or any individual manufactured home space nor shall an accessory building or structure be located more than 100 feet from the manufactured home it is to serve.

J. Individual manufactured home spaces within each manufactured home park shall not be less than 4,000 square feet and shall have setbacks as follows:

1. front yard shall be twenty (20) feet;
2. side yards shall be a total of twenty five (25) feet with one yard not less than ten (10) feet;
3. rear yards shall be ten (10) feet;

**APPLICATION FOR AMENDMENT.** Application for the amendment of the Zoning Map of the City of Hamilton to create a MH-1 Manufactured Home District shall be accompanied by a plan or plans for the overall development of the tract of land to be rezoned, which plan or plans shall be in the form and contain the information required below.

A. The scale of the map shall not be less than one inch equals 50 feet with contours at five (5) foot vertical intervals showing pertinent topographical features.

B. The location, use, plan, and dimension of each building or structure to be constructed and the location of each manufactured home to be parked.

C. The location, dimension and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking facilities, pedestrian ways, location and width of roads, streets, and sidewalks.

D. Location and description of all facilities to be used for sewage disposal, water supply, and storm drainage.

## **SECTION 61. RESERVED**

## **SECTION 62. USE REGULATIONS FOR BUSINESS AND INDUSTRIAL DISTRICTS**

Within the business and industrial zoning districts and subject to all requirements and conditions of this Ordinance, land and buildings may only be used for uses listed in the Table of Permitted Uses for Business and Industrial Districts. Uses permitted by right in the various districts are indicated by an X and uses permitted on appeal are indicated by an A in the appropriate columns of the Table of Permitted Uses found in this Ordinance. Following are the intended characteristics for each of the business and industrial districts:

**62.1 B-1 GENERAL BUSINESS DISTRICTS.** This district serves several functions. It provides for the orderly development and expansion of businesses, encouraging the discontinuance of non-conforming uses and minimizing traffic and parking congestion. The district provides comparison shopper's goods, convenience goods and services, specialty goods,

amusements, and services for a city-wide market. The primary purpose of the district is retail trade and services, and other uses that harmonize with such businesses.

**62.2 B-2 CENTRAL BUSINESS DISTRICTS.** This district is the traditional downtown business district for the city. Normally found in the central business district are retail stores offering comparison shopper's goods, specialty stores, business services, banks and other financial institutions, offices, theaters, and government buildings. The use of land is intensive and this intensity of use is one of the main determinants of the vitality of the Central Business District. It is the purpose of these regulations to encourage such intensity of use and to exclude activities which have a negative effect upon the proper functioning of the downtown area.

**62.3 M-1 LIGHT MANUFACTURING DISTRICT.** This district is intended for industrial uses, which are not offensive to nearby commercial or residential uses, and for business uses which generally support and are integrated with these industrial uses. Further development of residences is prohibited from these districts to prevent residences from being established under strongly adverse conditions and to conserve the supply of industrial land.

**62.4 M-2 HEAVY MANUFACTURING DISTRICT.** This district is for heavy industrial activities which may be offensive, or incompatible, if located near commercial or residential uses and for limited business uses which support or are compatible with, these heavy industrial activities. Further development of residences is prohibited from these districts to prevent residences from being established under strongly adverse conditions and to conserve the supply of industrial land.

**62.5 TABLE OF PERMITTED USES:** The following table of permitted uses provides a reference for permitted uses in business and industrial districts in the City of Hamilton. No table can be comprehensive. When a use is requested that does not appear below, the Planning Commission may interpret the requested use to determine the appropriate zoning district with reference to the intent of the district and similar compatible uses.

<b>PERMITTED USES</b>	<b>B-1.</b>	<b>B-2</b>	<b>M-1</b>	<b>M-2</b>
<b>BUSINESS INDUSTRIAL</b>				
Airport			X	X
Ambulance Service	X		X	X
Amusement Park, Amusement Arcade	A		A	X
Apparel and Clothing Store	X	X		
Appliance Repair - with all storage of goods, materials, and equipment and all processing and manufacturing kept within a completely enclosed building or buildings	X		X	X
Appliance Repair - with no limit to outside storage			X	X
Art Galleries	X	X		
Artistic Programs or Events	X	X	A	A
Assembly Hall, Coliseums and Stadiums	X	X	X	X
Auto Racing			A	A

Automobile Parts Sales- with inventory stored within the principal building and incidental outdoor display of goods	X	X	X	
	B-1	B-2	M-1	M-2
Automobile and Truck Sales and Rental – with or without inventory; and repair when carried on entirely within the principal building and incidental to the principal use	X		X	X
Automobile Wash	X		X	
Bakery in which goods are sold or baked and sold on premises	X	X	A	
Bakery, Wholesale in which goods are baked on premises and sold elsewhere			X	X
Bank or Credit Bureau	X	X	A	A
Barber and Beauty Shops	X	X	A	
Billiard or Pool Hall	X	X		
Boat Building, Repair, Service and Storage			X	X
Boat Sales and Rental- with or without inventory; and repair when carried on entirely within the principal building and incidental to the principal use	X		X	X
Bottling Works and Dairy Products			X	X
Bowling Alley	X			
Broker, Investments, Loans	X	X		
Building or General Contractors with all storage of goods, materials and equipment and all processing and manufacturing kept within a completely enclosed building or buildings	X		X	X
Building or General Contractors with outdoor storage of supplies, equipment, or machinery			X	X
Building Supplies and Materials, Glass Sales and installation with all storage of goods, materials and equipment and all processing and manufacturing kept within a completely enclosed building or buildings		X		
Building Supplies and Materials, Glass Sales and installation with storage yard	X		X	X
Bus Passenger Station	X	X		
Cemeteries, Mausoleums	X		A	A
Charitable and Philanthropic Organizations	X	X		
Churches and other places of Worship including Sunday School buildings, parish houses, rectories and other residences of clergy	X	A		
Cleaning of Building Exteriors, disinfecting or exterminating establishments with all materials and equipment completely enclosed within the principal building	X		X	X

Cold Storage Facility			X	X
Colleges and Universities, private and public	X			
Clubs - Membership	X	X		
	B-1	B-2	M-1	M-2
Clubs, entertainment- e.g. dance hall, night club, etc.	X			
Community Centers	X	X		
Dancing or Music Schools	X	X		
Dental and Medical Offices and Clinics (excluding veterinarians)	X	X		
Dental Supplies	X	X	A	
Diaper Service			X	X
Dressmaker	X	X	A	
Drive-in Eating and Drinking Establishment and establishment catering to "take-out trade	X		A	
Drive-In Theater	X		A	A
Driving School	X		X	X
Dry Cleaning, Laundering, Dyeing or Diaper Service of an industrial or non-retail nature			X	X
Dry-Cleaning or Laundry for retail only	X	X		
Education Facilities and Industrial Research	X	X	X	X
Electrical and Industrial Equipment Repair			X	X
Electrical Contractors with all storage of goods, materials and equipment and all processing and manufacturing kept within a completely enclosed building or buildings	X		X	X
Exterminating Establishment with all material and equipment completely enclosed within the principal building	X		X	X
Fair, Carnival, Rodeo, Etc.	A		X	X
Farm Equipment Sale, Rental and Repair			X	X
Farmer's Market	X	X		
Feed and Grain Sales with Storage			X	X
Food prepared for catered events and receptions	X			
Food or Drink Sales (Restaurants) for immediate consumption within the principal building and excluding all types of drive-in establishments serving food or drink outside of a building or catering to the "take-out" trade	X	X	X	X
Food processing in wholesale quantities except meat, fish, poultry, vinegar and yeast			X	X
Food Specialty Store, including but not limited to the following lines: meat (excluding slaughtering and eviscerating), fish, eggs, poultry, (excluding slaughtering), fruit, vegetables, candy, nuts, coffee,	X	X	A	

tea, confection, dairy products, health foods, bakery (retail)				
Foundries producing iron and steel products				X
	B-1	B-2	M-1	M-2
Funeral Parlors, Mortuaries	X		A	
Furniture and Appliance Repairer, home improvement company, upholster, general contractor or workman, building materials company, sign making company with all storage of goods, materials and equipment and processing and manufacturing kept within a completely enclosed building or buildings	X		X	X
Furniture Manufacturing			X	X
Gas - Natural and Propane Bulk Storing			A	X
Gasoline - bulk terminal plants for wholesale storage			A	X
Golf Courses, miniature golf, and driving ranges	X		X	X
Government Buildings used exclusively by the Federal, State, County or City for purposes except for garages, repair or storage yards, warehouses and buildings used for industrial type operations, or operations requiring heavy and frequent movement of trucks	X	X	X	X
Greenhouse and Nursery, Commercial	X		X	
Grocery, Delicatessen, Supermarket or other store carrying a variety of food and related goods	X	X		
Gymnasium or Skating Rink	X	X		
Handicrafts - Manufacture and sale of handicrafts at retail or wholesale which are manufactured predominantly by hand and involve the application of artistic skills	X	X	X	X
Hatcheries				X
Health Centers, Massage and Steam Baths	X	X		
Heliports	A	A	A	A
Hospital Supplies	X	X	X	
Hospitals (excluding animal hospitals)	X	X		
Incinerators				X
Industrial Equipment Machinery Repair, Service	A		X	X
Insurance Company or Agency	X	X		
Interior Decorator	X	X		
Junk Yards - providing all conditions set forth A				A

below are met: 1. No material shall be placed in any junk yard in such a manner that it is capable of being transferred out of the junk yard by wind, water or other causes. 2. All paper, rags, cloth and other fibers and activities involving the same other than loading or unloading shall be fully within enclosed buildings. 3. In order to lessen the adverse effect on adjoining property, reduce windblown trash, prevent hazards to children and create a more healthful environment, suitable screening such as screen planting or fencing will be required as a condition set in approving a junk yard.				
	B-1	B-2	M-1	M-2
Kennel, Commercial, or other establishment where the care, breeding or sale of animals is the principal purpose of the enterprise, with no animals to be located within 500 feet of any residentially zoned property or 100 feet from any property line.	X		X	X
Kindergartens and Day Nurseries meeting all requirements of appropriate state and local regulations and standards.	X	X		
Laboratories serving professional requirements for dentist, doctors, etc.	X		A	A
Laboratory supplies	X	X	A	
Laundry or Dry-Cleaning for retail only	X	X	X	
Laundering Plant, Dry-Cleaning, or Dyeing, Diaper Service			X	X
Letters, duplicating and mailing	X	X	A	A
Libraries	X	X		
Lodges, fraternal and social organizations, union halls, headquarters for Scout and other youth organizations.	X	X	A	
Machine Tool Manufacturing				X
Magazine or Newspaper Distribution	X	X	X	
Manufactured Home Sales	X		X	
Manufacturing uses not otherwise named herein upon the approval of the Board of Adjustment provided that no use shall be permitted in this section which is likely to be dangerous, offensive or detrimental to the health, safety, welfare or general character of this zoning district, or of the community by reason of the emission of dust, gas, smoke, noise, fumes, odors, vibration, glare, or			A	A



otherwise.				
Meat Processing and Packing				X
Mechanical (light) or light industrial operations not offensive, obnoxious, or detrimental to neighboring uses by reason of dust, smoke, vibrations, noise, odor or effluents.			X	X
Medical and Dental Offices and Clinics excluding veterinarians	X	X		
	B-1	B-2	M-1	M-2
Mini-storage	X		X	
Motels, Hotels, Tourist homes	X	X		
Motor vehicle repairs excluding full body paint spraying, body and fender work except replacement, carried on within structures with storage of wrecked vehicles or parts permitted only behind the principal building. Such storage of vehicles or their parts will be incidental to the principal business and will not constitute a junk yard as defined in Section 16 of this Ordinance.	X		X	X
Motor Vehicle repairs including full body paint spraying and all body and fender work carried on within a structure with storage of wrecked vehicles or parts permitted only behind the principal building. Such storage of vehicles or their parts will be incidental to the principal business and will not constitute a junk yard as defined in Section 10 of this Ordinance.				X
Motorcycle Sales, rental and repair when repair is carried on within the principal building	X		X	
Museums, Art Galleries	X	X		
Music or Dancing School	X	X		
Newspaper or Magazine Distribution	X	X	X	
Newspaper publishing	X	A	X	
Nurseries (day) and Kindergartens meeting all requirements of appropriate state and local regulations and standards	X	X	X	
Nursery and Greenhouse, commercial	X		X	
Nursing Homes and Assisted Living Facilities	X			
Office - professional, business, administrative executive and other offices having no storage of stock (other than samples) or heavy equipment, and no sales of commodities on the premises	X	X	A	
Offices - any which is incidental to use otherwise permitted in the district or which functions itself as	X	X	X	X

all or part of a use otherwise permitted within the district.				
Parking lot, on-site or off-site or parking structure for employees, customers, or visitors for any business or industrial use, or commercial or public parking lot or parking structure.	X	X	X	X
Parks, public or private	X	X	A	
Patrol system or burglar alarm watching service	X	X	X	X
	B-1	B-2	M-1	M-2
Pawn Shop	X	X		
Penal and Correctional Institutions	A		X	X
Personal service establishments providing but not limited to barber and beauty shops, shoe repair agencies, photographers, reducing salons, tailors, dressmakers.	X	X		
Photographers	X	X		
Playgrounds	X	A		
Plumbing supplies and equipment with outside storage of materials			X	X
Plumbing supplies and equipment without outside storage of materials	X	X	X	X
Printing, blueprinting, engraving or other reproduction- services with no limit as to floor area	X	X	X	X
Radio and television transmitting towers and stations	A	A	X	X
Radio and television stations excluding transmission towers	X	X	X	X
Railroad passenger stations	X	X	X	X
Repair shop for repairs or adjustments to bicycles, small appliances, watches, locks, musical instruments, guns and similar items conducted wholly within a building with no outside storage of materials or equipment	X	X		
Rescue Service	X		X	X
Research and education facilities	X	X	X	
Residences, Above Street Level		X		
Residences, Other than Listed		A		
Restaurant supplies (sales)	X	X	A	
	B-1	B-2	M-1	M-2
Retail stores not otherwise listed and selling or renting goods on the premises with no outdoor storage and incidental outdoor display of goods during business hours, including but not limited to the following:				

Service stations (gasoline) but not including body work, major repair, dismantling for the recovery of parts, or storage of vehicles or parts of vehicles for more than five days.	X	X	X	X
Shoe repair shop	X	X		
Sign Making company - with all storage of goods, materials and equipment and all processing and manufacturing kept within a completely enclosed building or buildings	X		X	X
	B-1	B-2	M-1	M-2
Sign manufacturer			X	X
Skating rink	X	X	A	
Specialty stores selling or renting goods predominately- at retail on the premises, including but not limited to the following lines: tobacco, news, books, stationery, gifts, novelties, cards, flowers, jewelry, luggage, optical goods, sporting goods, bicycles, pets, hobbies, toys, coins, stamps, photo supplies, art supplies, works of art, music, musical instruments, hobby goods, sewing machines, radio and TV sales and service.	X	X		
Stadiums, coliseums, assembly halls	X	X	X	X
Storage of commercial vehicles (where not an accessory use to another use which is permitted)	A		X	X
Storage (outside) of heavy materials and equipment			A	X
Storage, moving, warehousing establishment			X	X
Taxi dispatching station	X		X	X
Taxi terminal	X	X	X	X
Telegraph or messenger service	X	X	A	A
Theater excluding drive-in	X	X		
Tire recapping and retreading	X		X	X
Tourist homes, hotels and motels	X	X		
Trade and vocational schools	X		X	X
Travel agencies	X	X		
Truck or rail freight yard or terminal			X	X
Upholsterer with all storage of goods, materials, and equipment and all processing and manufacturing kept within a completely enclosed building or buildings	X		X	X
Upholsterer			X	X
Utility (public) distribution lines, transformer stations transmission lines and towers, water tanks and towers, and telephone exchanges but not service or storage yards	X	X	X	X
Utility (public) storage yards			X	X

Veterinary hospitals and animal clinics	X	A	X	X
Welding shops	A		X	X
Wholesaling or distribution, including the handling of stock and incidental retail	A		X	X

**ARTICLE VII - AREA AND DIMENSIONAL REQUIREMENTS**

**SECTION 70. AREA AND DIMENSIONAL REQUIREMENTS**

Area, yard and height requirements for the various zoning districts shall be as specified in the following table. The area and dimensional requirements for each zoning district appear in the appropriate column. If a letter appears in the column, the requirement is listed under the corresponding letter in Section 71 of this ordinance.

Zone District	Maximum Building Height (Ft.)	Minimum Lot Area (Sq. Ft.)	Minimum Lot Area Per Dwelling Unit (Sq. Ft.)	Minimum Lot Width at Bldg. Line (Ft.)	Minimum Lot Width at Front Lot Line (Ft.)
FAR	35	15,000	15,000	100	70
R-1	35	12,000	7,500	90	50
R-2	35	9,000	3,000	70	45
RMH-1	Area and dimensional requirements are specified in Article VI, Section 60, Sub-section 60.4				
B-1	65	—	—	—	—
B-2	65	—	—	—	—
M-1	—	—	—	—	—
M-2	—	—	—	—	—

**Minimum Yard Requirements**

Zone District	Front* (Ft.)	Rear (Ft.)	Interior Side ** (Ft.)	Street Side *** (Ft.)
FAR	30	15	10	30
R-1	25	10	10	25
R-2	25	10	10	25
MH-1	Area and dimensional requirements are specified in Article VI, Section 60, Sub-section 60.4			
B-1	—	—	—	—
B-2	—	—	—	—
M-1	40	25	15	25
M-2	50	25	25	25

— = No Requirement

\* See Section 72.2.

\*\* = A side yard not abutting a street right-of-way

\*\*\* = A side yard that abuts a street right-of-way

**SECTION 71. RESERVED**

## SECTION 72. GENERAL EXCEPTIONS

**72.1 LOTS OF RECORD.** Where the owner of a non-conforming lot of record does not own or cannot reasonably acquire sufficient land to enable him to conform to the requirements of this Ordinance relating to lot area, lot width, or both, such lot of record may be used by the owner as a building site upon approval of a variance by the Zoning Board of Adjustments, provided that where two (2) abutting lots of record are held under the same ownership, and where one or both of these lots are non-conforming, they shall be considered as a single lot of record for the purpose of meeting the requirements of the zoning district in which such lots are located.

**72.2 FRONT YARDS REDUCED.** The front yard requirements of this Ordinance shall not apply to any lot where the average front yard on developed lots located wholly or in part within one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot is less than the minimum required front yard. In such cases the front yard on such lot may be less than the required front yard but not less than the average of the existing front yards on the developed lots; provided, however, the front yard on such lot shall not be less than one-half the required front yard. For the purpose of computing such average, an adjacent vacant lot shall be considered as having the minimum required front yard specified for that zoning district.

**72.3 HEIGHT LIMITATIONS.** The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, aerials and similar structures, except as otherwise provided in the vicinity of airports.

## ARTICLE VIII - REGULATIONS FOR OFF-STREET PARKING AND LOADING

### SECTION 80 OFF-STREET PARKING

At the time of the erection of any new building or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one type of use or occupancy to another, the owner shall provide permanent off-street parking and loading space in the amount specified by this Article. Such parking space may be provided in a parking garage or parking lot or in driveways serving single and two-family residences. The provisions of this Article shall not apply to the B-2 Central Business District. Parking and loading facilities provided in accordance with the terms of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance.

**80.1 PARKING LOTS TO BE IMPROVED.** Parking lots intended to provide for the off-street parking space required by this Ordinance shall be improved and maintained with pavement materials of a standard no lower than double bituminous surface treatments; provided, this requirement shall not apply to the parking space required for residential structures having less than four (4) dwelling units.

**80.2 JOINT USE OF PARKING LOTS.** Parking facilities for one use shall not be considered as providing the required parking facilities for any other use on the same or separate lots, except under circumstances wherein a combination of uses or other factors might require total parking facilities in excess of actual need if so determined and certified by the Zoning Compliance Officer and subsequently approved by the Board of Adjustment.

**80.3 CERTIFICATION OF MINIMUM PARKING REQUIREMENTS.** Each application for a building permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space or loading space, if required, and the means of ingress and egress between such space and a street or alley. This information shall be in sufficient detail to enable the Zoning Compliance Officer to determine whether or not the requirements of this Article are met. The certificate of occupancy for the use of any building, structure or land where off-street parking space is required shall be withheld by the Building Inspector until the provisions of this Article are fully met. If at any time such compliance ceases, any certificate of occupancy which shall have been issued for the use of the property shall immediately become void and of no effect.

**80.4 FREE FLOW OF TRAFFIC AND PEDESTRIAN PROTECTION.** Access and egress for parking facilities shall be so arranged for the free flow of vehicles at all times and to prevent the blocking or endangering of vehicular or pedestrian traffic through the stopping or standing of vehicles on sidewalks or streets. If a reservoir of vehicle standing area on the property is necessary to prevent such blocking of traffic, an adequate reservoir shall be provided. No parking space shall be closer than eight (8) feet to a right-of-way. No access or egress driveway, except for single and two family houses, shall be so arranged that vehicles can enter or leave the area only by backing on or across any sidewalk or to or from any street. Adequate sight distances shall be maintained for vehicles and pedestrians.

**80.5 REMOTE PARKING SPACE.** All dwelling units, motels, tourist courts, tourist homes and trailer parks, shall have the required parking spaces provided on the lot on which such dwelling type unit is located. For all other uses, if the off-street parking space required by this Ordinance cannot reasonably be provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of the main entrance to such principal use. Said land shall be used for no other purpose so long as no other adequate provisions for parking space meeting the requirements of this Ordinance have been made for the principal use. In such cases, the applicant for a permit for the principal use shall submit with his application for a building permit an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use for which it is made available.

**80.6 DIMENSIONAL REQUIREMENTS.** Off-street parking shall be provided in the dimensions shown in the following table:

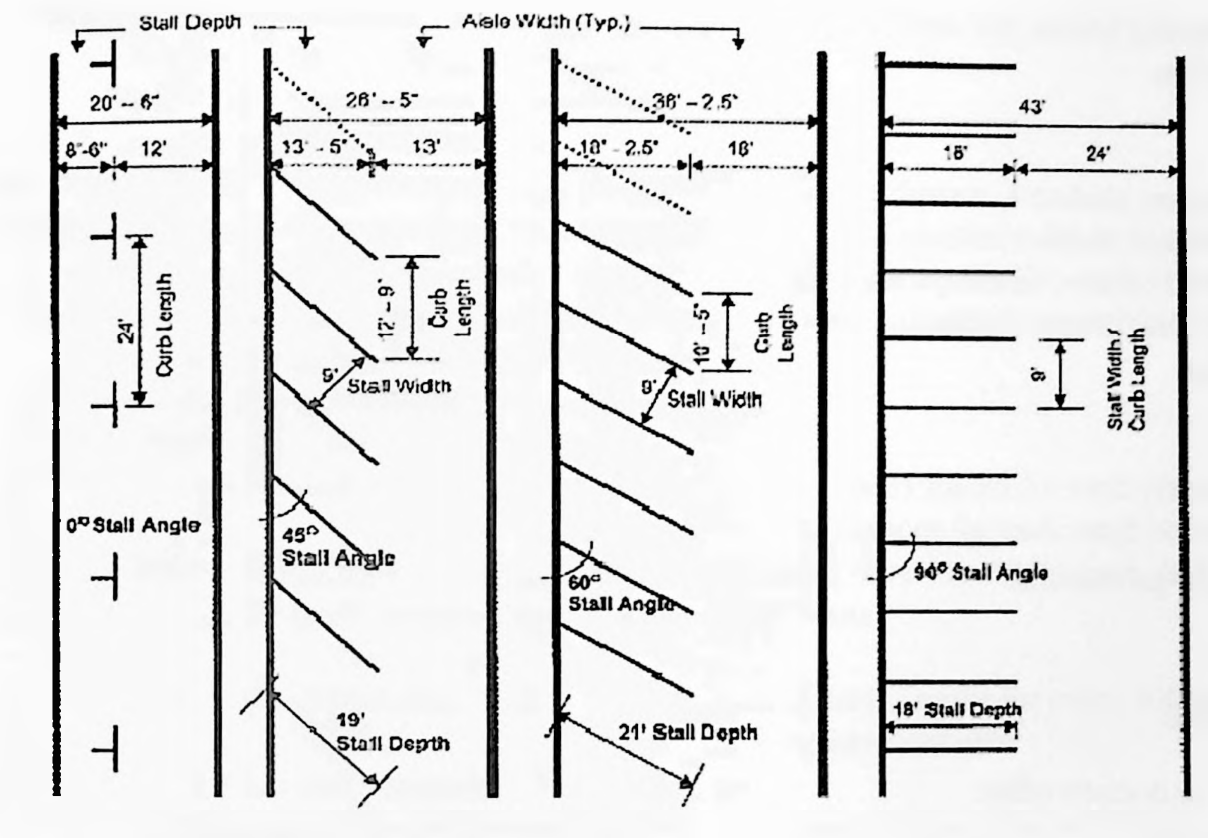
Angle of Parking	Minimum Dimensions		
	Parking Space Depth	Parking Space Width	Aisle Width (1)
0 degrees (e.g. tandem or parallel parking)	24 ft	8.6 ft (2)	12 ft
30 to 45 degrees	19 ft	9 ft (2)	13 ft
46 to 60 degrees	21 ft	9 ft (2)	18 ft
61 to 90 degrees	18 ft	9 ft (2)	24 ft

**Notes:**

(1) The Zoning Compliance Officer may require greater aisle widths where slopes or other obstructions are encountered.

(2) Each parking space that is adjoined on either side of its longer dimension by a fence, wall, partition, column, post, or similar obstruction, and the obstruction is located less than 14 feet from the access aisle measured along the length of the stall, shall have its minimum width increased by at least 10 inches on the side of the obstruction.





**SECTION 81 MINIMUM PARKING REQUIREMENTS TYPE OF USE REQUIRED OFF-STREET PARKING**

**TYPE OF USE**

**REQUIRED PARKING**

Residential & Related Uses

Residential use

One and one-half (1.5) parking space on the lot for each dwelling unit

Bed and Breakfast Facilities

One (1) space for each two (2) rooms subject to rental, in addition to the normal residential requirements

Home occupations not otherwise listed

One and one-half space per dwelling unit plus parking as required for other uses

Hotel, rooming or boarding house, motel, or motor court

One (1) parking space for each room to be rented

Public and Semi-public Uses

Hospitals, sanitariums, rest and

One (1.5) space per bed intended for patients

convalescent homes, and similar institutions

(except bassinets or beds in student nurses quarters);

Auditorium, stadiums, assembly halls, gymnasiums, theaters, community recreation centers, churches, museums, art galleries, funeral homes and public libraries

One (1) space per four (4) fixed seats in the largest assembly room or area or for the accommodation of movable seats in the largest assembly room, or one (1) space for each 150 square feet of gross floor area, whichever is need by the facility, plus one (1) space for each two (2) employees on shift of greatest employment

Public or private club

One (1) space for each one hundred (100) square feet of gross floor space

### Office and Banks

Clinic or doctor's office

Three (3) spaces for each doctor plus one (1) space for each two (2) employees

Banks

One (1) space for each two hundred (200) square feet of gross floor plus one (1) space for each (2) employees

Professional and business offices

One (1) space for each 500 square feet of gross floor area

### Retail and Other Commercial

Retail stores, as follows:

Stores selling clothing, variety merchandise, jewelry, sporting goods, records, pet shops, and other establishments selling comparison or specialty shopping goods, and stores selling convenience goods such as food, drugs, small hardware, etc.

One (1) space for each 300 square feet of gross floor area

Stores selling merchandise generally characterized by high bulk and high cost such as furniture, appliances, large hardware items, business machines, restaurant

One (1) space for each 500 square feet of gross floor area

equipment, bicycles, guns, light fixtures, floor covering, radio, television, auto accessories, building materials, home furnishings

New and used car sales, manufactured home and truck trailer sales, outdoor equipment and machinery sales, commercial nurseries, roadside stands, farm implements

Service stations

Other retail trade or services

Restaurants, diners, and night clubs

Funeral home

Indoor and outdoor commercial recreation

### Wholesale and Industrial Uses

Wholesaling and industrial uses

Four (4) spaces for each sales person, plus one (1) space for each two employees on shift of greatest employment

Five (5) spaces for each grease rack and five (5) spaces for each wash rack plus one space per five hundred square feet of gross sales area

One (1) space for every 300 square feet of gross floor area

One (1) space for each three (3) seating accommodations, plus one (1) space for each two employees on shift of greatest employment

One (1) space for each four (4) seats in the chapel or parlor

One (1) space for each 150 square feet of gross floor, building or ground area devoted to such use, or one (1) space for each four (4) seats of facilities available for patron use, whichever is need by the facility. Land not occupied by customers such as land in front of the drive tees of a driving range will be excluded when calculating parking

One (1) space for each 500 square feet of sale area and one (1) space for each two (2) employees at maximum employment

## SECTION 82 OFF-STREET LOADING AND UNLOADING SPACE

Every building or structure used for business, trade or industry hereafter erected, shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or if there is no alley, to a street. For the purposes of this section, a loading berth shall have minimum plan dimensions of 12' x 25' overhead clearance. In no case shall the use of loading and unloading space hinder the free movement of vehicles and pedestrians over a street, sidewalk or alley.

<u>Use Classification</u>	<u>Off-street Loading Requirements</u>
Retail operations	One (1) loading berth for every 20,000 square feet of floor area
Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes	One (1) loading berth for every 100,000 square feet of floor area
Industrial and wholesale operations	One (1) loading berth for every 100,000 square feet of floor area

## ARTICLE IX - RESERVED

## ARTICLE X HOME OCCUPATIONS

The following regulations shall apply to the conduct of a home occupation in any permitted zoning district:

- A. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part.
- B. Use of the dwelling for this purpose shall be limited to twenty-five percent (25%) of one floor of the principal building.
- C. The home occupation shall be confined entirely to the principal building, and no accessory building or outside storage shall be used in connection with the home occupation.
- D. Employment shall be limited to residents of the dwelling.
- E. No internal or external addition, alteration, or remodeling of the dwelling is permitted in connection with the home occupation.
- F. Chemical, mechanical or electrical equipment that creates odors, light emission, or noises detectable outside of the dwelling shall be prohibited.
- G. No display of products shall be visible from the street and only articles made on the premises may be sold; except that non-durable articles (consumable products) that are incidental to a service, which service shall be the principal use in the home occupation, may be sold on the premises.
- H. Instruction in music, dancing and similar subject shall be limited to two students at a time.
- I. Vehicles having passenger vehicle characteristics only shall be permitted in connection with the conduct of the customary home occupation.
- J. The activity carried on as a home occupation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- K. One professional or announcement sign may be used to identify the customary home occupation. Such sign shall not exceed two (2) square feet in area exposed to view and must be mounted flat to the main wall of the principal building. No such sign shall be illuminated.
- L. Customary Home Occupations shall not include, among others, the following:
  - 1. Uses which do not meet the provisions listed above.

2. Automobile and/or body and fender repairing.
3. Barber shops and beauty parlors.
4. Food handling processing or packing.
5. Repair, manufacturing and processing uses; however, this shall not exclude the home occupation of a dressmaker where goods are not manufactured for stock, sale, or distribution.
6. Restaurants.
7. Uses which entail the harboring, training, raising or treatment of dogs, cats, birds, or other animals.

M. A business license issued by the City of Hamilton will be required prior to the establishment of a home occupation. Such permit shall be renewed each year.

#### **ARTICLE XI RESERVED**

## **ARTICLE XII GENERAL REGULATIONS**

### **SECTION 120 ONE MAIN BUILDING ON LOT**

Every building hereafter erected or moved shall be located on a lot, and in no case shall there be more than one (1) principal residential building and its accessory buildings on a lot except as provided in Section 125 and Section 126 of this Ordinance, and no business or industry shall be allowed to place more than one principle structure on an individual lot unless each additional structure can meet the requirements of this Ordinance related to lot area, setback, parking, and all other provisions as if developed on a conforming individual lot and so arranged as to be conforming if the lot is divided.

### **SECTION 121 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING**

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved or structurally altered shall not be encroached upon or considered to meet the yard or open space requirements of any other building.

### **SECTION 122 REDUCTION OF LOT AND YARD AREAS**

No yard or lot existing at the time of passage of this Ordinance shall be reduced in size of area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

### **SECTION 123 VISIBILITY AT INTERSECTIONS**

In any district requiring a front yard setback no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of two and one-half (2 1/1) feet and ten (10) feet above street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two streets or railroads or of a street and a railroad right-of-way line. Accessory structures within twenty five (25) feet of the rear lot line of a corner lot shall be set back the minimum front yard depth required on the side street. The requirements of this Sub-section shall not be deemed to prohibit any necessary retaining wall.

### **SECTION 124 STREET ACCESS**

No principal building shall be erected on a lot which does not abut a public street. In cases where more than one principal building occupies a lot, each principal building containing business or industry shall have access to a public street.

### **SECTION 125 FUTURE STREET LINES**

On any lot which, at the time of adoption of this Ordinance or at the time this Ordinance is changed by amendment hereafter, may be reduced in area by widening a public street to a future street line as indicated on the duly adopted "Major Street Plan", or as same may be hereafter amended, the minimum required yards, the minimum required lot area, the minimum required lot width and the maximum building area shall be measured by considering the future street lines as the lot line of such lot.

### **SECTION 126 GROUP HOUSING PROJECT**

In case of a housing project consisting of a group of two or more buildings to be constructed on a plot of ground at least four (4) acres not subdivided into the customary streets and not to be so subdivided or where existing or contemplated street and lot layout make it impracticable to apply the requirements of this Ordinance to the individual buildings in such housing projects, the application of such requirements to such housing projects shall be done by the Planning Commission, in a manner that will be in harmony with the character of occupancy, a density of land use no higher and a standard of open space at least as high as required by this Ordinance in the district in which the proposed project is to be located, and will provide layout design and public utilities in harmony with the general requirements and minimum standards of design of the Subdivision Regulations of the City of Hamilton, Alabama. In no case shall the Planning Commission authorize a use or a building height or building area prohibited in the district in which the housing project is to be located.

### **SECTION 127 MANUFACTURED HOUSING REGULATION**

No manufactured home shall be located or sited within the City of Hamilton, Alabama unless it shall meet the following standards:

- A. the unit was constructed no more than 8 years prior to the date of application to install the manufactured home.
- B. The unit must be underpinned.
- C. Hitches shall be removed when possible and shall be underpinned when not removed.
- D. Must have a front porch or deck not less than 8 feet by 8 feet and a rear porch or deck not less than 4 feet by 4 feet in size.

(Amended 06-20-11)



## **ARTICLE XIII NONCONFORMING USE REGULATIONS**

Nonconforming uses, buildings, structures, signs and billboards may be continued subject to the provisions of this Article.

### **SECTION 130 CHANGE OF USE**

A nonconforming use shall not be changed to any but a conforming use. When a nonconforming use has been changed to a conforming use, the premises shall not thereafter be used for any nonconforming use.

### **SECTION 131 USE EXTENSIONS**

A nonconforming use shall not be enlarged to occupy greater land area than occupied at the time of this Ordinance; provided, however, a nonconforming use of any building may be extended to any portion or portions of said building which were, at the time such use became nonconforming, manifestly arranged or designed for such use. A nonconforming manufactured home in a residential zoning district may be replaced with a manufactured home meeting the requirements of Section 127 and Section 133 of this Ordinance.

### **SECTION 132 STRUCTURAL EXTENSIONS AND ALTERATIONS**

A nonconforming structure shall not be enlarged or altered unless such enlargement or alteration shall comply with all the structural and dimensional requirements of this Ordinance for the district in which it is located, except that alterations may be required by law, etc., or ordinance or ordered by an authorized office to secure the safety of the building.

### **SECTION 133 DISCONTINUED NONCONFORMING USES**

When any nonconforming use is discontinued for a period exceeding one (1) year, after date of notice by the Zoning Compliance Officer or reasonable evidence of abandonment such as discontinuation of utilities or loss of any required permits for any reason whatsoever, any future use of the premises shall conform to the provisions of this Ordinance.

### **SECTION 134 DESTRUCTION**

A nonconforming building or structure which is damaged by fire, flood, wind, or other act of God or man, to an extent exceeding fifty (50) percent of its then replacement value, exclusive of foundations shall not be reconstructed except in conformance with the structural and dimensional provisions of this Ordinance for the district in which it is located. A nonconforming use shall have one (1) year to re-establish in accordance with the structural and dimensional requirements of the Ordinance for the district in which it is located after which time the use of land and property shall conform with the provisions of the Ordinance for the district in which it is located.

### **SECTION 135 ADMINISTRATION**

The Zoning Compliance Officer shall conduct, or cause to be conducted by an authorized delegate, a check on all nonconforming uses at least once a year to determine whether or not they continue to operate. The Zoning Compliance Officer shall maintain an accurate and up-to-date record of all nonconforming uses, including the date of their discontinuance.

## **ARTICLE XIV ADMINISTRATION, ENFORCEMENT AND PENALTIES**

### **SECTION 140 ZONING ENFORCEMENT OFFICER**

The provisions of this Ordinance shall be administered and enforced by the Zoning Compliance Officer. He shall give information upon request as to the provisions of this Ordinance and shall interpret the meaning of the Ordinance in the course of enforcement. The Zoning Compliance Officer or an appropriately authorized designee shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this Ordinance.

### **SECTION 141 BUILDING PERMIT REQUIRED; ZONING COMPLIANCE REQUIRED**

It shall be unlawful to commence the excavation for or the construction of any building or other structure, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure for which a building permit is required until the Building Inspector 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.

### **SECTION 142 APPROVAL OF PLANS AND ISSUANCE OF BUILDING PERMIT**

It shall be unlawful for the Building Inspector to approve any plans or issue a building permit for any excavation or construction until he has received notification from the Zoning Compliance Officer that the proposed plans are in conformity with this Ordinance. To this end, the Zoning Compliance Officer may require that every application for a building permit for excavation, construction, use of land, moving or alteration be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Zoning Compliance Officer to ascertain whether the proposed excavation, construction, use of land, moving or alteration is in conformance with this Ordinance:

- A. The actual shape, proportion and dimensions of the lot to be built upon.
- B. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.
- C. The existing and intended use of all such buildings or other structures.
- D. The setback and side lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
- E. The location, arrangement, design, number and shape of parking spaces provided in accordance with this Ordinance and relevant information used to calculate parking requirements.

If the proposed excavation, construction, moving, or alteration as set forth in the application, is in conformity with the provisions of this Ordinance, the Zoning Compliance

Officer shall certify zoning compliance to the Building Inspector. If a zoning compliance is not certified, the Zoning Compliance Officer shall state in writing the cause for such disapproval. Issuance of a building permit shall, in no case, be construed as waiving any provision of this Ordinance.

#### **SECTION 143 CERTIFICATE OF OCCUPANCY REQUIRED**

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Inspector has completed a final inspection stating that such land or structure or part thereof is found to be in conformity with the provisions of this Ordinance.

Within five (5) working days after the owner or his agent has notified the Building Inspector that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Final Inspection if the building or premises or part thereof is found to conform with the provisions of this Ordinance or, to state the refusal in writing with the cause.

#### **SECTION 144 PENALTIES**

Any person violating any provision of this Ordinance shall be fined upon conviction not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) and costs of court, as imposed by the Municipal Judge, for each offense. Each day that such violation continues shall constitute a separate offense.

#### **SECTION 145 REMEDIES**

In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Zoning Compliance Officer of the municipality or any other appropriate authority or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedied, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to correct or abate such violations or to prevent occupancy of such building, structure, or land.

## **ARTICLE XV ZONING BOARD OF ADJUSTMENT**

### **SECTION 150 ESTABLISHMENT OF ZONING BOARD OF ADJUSTMENT**

A Board of Adjustment is hereby established. The Board shall consist of five (5) members, each to be appointed for a term of three (3) years by the City Council. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Each member may be removed for cause by the appointing authority upon written charges and after a public hearing.

### **SECTION 151 PROCEEDINGS OF THE ZONING BOARD OF ADJUSTMENT**

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

### **SECTION 152 APPEALS**

An appeal may be taken to the Board by any person aggrieved, or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board all papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown. The board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.

### **SECTION 153 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT**

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

- a. Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto.
- b. Special exceptions. To hear and decide special exceptions to the terms of the Ordinance upon which such board is required to pass under such Ordinance.

c. Variances. to authorize upon appeal in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. In exercising the above mentioned powers, such Board may, in conformance with the provisions of this article, reverse, or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such Ordinance, or to effect any variation in such Ordinance.

#### **SECTION 154 APPEALS FROM ACTION OF THE BOARD OF ADJUSTMENT**

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

## ARTICLE XVI DEFINITIONS

### SECTION 160 DEFINITIONS

For the purposes of this Ordinance, certain words and terms as herein indicated and shall apply to all parts of this Ordinance. All words used in the present tense shall include the future tense; all words in the singular number shall include the plural number; and all words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise; the words "used for" shall include the meaning "designed for"; and the word "structure" shall include the word "building"; the word "lot" shall include the words "plot" and "tract" and the word "shall" is mandatory.

1. Alley: A public or private thoroughfare which affords only a secondary means of access to abutting property.
2. Basement: An underground or partly underground story. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between its ceiling and the average level of the adjoining ground is more than five (5) feet.
3. Boarding House: A building other than a hotel, cafe, or restaurant where, for compensation, meals are provided for three (3) or more persons.
4. Bed and Breakfast: A home in which rooms are provided overnight and breakfasts are served the following morning, both for compensation.
5. Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels.
6. Building, Accessory: A subordinate building, the use of which is incidental to that of the principal building on the same lot.
7. Building, Principal: A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.
8. Drive-in Restaurant: A restaurant or public eating business so conducted that food, meals or refreshments are brought to the motor vehicles for consumption by the customer or patron.
9. Drive-in Theater: A theater so arranged and conducted that the customer or patron may view the performance while being seated in a motor vehicle.
10. Dwelling: A building containing one or more dwelling units, but in the case of a building having two or more portions divided by one or more party walls forming a complete separation, each such portion shall be considered to be a separate dwelling.
11. Dwelling, Single Family: A dwelling having only one dwelling unit from the ground to roof and having independent outside access.

12. Dwelling, Two Family: A detached building designed exclusively for occupancy by two families living independently of each other under one roof.
13. Dwelling, Multi-family: A building or portion thereof designed for occupancy by three or more families living independently of each other under one roof.
14. Dwelling Unit: Any room or group of rooms located within a residential building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
15. Family: One (1) or more individuals occupying a dwelling unit and living as a single housekeeping unit.
16. Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls including (a) basement space where more than one half the basement height is above the finished lot grade averaged along the exterior walls of the building; (b) elevators and stairwells at each floor; (c) attic space, whether or not a floor has been laid, over which there is structural headroom of seven feet or more; and (d) enclosed porches, interior balconies and mezzanines and penthouses, and excluding (a) floor space permanently devoted to mechanical equipment used in the operation and maintenance of the building, and (b) floor space permanently devoted to a parking space or parking spaces.
17. Frontage: All the property abutting on one side of a street between two intersecting streets measured along the street line.
18. Garage, Private: A building or space used as an accessory to or a part of a main building permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way connected.
19. Group Home: A house where several individuals, unrelated, all clients of agencies such as mental health, alcohol, abuse, drugs, etc. that are treating those individuals and teaching them to function in the community.
20. Lot: A piece, parcel, or plot of land occupied or intended to be occupied by one main building, accessory buildings, uses customarily incidental to such main building and such open spaces as are provided in this ordinance, or as are intended to be used with such piece, parcel or plot of land.
21. Lot, Corner: A lot with frontage on two or more streets at their intersections.
22. Lot, Depth: The mean horizontal distance between the front and rear lot lines.

23. Lot of Record: A lot which is part of a subdivision, a plat or which had been recorded in Marion County at the time of the adoption of this Ordinance; or a lot described by metes and bounds, the description of which had been recorded in Marion County at the time of the adoption of this Ordinance.
24. Manufactured Home: A transportable structure, which exceed either eight (8) body feet in width or thirty two (32) body feet in length, built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. This structure is also know as a "Mobile Home" and as a "House Trailer" and all have the same meaning in this Ordinance.
25. Manufactured Home Parks: Any premises where manufactured homes are parked for living and sleeping purposes, or any premises used or set apart for the purpose of supplying to the public parking space for manufactured homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosure used or intended for use as part of such manufacture home park.
26. Mini-storage: Buildings divided into small compartments, each accessible from the outside of the building with each compartment usually being rented to different persons for the use of temporary storage of personal property.
27. Nonconforming structure: A building or structure lawfully constructed prior to the passage of this chapter or an amendment thereto, which does not conform to the dimensional requirements or other requirements except use, for the zone in which it is located.
28. Nonconforming Use: A lawful use of land, building or structure existing at the time of the passage of this Ordinance, or an amendment thereto, which does not conform to the use regulations for the zoning district in which it is located.
29. Signs: Any structure, part thereof, or device or inscription attached thereto or painted or representation thereon, which is located upon any land, on any building, or on the outside or inside of a window, and which displays or includes any numeral, letter, word, model banner, emblem, insignia, device, trademark, or other representation used as, or in the nature or an announcement, advertisement, direction, warning, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry. This definition shall not include the flag, emblem, insignia, poster or other display of any nation or political subdivision including traffic or similar regulatory devices, or legal notices, warnings at railroad crossings, signs or tablets which are primarily memorials, or emblems of religious institutions that are attached to buildings.
- a. Advertising Sign: A sign which directs attention to a business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises upon which such sign is located, or to which it is affixed, and which is sold, offered or conducted on such premises only incidentally if at all.



- b. **Business Sign:** A sign which directs attention to a business, commodity, service, industry or other activity which is sold, offered, or conducted on the premises upon which such sign is located, or to which it is affixed.
- c. **Ground Sign:** A free-standing sign resting upon the ground or attached to it by means of two or more poles or standards.
- d. **Identification Sign:** A sign used to identify only: the name of the individual, family, organization or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.
- e. **Illuminated Sign, Directly:** A sign designed to give forth artificial light directly (or through transparent or translucent material) from a source of light within such sign, including but not limited to neon and exposed lamp signs.
- f. **Illuminated Sign, Indirectly:** A sign illuminated with a light so shielded that no direct rays there from are visible elsewhere than on the lot where said illumination occurs. If such shielding device is defective, such sign shall be deemed to be a directly illuminated sign.
- g. **Non-illuminated Sign:** A sign which is not illuminated, either directly or indirectly.
30. **Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.
31. **Street:** A public thoroughfare which affords the principal means of access to abutting property.
32. **Structure:** Anything constructed or erected, including a building, which has permanent location on the ground or anything attached to something having a permanent location on the ground.
33. **Structural Alteration:** The word "Alteration" shall include any of the following:
- a. any addition to the height or depth of a building or structure;
  - b. Any change in the location of any of the exterior walls of a building or structure;
  - c. Any increase in the interior accommodations of a building or structure. In addition to the foregoing, a building or structure shall be classified as altered when it is repaired, renovated, remodeled, or rebuilt at a cost in excess of fifty per cent (50%) of its value prior to the commencement of such repairs, renovation, remodeling or rebuilding.

34. Use: Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.
35. Use, Accessory: a use located on the same lot with a principal use, and clearly incidental or subordinate to and customarily in connection with the principal use.
36. Use, Principal: The main use on a lot.
37. Yard: An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.
38. Yard, Front: An open, unoccupied space on the same lot with a principal building extending the full width of the lot and situated between the street and the front line of the building projected to the side lines of the lot.
39. Yard, Rear: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

## ARTICLE XVII AMENDMENTS

The provisions of this Ordinance, including the Zoning Map, may from time to time be amended, supplemented, changed, modified, or repealed to accordance with the following procedure:

### SECTION 170 PROCEDURE

The regulations and the number, area, and boundaries of districts established by this Ordinance may be amended, supplemented, changed, modified or repealed by the municipal governing body, but no amendment shall become effective unless it is first submitted to the Municipal Planning Commission for its recommendation. The Municipal Planning Commission, upon its own initiative, may hold public hearings, public notice of which shall be given for the consideration of any proposed amendment to the provisions of this Ordinance or to the Zoning Map and report its recommendations to the Hamilton City Council. The provisions of Title 11, Chapter 52, Article 1, Section 76, Code of Alabama, 1975, as the same may be amended, shall apply to all changes and amendments. A proposed amendment shall not be heard by the Municipal Planning Commission more than once in any 12 month period since the same request was submitted to the Municipal Planning Commission, except that the Municipal Planning Commission may accept such amendments with unanimous consent of all members of a quorum present at a meeting of the Municipal Planning Commission.

## ARTICLE XVIII RESERVED

## **ARTICLE XIX LEGAL STATUS PROVISIONS**

### **SECTION 190 RE-ENACTMENT AND REPEAL OF EXISTING ZONING ORDINANCE**

This Ordinance amends and in part carries forward by re-enactment some of the provisions of the Zoning Ordinance of the City of Hamilton, adopted September 21, 2010, as amended. All provisions of the Zoning Ordinance of the City of Hamilton enacted September 21, 2010, as amended, which are not re-enacted herein are hereby repealed. All suits at law or inequity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are not pending in any of the Courts of this State or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance but shall be prosecuted to their finality the same as if this Ordinance had not been adopted; any and all violations of existing zoning ordinances, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate, or dismiss any litigation or prosecution not pending, and/or which may heretofore have been instituted or prosecuted.

### **SECTION 191 EFFECT UPON OUTSTANDING BUILDING PERMITS**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building structure or part thereof for which a building permit had been granted by the Building Inspector before the time of passage of this Ordinance; provided, however, that where construction is not begun under such outstanding permit within a period of sixty (60) days subsequent to passage of this Ordinance or where it has not been prosecuted to completion within eighteen (18) months subsequent to passage of this Ordinance, any further construction or use shall be in conformance with this Ordinance.

### **SECTION 192 VALIDITY**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City council of the City of Hamilton hereby declares that they would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

### **SECTION 193 INTERPRETATION AND PURPOSE**

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 which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances is mandatory. This Ordinance shall not lower the restrictions of plats, deeds, or private contracts, if such are greater than the provisions of this Ordinance.

**SECTION 194 EFFECTIVE DATE**

This Ordinance shall be effective and in full force from and after the date of its passage.

Wade Williams  
Signature  
Mayor of Hamilton

\_\_\_\_\_  
Date

Ken Williams  
Signature  
City Clerk of Hamilton

\_\_\_\_\_  
Date

Attest: