

AN ORDINANCE AMENDING ORDINANCE NUMBER 1987-1 OF THE TOWN OF FALKVILLE, ALABAMA, KNOWN AS THE *ZONING ORDINANCE OF THE TOWN OF FALKVILLE, ALABAMA*, BY CONSOLIDATING ALL SUBSEQUENT AMENDMENTS SO AS TO MAKE THE USE OF SAID ORDINANCES MORE CONVENIENT; AND REPEALING ORDINANCES NUMBERS 1988-4; 1989-14; 1995-6; 1998-7; 1999-4; 1999-7; 2001-1; 2001-13; 2008-4; 2011-1; 2011-6; 2013-8; 2014-2 AND 2014-9 OF THE TOWN OF FALKVILLE, ALABAMA DUE TO THE INCORPORATION OF THE PROVISIONS OF THOSE ORDINANCES INTO ORDINANCE NO. 1987-1 AS HEREBY AMENDED

WHEREAS, the Town Council of the Town of Falkville, Alabama ("Council") recognizes that Ordinance No. 1987-1 of the Town of Falkville, Alabama, being the *Zoning Ordinance of the Town of Falkville, Alabama* ("Zoning Ordinance") has, since its adoption in 1987 been amended numerous times; and

WHEREAS, the Council recognizes that interpreting and applying the *Zoning Ordinance* can be tedious and burdensome in light of the numerous amendatory ordinances which must be reviewed in doing so; and

WHEREAS, the Council deems it expedient and appropriate to recompile the *Zoning Ordinance* so as to incorporate all amendments to date.

NOW, THEREFORE, be it ORDAINED by the Town Council of the town of Falkville, Alabama, as follows:

SECTION 1.

a. Ordinances No. 1988-4; 1989-14; 1994-4; 1995-6; 1998-7; 1999-7; 2001-1; 2001-13; 2008-4; 2011-1; 2011-6; 2013-8; 2014-2; and 2014-9 are hereby repealed, subject to the provisions of subsection "b," "c" and "d" hereof.

b. The repeal of the above said ordinances does not affect any action, ruling, punishment or penalty incurred or which has occurred prior to or as of the effective date of such repeal, nor does it affect any action, suit, prosecution or proceeding pending as of the said effective date.

c. Nothing in this ordinance affects any application of or action pursuant to the repealed ordinances with respect to any matter which arose or occurred while they were in effect.

d. Nothing in this ordinance affects any offense or act committed or done, or any condition existing or any contract or right established under, any ordinance repealed hereby.

SECTION 2. The provisions of subsections "b," "c" and "d" of Section 1 hereof shall be effective as to original provisions of Article I of Ordinance Number 1987-1 of the Town of Falkville, Alabama and as those provisions are amended by Section 3 hereof.

SECTION 3. Ordinance Number 1987-1 of the Town of Falkville, Alabama is hereby amended by deleting the entire language of said ordinance and substitution of the following so that hereafter said ordinance shall read, in its entirety, as follows:

"ZONING ORDINANCE OF THE TOWN OF FALKVILLE, ALABAMA

AN ORDINANCE, PURSUANT TO THE AUTHORITY GRANTED BY SECTION 11-52-70 TO 11-52-84, ET. SEQ., *CODE OF ALABAMA, 1975*, PROVIDING FOR THE ESTABLISHMENT OF DISTRICTS WITHIN THE CORPORATE LIMITS OF THE TOWN OF FALKVILLE, ALABAMA; REGULATING WITHIN SUCH DISTRICT THE HEIGHT, NUMBER OF STORIES, AND SIZE OF YARDS AND OTHER SPACES, THE DENSITY OF POPULATION AND THE USE OF BUILDINGS, STRUCTURES AND LAND; ESTABLISHING AND EMPOWERING A BOARD OF ZONING ADJUSTMENT; AND PROVIDING METHODS

OF ADMINISTRATION OF THIS ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF.

PREAMBLE

IN ORDER TO LESSEN CONGESTION IN THE STREETS, TO SECURE SAFETY FROM FIRE, PANIC AND OTHER DANGERS, TO PROMOTE THE GENERAL WELFARE, TO PROVIDE ADEQUATE LIGHT AND AIR, TO PREVENT THE OVERCROWDING OF LAND, TO AVOID UNDUE CONCENTRATION OF POPULATION AND TO FACILITATE THE ADEQUATE PROVISION OF TRANSPORTATION, WATER, SEWERAGE, SCHOOLS, PARKS AND OTHER PUBLIC REQUIREMENTS, TO CONSERVE THE VALUE OF BUILDINGS AND TO ENCOURAGE THE MOST APPROPRIATE USE OF LAND THROUGHOUT THE TOWN, NOW, THEREFORE,

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FALKVILLE, ALABAMA, AS FOLLOWS:

ARTICLE 1

SHORT TITLE, ZONING MAP ADOPTED

a. This ordinance shall be known as the "*Falkville Zoning Ordinance*" and may be cited as such in all legal proceedings or other references to it.

b. The "*Town of Falkville Zoning Ordinance Map*" as adopted by Ordinance No. 2008-9 of the Town of Falkville, Alabama and subsequently amended is hereby adopted as the official zoning map of the Town of Falkville, Alabama and may be cited in all legal proceedings and other references as the "Town of Falkville Zoning Map," and in this ordinance as the "Zoning Map."

c. For convenience, without affecting the validity of said Ordinance No. 2008-9, the following provisions of said Ordinance 2008-9 are restated herein at this point as follows:

"The Map and all explanatory matter thereon are hereby adopted and made a part of this ordinance by reference. The Map shall be filed and maintained in the office of the Town Clerk. At any time as any territory is re-zoned or annexed into the Town and initially zoned, such zoning shall be indicated on the Map, together with the effective date of such zoning signed by the Mayor and attested by the Clerk. Alternatively, a new map indicating all property as zoned or re-zoned from time to time may be utilized so long as the same is signed by the Mayor, attested by the Clerk, and the dates upon which the initial adoption and the most recent revisions to the Map became effective are indicated thereon."

d. Annexed hereto in "Appendix A" are copies of above said Ordinance No. 2008-9 and all ordinances which specifically zoned or re-zoned specific parcels of property after adoption of such map and prior to the effective date of this ordinance. As new ordinances do likewise, copies shall be included in Appendix A.

ARTICLE II

DEFINITIONS OF WORDS AND TERMS USED IN THIS ORDINANCE

For the purpose of interpreting this ordinance, certain words or terms are herein defined. Except as defined herein, all words used in this ordinance shall have their customary dictionary definition according to the context in which they are used.

Section 2.0 Interpretation of Certain Terms and Words

- 2.01 Words used in the present tense include the future tense.
- 2.02 Words used in the singular number include the plural, and words used in the plural number include the singular.
- 2.03 The word "Map" or "Zoning Map" shall mean the "The Town of Falkville Zoning Ordinance Map."
- 2.04 The word "shall" is mandatory; the word "may" is permissive.
- 2.05 The word "Town" shall mean the Town of Falkville, Alabama.

Section 2.1 Definitions

- 2.11 *Accessory Structure.* A detached building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.
- 2.12 *Alley.* Shall mean a permanent servicerway providing a secondary access to abutting properties.
- 2.13 *Alteration; Altered.* 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; or
 - 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 five hundred dollars (\$500.00) or where alterations cost less than five hundred dollars (\$500.00), but change the character of the structure.

- 2.14 *Boarding house.* A building other than a hotel, cafe or restaurant where, for compensation, meals are provided for three (3) or more persons.
- 2.14(1) *Building Inspector.* Shall mean the Building Inspector of the Town, his or her designee, or the Mayor or any other Town Official designated by the Mayor or Council with the authority to administer the provisions of this ordinance.
- 2.15 *District or Zone.* Shall mean any section(s) or area(s) of the Town of Falkville as to which the regulations and restrictions of this ordinance as to the use of premises, or regarding buildings or structures thereon, are shared in common as distinguished from those of other section(s) or area(s). It shall also include the area included within the overlay area of the B-3 District as provided in Section 6.2.
- 2.16 *Dwelling, Single Family.* Shall mean a detached house or building designed and intended for, or occupied exclusively by, one (1) family (See 2.22) and having no party wall or walls in common with the adjacent house or houses, building or buildings.
- 2.17 *Dwelling, Two Family.* Shall mean a building designed and intended for, or occupied exclusively by, two (2) families (See 2.22) living independently of each other, or a secondary living unit on a lot with a conforming one-family residence.
- 2.18 *Dwelling, Multiple Family.* Shall mean a building intended as a residence for three (3) or more families (See 2.22) living independently of each other, including

apartment houses, condominiums, townhouses, apartment hotels, apartment cooperatives and group homes.

- 2.19 *Dwelling Unit.* Any portion of a building providing complete living facilities for one family (See 2.22).
- 2.20 *Drive-in Restaurant.* A restaurant or public eating business so conducted that food, meals, or refreshments are consumed in motor vehicles on the premises of such establishments.
- 2.21 *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.
- 2.22 *Family or Family Unit.* An individual; or two or more persons all related by blood, marriage or legal adoption, maintaining a common household in a single dwelling unit; or a group of not more than four adult persons who are not all related by blood, marriage or legal adoption, living together as a common household in a single dwelling unit. (Note: The natural or adopted children of any one of the persons living in this third category of "family" shall not count as one of the four persons in limiting the number of residents to qualify the group as a "family.")
- 2.23 *Home Occupation.* Any use customarily conducted entirely within a dwelling and carried on solely by the inhabitant thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in which not more than twenty-five (25) percent of the dwelling is used for said home occupation, and in which any signs advertising said home occupation are limited to one upright sign, not over two (2) square feet in area, and also in which there is no public display of goods. Examples of home occupations are: office of doctor, lawyer, or notary; dressmaking, the taking of tourists and boarders, home day cares and leasing of rooms.
- 2.24 *Hotel.* A building designed for occupancy as the temporary place of abode for individuals who are lodged with or without meals, in which there are ten (10) or more guest rooms, and in which no provision is made for cooking in any individual room or suite.
- 2.25 *Junk Yard.* Junk yards shall include any lot or parcel of land on which is kept, stored, bought or sold, articles commonly known as junk, including scrap paper, scrap metal, and used automobile bodies and parts.
- 2.26 *Lot.* A piece, parcel or plat of land occupied or capable of being occupied by one (1) main building, accessory buildings, uses customarily incidental to such main building and such open spaces as are provided in this ordinance.

2.26(1) *Manufactured Home Space.* A well-defined area of sufficient size to accommodate one manufactured home within a manufactured home park development.

2.26(2) *Manufactured Home Stand:* A permanent foundation of sufficient area to accommodate a manufactured home and its appurtenances, such as canopies, patios and porches.

2.27 *Minimum Livable Floor Area.* The minimum floor space required for dwelling units: The minimum livable floor area shall be expressed in square footage, by measuring dimensions between exterior walls. Carports, garages, patios, and similar unenclosed spaces shall not be considered livable floor area.

2.28 *Mobile Homes and Related Terms.*

a. *Mobile Home and House Trailer.* Except as inconsistent with the definition of the term "manufactured home" as set out in Section 2.28(b) hereof, in which case the definition set out in Section 2.28(b) shall apply, the terms "mobile home" and "house trailer" shall be construed to mean and include any structure intended for, or capable of human habitation, mounted upon wheels, capable of being driven, moved, propelled, drawn or towed from place to place without substantial change in structure or design, whether in one or in two or more connectable or disconnectable sections, regardless of by whatever name the same is colloquially or commercially known. Removal of wheels or placing such a structure on the ground, piers, mobile home stand or other foundation, temporary or permanent, or underpinning such a structure shall not remove the same from this definition.

b. The term "manufactured home" shall be construed to mean and include any structure defined by and constructed in accordance with *National Manufactured Housing Construction and Safety Standards Act of 1974* as amended (42 U.S.C. 5401, et seq., as amended). The definition as of the adoption of this ordinance is as follows, but shall be deemed amended at any times as said Section 42 U.S.C. 5401 shall be amended :

"Manufactured Home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title . (Note: See also Section 5.10)

c. The term "modular home" shall be construed to mean and include any factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential purposes and which bears a seal of compliance with regulations of the Alabama Manufactured Housing Commission.

- 2.29 *Mobile Home Park or Court.* Any site, lot, field, or tract of land privately or publicly owned or operated, upon which two (2) or more mobile homes used for living, eating or sleeping quarters are, or are intended to be, located, such establishments being open and designated available, whether operated for or without compensation.
- 2.30 *Motel, Motor Court.* A building or group of buildings containing one (1) or more guest rooms having separate exterior or interior hallway entrances for each such room or suite of rooms and for each of which rooms or suites of rooms automobile parking space is provided.
- 2.31 *Nonconforming Use.* A use of any structure of land which though originally lawful, does not conform with the provisions of this ordinance or any subsequent amendments thereto for the district in which it is located.
- 2.32 *Offices.* Space or rooms used for professional, administrative, clerical and similar uses.
- 2.33 *Public Land Uses.* Any land use operated by or through a unit or level of government, either through lease or ownership, such as municipal administration and operation, county buildings and activities, state highway offices, and similar land uses; and federal uses, such as post offices, and military installations, etc.
- 2.33(1) *Roadway.* As used in context referring to a manufactured home rental district, shall mean a vehicular circulation route within a manufactured home rental district. Otherwise, it shall have its obvious, common meaning.
- 2.34 *Rooming House.* Any building or portion thereof which contains not less than three (3) or 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.
- 2.35 *Semi-Public Land Uses.* Philanthropic and charitable land uses including; Y.M.C.A., Y.W.C.A., Salvation Army, churches and church related institutions, orphanages, humane societies, private welfare organizations, non-profit lodges and fraternal orders, hospitals, Red Cross, and other general charitable institutions.
- 2.35(1) *Site.* As used in context referring to a mobile home park development, shall mean a parcel of raw land comprising the total land area proposed for

development as a manufactured home park development.

- 2.36 *Street.* A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.
- 2.37 *Structure.* Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on the ground. Structures include, but are not limited to the following: site built buildings, industrialized buildings, modular homes, manufactured homes, mobile homes, billboards, swimming pools, advertising signs, satellite dishes, communications towers, storm shelters and fall-out shelters.
- 2.38 *Use.* The purpose for which land or a building or other structure is designed, arranged, or intended, or for which it is or may be occupied or maintained.
- 2.39 *Yard.* An open space on the lot with the main building, left open, unoccupied and unobstructed by buildings from the ground to the sky, except as otherwise provided in this ordinance.
- a. *Front Yard.* The yard extending across the entire width of the lot between the main building, including covered porches, and the front lot line or, if an official future street right-of-way line has been established, between the main building, including covered porches and the rear lot line.
- b. *Rear Yard.* The yard extending across the entire width of the lot between the main building and rear lot line, including covered porches and the rear lot line.
- c. *Side Yard.* The yard extending along a side lot line, from the front yard to the rear yard, between the main building, including covered porches and carports, and such lot line.
- 2.40 For definitions specific to swimming pools, see Section 5.4; for definitions specific to mobile homes and house trailers, see Section 5.10; for definitions specific to the B-3 (Intrastate Corridor) District see Section 6.2(b); for definitions specific to telecommunication towers, see Section 13.2.

ARTICLE III

ESTABLISHMENT OF DISTRICTS

Section 3.0 Districts Designations

For the purpose of this ordinance, the Town of Falkville is hereby divided into the types of districts

designated as follows:

- R-1 Residential District (Single Family)
- R-2 Residential District (Multi-Family)
- B-1 Business District (Local Shopping)
- B-2 Business District (General Business)
- B-3 Interstate Corridor Business District (Business Overlay)
- M-1 Industrial District (Light Industry)
- M-2 Industrial District (General Industry)
- MH-S Manufactured Home (Subdivision District)
- AG-1 Agriculture District
- I-D Institutional District

Section 3.1 District Boundaries

The boundaries of the above districts are hereby established as shown on the Zoning Map. Unless otherwise shown on the said Zoning Map, the boundaries of districts are lot lines, the centerlines of streets or alleys or such lines extended, railroad right-of-way lines or the corporate limits line as existed at the time of enactment of this ordinance or any subsequent rearrangement of the corporate limit lines. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules apply:

- 3.11 Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- 3.12 Where a district boundary line divides a lot in single ownership the district requirements for the largest portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than thirty-five (35) feet beyond the district boundary line.

ARTICLE IV

APPLICATION OF REGULATIONS

Section 4. Uses.

In each district no other use than the types specified as "permitted," or permitted on appeal," shall be allowed (See Article VI). Uses specified as "permitted " shall be permitted upon application to the building inspector. Uses specified as "permitted on appeal" are exceptions and no permit shall be issued for such uses except with the written approval of the Board of Adjustment and subject to such conditions as said Board may require to preserve and protect the character of the district.

Section 4.1 Building Lots, Yards and Open Spaces.

In each district each structure hereafter erected or altered shall be provided with the yards specified and shall be on a lot of the area and width specified in Article VI. No open space or lot required for a building or structure shall, during its life, be occupied by or counted as open space for another building or structure.

In all Residential Districts where a lot is located at the intersection of any two streets and where the lots are arranged so as to allow houses to face both streets, there shall be a setback requirement on both streets equal to the front yard setback. Where building lots are back to back in an arrangement which will not allow for houses to face the side street, there shall be a minimum sideyard requirement on the street of fifteen (15) feet.

In all Residential Districts where a house is oriented at an angle to abutting streets, the rear yard shall be determined by measuring the shortest distance perpendicular to the rear of the house to the closest property line and by then adding one half the distance of the altitude of the remaining triangle. The sum of these two distances may not be less than the required rear yard as specified under the appropriate district in Article VI, Residential District Requirements.

Section 4.2 Reductions In Lot Area Prohibited.

No lot shall be reduced in area so that yards and other open spaces total less than the minimum area required under this ordinance.

Section 4.3 Height.

In each district each structure hereafter erected or altered shall not exceed the heights specified in the district requirements, Article VI.

Section 4.4 Structures.

It is the intent of this ordinance that there shall be but one (1) main structure plus any permitted accessory structures on any lot used for residential purposes; also, that accessory structures shall not include living quarters, except that in all district protective shelters approved by the Emergency Management Agency or FEMA may provide temporary living quarters.

ARTICLE V

GENERAL PROVISIONS

Section 5.0 Nonconforming Use.

a. Any use or structure existing at the time of enactment or of subsequent applicable amendment to this ordinance, but not in conformity with its provisions, may be continued with the following limitations. Except as provided in any other provision of this ordinance to the contrary, any use or structure which does not conform to the provisions of this ordinance shall not be:

- i. Changed to another nonconforming use;
 - ii. Re-established after discontinuance for six (6) months;
 - iii. Extended except in conformity to this ordinance; or
 - iv. Rebuilt, altered, or repaired after fire or damage equal to its full value immediately prior to damage.
- b. For special provisions relating to the B-3 District, see Section 6.2(p).
- c. For special provisions relating to the billboards and advertising signs, see Section 5.12(b).

Section 5.1 Off-Street Automobile Parking and Storage.

In each zoning district other than B-3, which is governed by Section 6-3(h), each structure hereafter erected or altered shall be provided with off-street automobile parking as follows:

5.11 Residential.

In all cases of new structures, converted structures, or structures increased in capacity, facilities for the parking or storage of passenger vehicles for the use of the occupants of the dwelling units erected, altered or increased in capacity, there shall be provided and maintained on the premises as follows:

- a. Single Family Residence: In R-1 and R-2 Districts two (2) parking spaces for each dwelling unit.
- b. Two Family Resident: Two (2) parking spaces for each dwelling unit.
- c. Apartments: One and one-half (1 1/2) parking spaces for each dwelling unit.

5.12 Non-Residential.

In all cases of new structures or converted structures which are increased in capacity, facilities for the storage of vehicles for the use of the occupants, employees, and patrons of buildings hereafter erected,

altered or increased in capacity, shall be provided and maintained on the premises in accordance with the requirements of each type of use as follows, unless otherwise provided in this ordinance:

- a. Schools: One (1) parking space for each four (4) seats in the main assembly room plus one (1) space for each classroom.
- b. Church, community building, auditorium and place of public assembly: One (1) parking space for each five (5) seats in the main assembly area, or in the case of general purpose rooms without fixed seats, there shall be one (1) parking space for each thirty-five (35) square feet of floor area.
- c. Hotel: One (1) parking space for each room or unit offered for rent.
- d. Motel, Tourist Court, Tourist House, Boarding House, Rooming House: One (1) parking space for each room or unit offered for rent.
- e. Clinic or Professional Office: One (1) parking space for each professional, plus one (1) parking space for each twenty-five (25) square feet of floor area in the reception room, plus one (1) parking space for each two examining or conference rooms.
- f. Restaurant or Other Eating Place: One (1) parking space for each four (4) seats, or one (1) parking space for each fifty (50) square feet of floor space in such area, whichever is greater.
- g. Drive-In Restaurant and Refreshment Stand: Six (6) parking spaces per 100 square feet of area occupied by the facility.
- h. Office and Office Building: One (1) parking space for each four hundred (400) square feet of floor area. (See "e" above for professional offices.)
- i. Bowling Alley: Five (5) parking spaces for each lane.
- j. Industrial Uses: One (1) parking space for each one and one-half (1 1/2) employees.
- k. Mobile Home Court: Two (2) parking spaces for each mobile home, except as otherwise provided herein.
- l. Planned Shopping Center: Area devoted to parking and access shall not be less than three times the floor area proposed; and within this parking area there shall be a minimum of six (6) parking spaces per 1,000 square feet of floor area.
- m. Hospital, Sanitorium or Nursing Home: One (1) parking space for each two (2) beds, plus one (1) parking space for each five (5) employees or fraction thereof.
- n. Private Club or Lodge: One (1) parking space for each 200 square feet of floor space.
- o. Food Store and Market: One (1) parking space for each 200 square feet of floor

space.

p. Wholesale Use and Storage Building, Warehouse, Lumber or Fuel Business, Truck Terminals and Similar Uses: One (1) parking space for each one and one-half (1 1/2) employees.

q. Any use not otherwise specified: One (1) parking space for each two hundred (200) square feet of floor space.

r. Whenever two or more uses shall be made of the same property, the parking requirements for the use with the greatest required shall apply.

s. Whenever a structure or use may qualify under two or more classifications, the one with the largest requirement shall govern.

t. For regulations specific to the B-3 District, See Section 6.2.

5.13 Measurement of Area.

For the purpose of this section, "Floor Area" shall mean the gross floor area of all floors of a building or an addition to an existing building. The total parking area includes access drives within the actual parking area.

5.14 Existing Parking.

Any building which meets with the parking requirements of this ordinance on the effective date hereof or at any subsequent time, shall continue to comply fully with all requirements thereof. Any existing building which partially meets the requirements of this ordinance on the effective date thereof or at any subsequent time shall thereafter continue to comply as nearly with these requirements as the highest degree of compliance reached.

5.15 General.

No off-street parking required for a building or structure shall during its life be occupied by or counted as off-street parking for another building or structure but may be counted as yard space.

5.16 Parking Space.

An off-street space, enclosed or unenclosed, containing not less than 180 square feet of area exclusive of driveways appurtenant thereto, permanently reserved for the temporary parking or storage of one motor vehicle and connected without obstruction to a street or alley shall be counted as off-street parking area or space. (See also Section 6.2)

5.17 Design.

No parking space shall be so designated as to require the vehicle parked therein to back on to a public street, with the exception of single and two family residences. (See also Section 6.2)

All parking areas shall be surfaced for all-weather use equivalent to at least four (4) inches of limestone. (See also Section 6.2)

Section 5.2 Off-Street Loading and Unloading.

In each business and industrial district, each structure hereafter erected or altered shall be provided with off-street loading and unloading facilities as specified in the district requirements, Article VI.

Section 5.3 Corner Visibility.

In any district requiring a front yard setback, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of four (4) feet and fifteen (15) feet above street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two (2) 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 to the minimum front yard depth required on the side street.

Section 5.4 Swimming and Wading Pools

a. Definitions:

As used in this chapter, the following words and phrases shall have the meanings ascribed to them as follows:

Artificial pool shall mean a pool composed entirely of artificial construction, located above or below ground.

Partly artificial pool shall mean a pool formed from a natural body of water which has either so limited a flow or such an inadequate natural circulation that the quality of water must be maintained by artificial means.

Person shall mean any individual, partnership, corporation, entity, association, or public or private organization of any character.

Private swimming pool shall mean any pool designed, used and maintained for swimming purposes by an individual for use by members of his household and guests and located on a lot as an accessory use to a residence. Unless otherwise qualified the term "private swimming pool" shall be construed as including both artificial and partly artificial pools.

Wading pool shall mean any artificially constructed pool, not designed or used for swimming purposes, with a maximum area of one hundred and twenty (120) square feet and a maximum water depth of twenty-four (24) inches.

b. Fences or walls: Required; specifications; gates and doors.

(i) No person owning, controlling, in possession of or responsible for land within the Town, upon which is situated a swimming pool or wading pool or other outside body of water designed or used for swimming, dipping or immersion purposes by men, women or children, of a water depth exceeding twenty-four (24) inches, shall fail to maintain on the lot or premises upon which such pool or body of water is located a fence or wall.

(ii) Such fence or wall shall not be less than four (4) feet in height with a maximum height not to exceed seven (7) feet. Such fence or wall shall not have openings, holes or gaps larger than four (4) inches in any dimension, except for doors or gates; provided, however, that if a picket fence is erected or maintained, the horizontal gap dimension shall not exceed four (4) inches; provided, further, that a dwelling house or accessory building may be used as a part of such enclosure.

(iii) All gates or doors opening through an enclosure required by this section shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping, such doors or gates securely closed at all times when not in actual use. Such gates or doors shall have a latching device placed four (4) feet above ground level, or otherwise made inaccessible from the outside to small children; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure need not be so equipped. All such gates or doors shall be kept closed or latched when the pool or body of water is not in use.

c. Compliance with fencing provisions prerequisite to final inspection, approval.

Final inspection and approval of all swimming pools and wading pools constructed subsequent to November 1, 2013, shall be withheld until all the requirements of section 5.4 (b) have been complied with.

d. Variances.

Variances from the terms of this chapter shall be granted by the zoning board of adjustments only based upon the same standards as are required for other variances under the zoning ordinance.

Section 5.5 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 by the duly adopted "Comprehensive 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 5.6 Abatement of Noise, Smoke, Gas, Vibration, Fumes, Dust, Fire and Explosion Hazard or Nuisance.

The Board of Adjustment may require the conduct of any use, conforming or nonconforming, which results in unreasonable noise, smoke, gas, vibration, fumes, dust, fire, radio interference, or explosion hazard or any nuisance to surrounding property to be modified or changed to abate such hazard or nuisance to health, comfort, and convenience. The Board of Adjustment may direct the Municipal Building Inspector to issue an abatement order, but such order may be directed only after a public hearing

by the said Board, notice of which shall be sent by registered mail to the owners and/or operators of the property on which the use is conducted, in addition to due notice of advertisement in a newspaper of general circulation. A hearing to consider issuance of an abatement order shall be held by the Board of Adjustment either upon petition signed by any person affected by the hazard or nuisance or upon the initiative of the Board. An abatement order shall be directed by the Board of Adjustment only upon reasonable evidence of hazard or nuisance and such order shall specify the date by which the hazard or nuisance shall be abated. Appeals from such orders shall be in accordance with the provisions of Section 9.1.

Section 5.7 Group Housing Projects.

In the case of a housing project consisting of a group of two (2) or more buildings to be constructed on a plot of ground of at least four (4) acres not subdivided into the customary streets and lots 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 Board of Adjustment, with the advice of the Planning Commission in a manner that will be in harmony with the character of the neighborhood; that will insure substantially the same character of occupancy, density or 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 Town.

In no case shall the Board of Adjustment authorize a use or a building height or building area prohibited in the district in which the housing project is to be located.

Section 5.8 Manufactured Home Subdivision

1. Construction Permit Required

Construction of; addition to, or extension of a manufactured home subdivision may not commence until a construction permit has been obtained. A construction permit may not be issued until the final plat of the subdivision has been approved by the Falkville Planning Commission in accordance with this title.

a. Application for Construction Permit - Information Required

The following shall be reflected on the application for a construction permit:

- (1) name and address of the applicant;
- (2) legal description of the site;
- (3) final plat of the proposed subdivision, prepared in accordance with this Ordinance;
- (4) proof of ownership or legal land option.
- (5) See also Section 5.8(5).

2. General Requirements

- a. Each manufactured home shall be installed on its own lot;
- b. No manufactured home or lot within an MH-S district shall have vehicle access to an existing collector or arterial street;

- c. All principal structures within an MH-S district shall be single-family only;
- d. All towing devices, wheels, axles, hitches and license plates shall be removed;
- e. All manufactured homes shall have permanent steps, porches or decks on all outside doorways, the supports for which shall be permanently anchored in the ground to meet all applicable building codes;
- f. All manufactured homes shall have at least a nominal 3:12 roof pitch and the roof shall have a surface of wood shakes, asphalt composition shingles, fiberglass or metal tiles;
- g. Manufactured homes shall be installed as provided in the rules of the Alabama Manufactured Housing Commission Administrative Procedures Code;
- h. The subdivision shall be sited on not less than 3 acres;
- i. The development shall be located on a well drained site, graded to insure proper drainage and freedom from stagnant pools of water;
- j. Permanent residential structures, other than manufactured homes, shall not be permitted.
- k. Each development shall have at its perimeter a minimum yard of 25 feet allowing no structures to be placed or erected within this requirement.
- l. No building or structure erected or placed shall have a height greater than 3 stories or 35 feet;
- m. Accessory structures shall not exceed one story in height and shall be no larger than 33% of the total square footage floor area of the dwelling which occupies that space. Accessory structures must be located in the rear yard behind the main dwelling and shall have a rear setback of five feet;
- n. All residential structures shall be placed parallel to the existing public street.

3. Specific Requirements

Minimum Lot Size: Nine thousand (9,000) square feet.

Maximum Building Area: Fifty percent (50%) of the lot area.

Minimum Lot Width: Seventy-Five (75) feet.

Minimum Front Setback: Twenty (20) feet.

Minimum Rear Setback: Twenty (20) feet; unless at perimeter, then twenty-five (25) feet.

Minimum Side Setback: Ten (10) feet.

Maximum Density: Seven (7) lots per acre.

Off-Street Parking: Two (2) paved spaces per lot.

4. Uses Prohibited

Any use not permitted or permitted on appeal is prohibited. (See Section 6.1, "District MH-S" provisions.)

5. Review Procedure

The development shall meet all requirements of the Falkville Subdivision Regulations.

The following notes must appear of the face of the preliminary and final development plans:

'Road grades shall not exceed ten (10) percent.'

'This property is not (is) in an area designated as a special flood area, as shown on Community Map/Panel Number _____, Effective Date _____.'

Section 5.9 Mobile Homes and House Trailers, Etc., Generally; Construction Trailers

a. All mobile homes and house trailers, except as hereinafter provided, shall be located only where permitted or permitted on appeal by this Ordinance.

b. House trailers and other trailers may be parked and used on a bona fide construction site provided a permit is secured from the building official at the same time a permit for the construction of the permanent structure is issued. Temporary trailers shall be permitted for and during the construction period or until construction ceases, whichever occurs first. Temporary trailers shall be removed from site prior to the issuance of the certificate of occupancy for the permanent structure. No temporary trailer shall be used for residential purposes. No temporary trailer shall be placed nearer to any public street than 20 feet.

c. Camping or recreation trailers or motor homes may be stored in any district but shall not be parked upon any public street for a period of more than twenty-four (24) hours. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on any lot or in any location not approved for such use.

d. House trailers or mobile homes may be permitted as uses permitted on appeal by the Board of Adjustment within the AG-1 District, subject to the provisions of Article IX of this ordinance and the following site and structural requirements and design standards:

1. As a minimum, the minimum lot size, yard size and off-street parking requirements or regulations of the AG-1 District, shall be complied with in accordance with other provisions of this ordinance as they apply to the district in which a mobile home or house trailer is permitted under the provisions of this section.

2. Such house trailer or mobile home shall be of a type, design, and size as shall be suitable for human habitation.

3. No external structural changes or additions to a house trailer or mobile home will be allowed after said house trailer or mobile home is moved to any lot within the AG-1 District. An open-type carport, unattached from the house trailer or mobile home, will be allowed in conjunction with the placement of a house trailer or mobile home in an AG-1 District. The construction or erection of "lean-to" structures will not be allowed.

4. All house trailers and mobile homes to be located in such AG-1 District shall be placed parallel to the street with the front door facing the street. In the event the lot upon which the house trailer or mobile home is to be erected is located on a corner, then the front door of such house trailer or mobile home shall face as may be directed by the building inspector of the Town of Falkville, Alabama."

Section 5.10 Manufactures Homes Synonymous with Mobile Home and House Trailer

As used throughout *the Zoning Ordinance* the terms "mobile home" and "house trailer" shall be deemed to include manufactured homes as defined herein so that all provisions applicable to mobile homes and house trailers shall apply to manufactured homes unless inconsistent with the plain and obvious intent of the provision in which either term is used.

Section 5.11 Manufactured Homes, Mobile Homes and Modular Homes Generally

No mobile home, house trailer, manufactured home or modular home shall be located anywhere within the corporate limits of the Town of Falkville, Alabama, except as specifically permitted in the MH-S District, as permitted under Section 5.9(b), or as permitted on appeal in the AG-1 District.

Section 5.12 Advertising Signs and Structures

a. No outdoor advertising signs or structures shall be allowed in any residential district. In all other districts outdoor advertising structures may be placed within the applicable front yard or setback restrictions of a place of business, subject to the following terms and conditions:

1. Such structures must be used exclusively for the purpose of identifying or advertising the place(s) of business or activity(ies) at that location.
2. No such structure shall be placed at intersections or locations which would obstruct the view of intersecting traffic.
3. No such structure shall be placed within ten (10) feet of the front lot line or street right-of-way.
4. Nothing herein shall alter the effect of Section 5.3 of this Ordinance upon structures in districts requiring front yard setbacks.
5. Billboards, as defined hereafter, shall be prohibited in all districts.
6. "Billboard," as used herein, shall mean a sign, including the supporting sign structure, which is visible from a street, highway or other public way and which advertises goods or services or contains a message related or unrelated to a business, profession or activity conducted, or to a commodity or service sold or offered, upon the premises where such sign is located. However, a sign of no more than fifty (50) square feet, exclusive of necessary structural support, shall not be considered a billboard if located on the premises to which the message or advertising on said sign exclusively relates.

b. Billboards and other advertising signs and structures that lawfully existed prior to the adoption of this ordinance and which are prohibited under the terms of this ordinance may remain in use as non-conforming uses until they are altered, discontinued, damaged beyond fifty percent (50%) of their replacement value, become dilapidated and in disrepair or are removed. Such a billboard shall be

considered discontinued if not used for its intended purposes for a period of sixty (60) successive days.

- c. See also Section 13.3(6)

Section 5.13 Shipping Containers

a. "Shipping containers" shall mean any transportation trailer, shipping crate, cargo bin or other container produced for the transportation, relocation or shipping of any item(s), including containers without wheels intended to be loaded and hauled to another location for storage and containers which have been altered or pinned in any way to be rendered immobile.

b. In no residential district shall shipping containers be permitted on any parcel for any use. This restriction shall not prevent the use of such containers under the following limited circumstances: 1) for use as temporary storage on a bona fide construction site while a building permit is active and the square footage sum of all containers present does not exceed 20 percent of the square footage of the primary structure; 2) to load personal property for shipping or storage when such containers are removed from the subject property within fourteen (14) calendar days of placement. Upon written request to the building department, this maximum fourteen calendar day period may be extended on a week-to-week basis if deemed necessary by the building official up to a maximum of 30 calendar days from original placement.

Section 5.14 Condominiums and Limitations on Buildings on Single Lots.

For the purpose of this ordinance, no differentiation shall be made with regard to the ownership/conveyance form of a current property or proposed development when interpreting/enforcing the provisions herein. Multiple residential units occupying a single lot shall be permitted only in zones in which multifamily use is specifically permitted and all site plan and lot requirements pertaining to multifamily developments shall be in full force and effect. Multiple commercial units occupying a single lot shall be permitted only in zones in which the planned commercial uses(s) is/are specifically permitted and all site plan and lot requirements pertaining to the applicable commercial zone shall be in full force and effect. Land areas defined for ownership or conveyance as condominium units shall conform to all lot and permitted use requirements of the zone in which the property is located and shall be subject to all requirements/processes of the Falkville Subdivision Regulations as per a conventional subdivision.

ARTICLE VI

USE REGULATIONS

Section 6.0 District Requirements

Residential District Requirements

District R-1 Uses Permitted: Single family dwellings. (See also regulations common to all "R" district listed below).

District R-2 Uses Permitted: Dwellings and apartments for any number of families.
(See also regulations common to all "R" district listed below).

All "R" Districts:

Uses Permitted: Accessory structures; gardens (see "Uses Prohibited" below); playgrounds; parks, public buildings, including public schools and libraries.

Uses Permitted on Appeal: Modular homes; customary home occupations; public utility structures, such as electric substations, gas metering stations, sewer pumping stations, and similar structures; general hospitals for humans, except primarily for mental cases; churches; cemeteries; semi-public buildings; rooming and boarding houses; golf courses; municipal, county, state or federal uses; keeping of livestock, as "livestock" is defined in Ordinance Number 2013-6, on parcels two (2) acres or more in size or where the applicant owns two or more adjacent tracts which, in the aggregate, equal two or more acres and where the Board of Zoning Adjustment ("BZA") finds that allowing same will not be unreasonably detrimental to the neighborhood and is appropriate given the location of the property and other relevant factors. The BZA may impose reasonable specific conditions on the permitted use and the use shall be subject to conformity with other ordinances of the Town relating to the keeping of livestock.

Uses Prohibited: Manufactured homes, house trailers, mobile homes; house trailers or mobile home courts or parks; commercial and industrial uses, including parking lots or parking areas in connection with these uses not specifically permitted; keeping of livestock unless allowed on appeal; agricultural uses, other than gardens for growing vegetables for the personal use of the owner or occupant or growing ornamental plants, but not for ~~commercial~~ sale.

Note 'A': Corner lots shall have sufficient extra width to permit establishment of a building line fifteen (15) feet from the side street property line. The distance from the side street property line shall be measured from the street right-of-way paralleling the long dimension of the lot.

Note 'B': See also Section 5.11.

District MH-S

Uses Permitted: Manufactured Home Subdivisions.

Uses Prohibited: Mobile homes or house trailers other than manufactured homes as defined in Section 2.28(b); mobile home or house trailer parks or courts; commercial and industrial uses, including parking lots; parking areas in connection with these uses not specifically permitted

Uses Permitted on Appeal: All uses permitted or permitted on appeal in all 'R' Districts.

Business District Requirements

District B-1, Local Shopping District:

Uses Permitted: Neighborhood retail stores, markets, and restaurants, including the following types of stores: food; general merchandise; apparel; furniture; household and hardware; radio and television; drug and sundries; jewelry and gifts; florists; sporting goods; pet shops; and similar types; and neighborhood services, including the following types: dry cleaning and laundry pickup stations; barber and beauty shops; shoe repair; offices; banks; post offices; theaters; gasoline stations and similar services. Outdoor advertising signs and sign structures, as regulated under Article V, Section 5.9.

Residential structures existing at the time of adoption of this ordinance may be repaired, remodeled, and extended in conformity with the minimum requirements set forth in Article VI, Section 6.1 for R-2 Residential Districts.

Uses Permitted on Appeal: Any uses permitted, or permitted on appeal, in an R-2 Residential District and subject to all district requirements of said district as specified in Article VI, Section 6.0, herein.

Uses Prohibited: Major auto repair; laundry and dry cleaning plants; manufacturing; cabarets; night clubs, whether or not operated by nonprofit organizations, motels or motor courts; open lot sales for mobile homes, used or new; drive-in cafes; roller skating rinks; bowling alleys; curb markets and fruit stands; any uses prohibited in a B-2 Business District.

District B-2, General Business:

Uses Permitted: Any retail service or wholesale business not specifically restricted or prohibited and any use permitted in a B-1 Local Shopping District.

Uses Permitted on Appeal: Dry cleaners and laundries. Manufacturing incidental to a retail business where articles are sold at retail on the premises, not specifically prohibited herein.

Uses Prohibited: Stockyard; live animal sales; coal yard; lumber yard or mill; auto wrecking; gasoline, oil or alcohol storage above the ground in excess of five hundred (500) gallons; grist mill, hammer mill, feed mill, or flour mill, junk, scrap paper, or rag storage or baling; and residences. Any use prohibited in a M-1 Industrial District.

District B-3, (Interstate Corridor) Business District:

See Section 6.2

Industrial District Requirements

District M-1, Light Industry:

Uses Permitted: Light industrial operations not obnoxious, offensive or detrimental to neighboring property by reason of dust, smoke, vibration or industry; ice cream plants and creameries; cold storage plants; baking plants; dyeing plants; dry cleaners and laundries; mortuary or funeral homes; similar types of industries; and all business and service uses permitted in a B-1 Business District.

Wholesale and warehousing establishments, except for the storage of dangerous or offensive items such as incured hides, explosives, oil and gasoline.

Uses Permitted on Appeal: Any manufacturing use not specifically prohibited herein.

Any uses permitted or permitted on appeal in an R-2 Residential District and subject to all district requirements of said district as specified in Article VI, Section 6.0 hereof.

Uses Prohibited: Slaughter house; stockyard; bag cleaning; central mixing plant for cement, mortar, plaster, or paving materials; curing, tanning or storage of hides; distillation of bones; coal, tar or wood, fat rendering, forge plants; manufacturing of acetylene, acid, alcohol, ammonia bleaching powder, brick, pottery, terra cotta or tile, concrete blocks, candles, disinfectants, dyestuffs, fertilizers, illuminating or heating gas, including storage, paint, turpentine, varnish, soap, and tar products; wool pulling or scouring; junk yards; cotton waste reclaiming; and similar types of plants or operations.

District M-2, General Industry:

Uses Permitted: Any industrial operation or manufacturing use not specifically prohibited; truck terminals, including incidental repair and maintenance activities.

Uses Permitted on Appeal: Same as for M-1 (Light Industry) plus any uses permitted in AG-1.

Uses Prohibited: Any use not specifically permitted or permitted on appeal.

Miscellaneous District Requirements

District AG-1, Agricultural:

Uses Permitted: General farming, including horticulture; dairying; apiaries; livestock and poultry raising; fish hatcheries; and other similar enterprises or uses.

Aircraft landing fields, hangars, and equipment; cemeteries; golf courses; swimming pools; country clubs; recreation buildings of a public or quasi-public character; sanitoriums;

convalescent and nursing homes for human care; charitable institutions; animal hospitals and kennels; private clubs; lodges; summer cottages and camps; lodging and boarding houses.

Accessory buildings and uses customarily incidental to the above uses.

Any use permitted or permitted on appeal in a R-1 Residential District, and subject to all district requirements of a R-1 Residential District as specified in Section 6.0 herein.

Outdoor advertising structures, (subject to the provisions of Section 5.12); provided, however, that such use shall be conditional as follows: within sixty (60) days of the time that the Zoning Map is amended to cause advertising structures which have been erected in an Agricultural District to fall within a residential district, such structures shall be removed.

Uses Permitted on Appeal: House trailers, mobile homes and manufactures home (subject to Section 5.9[d]); sports arenas; recreation and amusement enterprises operated on a commercial basis; clubs, the chief activity of which is customarily carried on as a business, but only when these uses, in the opinion of the Board of Zoning Adjustment, will not impair an existing or potential future residential neighborhood, and are permitted subject to such conditions as the said Board may require to preserve and protect the character of the district and otherwise promote the purpose of this ordinance.

Uses Prohibited: Residential, commercial and industrial uses not specifically permitted or permitted on appeal.

District I-D, Institutional:

Uses Permitted: Public and private schools, colleges and academies; auditoriums, coliseums, gymnasiums, cafeterias, fraternity and sorority houses, stadiums, athletic fields in connection with public or private schools, religious, fraternal and charitable institutions, colleges and academies, orphanages; gardens, playgrounds; parks, public buildings, hospitals for human care; professional buildings primarily for use by physicians and other members of the medical profession; medical and dental clinics; pharmacies; places of residence for nurses and interns; book shops, churches, nursing homes.

Accessory structures and uses customarily incidental to the above permitted uses.

Uses Prohibited: Any use not expressly permitted or permitted on appeal.

Section 6.1 Space and Height Regulations

All R Districts:

Public and Semi -Public Structures:

Minimum Yard Size:		Minimum Lot Size:	N/A
Front Yard Feet	35	Area Square Feet	
Rear Yard Feet	35	Width Feet	
Side Yard Feet	35		

Maximum Height:		Maximum:	
Feet	50	Building Area Percent:	50
Stories	3		

Parking: See Section 5.1

Accessory Structures:			
Minimum Yard Size:		Minimum Lot Size:	None Specified
Front Yard Feet		Area Square Feet	
Rear Yard Feet	5	Width Feet	
Side Yard Feet	5		

District R-1:

Minimum Yard Size:		Minimum Lot Size:	
Front Yard Feet	35	Area Square Feet	12,000
Rear Yard Feet	30	Width Feet	85
Side Yard Feet	10		

Maximum Height:		Maximum:	
Feet:	35	Building Area Percent:	25
Stories	2 1/2		

Off-Street:
Parking Car Spaces 2

District R-2

Minimum Yard Size:		Minimum Lot Size:	
Front Yard Feet	30	Area Square Feet	9,000
Rear Yard Feet	30	Width Feet	75
Side Yard Feet	10		

Maximum Height:		Maximum:	
Feet:	35	Building Area Percent:	35
Stories	2 1/2		

Parking: See Section 5.1

All R Districts:

One or Two Family Dwellings:

Minimum Yard Size:		Minimum Lot Size:	
Front Yard Feet	25	Area Square Feet	7,000
Rear Yard Feet	25	Width Feet	60
Side Yard Feet	10		
Maximum Height:		Maximum:	
Feet:	35	Building Area Percent:	40
Stories	2 1/2		

Parking: See Section 5.1

For each additional family unit add:

Minimum Lot Size	2,000
Width:	5

District B-1, Local Shopping District

Minimum Lot Size: It is the intent of the ordinance that lots of sufficient size be used for any business or service use to provide adequate parking and loading space in addition to the space required for the other normal operations of the business.

Minimum Yard Size: Front, twenty (20) feet; rear, twenty (20) feet; side, not specified except on a lot adjoining along its side lot line a lot which is in a residential district there shall be a side yard not less than eight (8) feet wide.

Maximum Height: Thirty-five (35) feet or two (2) stories

Off Street Parking: See Article V, Section 5.1

Off-Street Loading and Unloading: Shall use required rear or side yard for loading and unloading.

District B-2, General Business District

Minimum Lot Size: Same as for B-1 Business District

Minimum Yard Size: None specified

Maximum Height: Sixty-five (65) feet or five (5) stories

Off-Street Parking: See Article V, Section 5.1

Off-Street Loading and Unloading: Shall provide space for lading and unloading for structures hereafter erected or altered when same are on lots adjoining an alley.

District B-3, (Interstate Corridor) Business District

See Section 6.2.

District M-1, Light Industry District

Minimum Lot Size: It is the intent of the ordinance that lots of sufficient size be used for any industrial, service, or business use to provide adequate parking and loading space in addition to the space required for the other normal operations of the enterprise.

Minimum Yard Size:

Front Yard: None specified, except where existing establishments (other than residential) are set back, any new structures shall be set back not less than the average of the setback of the existing establishments within one hundred (100) feet each side thereof.

Side Yards: None specified, excepting a lot, adjoining its side lot, adjoining its side lot line another lot which is in a residential district there shall be a side yard not less than eight (8) feet wide, with adequate and appropriate buffer planning.

Maximum Height: Forty-five (45) feet or three (3) stories.

Off-Street Parking: See Article V, Section 5.1.

Off-Street Loading and Unloading: Shall provide adequate space for loading or unloading all vehicles or trucks incidental to the operation of the industry or use.

District M-2, General Industry District

Minimum Lot Size: It is the intent of the ordinance that lots of sufficient size be used for any industrial, service, or business use to provide adequate parking and loading space in addition to the space required for the other normal operations of the enterprise.

Minimum Yard Size:

Front Yard: None specified, except where existing establishments (other than residential) are set back, any new structures shall be set back not less than the average of the setback of the existing establishments within one hundred (100) feet each side thereof.

Side Yards: None specified, excepting a lot, adjoining its side lot, adjoining its side lot line another lot which is in a residential district there shall be a side yard not less than eight (8) feet wide, with adequate and appropriate buffer planning.

Off-Street Parking: See Article V, Section 5.1.

Off-Street Loading and Unloading: Shall provide adequate space for loading or unloading all vehicles or trucks incidental to the operation of the industry or use.

District AG-1, Agricultural District

Minimum Lot Size: Minimum required lot area - fifteen thousand (15,000) square feet. Minimum required lot width at building line - one hundred (100) feet.

Minimum Yard Size: Front yard - 40 feet; rear yard - thirty (30) feet; side yards - ten (10) feet, excepting any structure used for the housing of livestock of any kind shall not be located closer than 100 (100) feet of any property line or line of a district other than an agricultural district.

Maximum Height: Thirty-five (35) feet or two and one-half (2 1/2) stories.

Off-Street Parking: See Article V, Section 5.1.

Off-Street Loading and Unloading: Shall provide adequate space for loading and unloading on rear and/or side yard.

District I-D, Institutional District

Minimum Lot Size: It is the intent of this section that lots of sufficient size be used for any business of service use to provide adequate parking and loading space in addition to the space required for the other normal operations of the business or service.

Minimum Yard Size: Front, 40 feet; rear 30 feet; side, 10 feet; except on a lot adjoining along its side line a lot which is in a residential district, there shall be a side yard not less than 25 feet wide.

Maximum Height: Thirty-five (35) feet or 2 1/2 stories.

Off-Street Parking: See Article V, Section 5.1.

Off-Street Loading and Unloading: Shall use required rear or side yard for loading and unloading.

District MH-S: See Sections 5.8 through 5.11, inclusive, and Section 5.13.

Section 6.2 B-3 (Interstate Corridor) Business District

(a) *Intent and Purpose.*

(1) There is hereby created a district to be known as the B-3 (Interstate Corridor) Business District, which shall be an overlay district imposing additional restrictions, conditions, prohibitions, uses and requirements in the areas overlaid by the B-3 zone and to which the requirements of this Section of the Zoning Ordinance shall apply in addition to those applicable in the primary underlying zone of any given property designated hereafter as within the B-3 overlay zone. Conflicts in the provisions for property zoned B-3 and the underlying primary zone for such property shall be resolved as provided in subsection "o" hereof.

(2) The purpose of this district is to ensure the protection of existing uses, yet accommodate the transitional nature of the areas immediately adjacent to Interstate 65. The B-3 overlay district is intended to accommodate development and growth unique to these areas, yet designed to facilitate and preserve the nature of these areas by providing for restricted uses.

(b) *Definitions.* As used herein the following terms shall have the meanings ascribed to them as follows:

(1) "*Overlay*" shall refer to a zoning district designation which applies in addition to the primary zoning district designation of a particular parcel of real property so that, in effect, said property has a dual zoning designation and is subject to the requirements and provisions of both the overlying and underlying zoning designations applicable to it with conflicts between the two zoning districts resolved as provided herein.

(2) "*Primary*" or "*underlying*" zoning district shall mean the zoning district designation of a particular parcel of real property other than B-3 and which is overlaid by the B-3 zoning designation as to that particular parcel of property.

(c) *Area Encompassed (District Boundary).* The B-3 zone shall consist of each separate parcel of real property within the corporate limits of the Town of Falkville, Alabama within two thousand five hundred (2500) feet of the Interstate 65 right-of-way, except that no tract zoned "R-1" or "R-2" shall be included within said B-3 zone and all such R-1 and R-2 parcels are hereby specifically excluded from such B-3 designation. Additionally, any property annexed into the Falkville corporate limits after the effective date hereof shall be automatically included in the B-3 district if within the designated boundary, unless specifically annexed in under some other district designation. The same exclusions applicable to R-1 and R-2 districts within the original B-3 area shall apply to property hereafter annexed as well.

(d) *Uses permitted.* Any use permitted in the primary zone, plus convenience store/center; restaurant; restaurant, fast food; motel; hotel; bank; fruit/vegetable market; public recreation facility; visitor center; department store; mall/shopping center; retail building materials/home improvement store.

(e) *Uses permitted on appeal.* Truck stop; truck wash/scales; dealership of new automobiles; and any use permitted on appeal in the primary zone may be permitted on appeal in the overlay zone.

(f) *Uses prohibited.* Any use prohibited in the primary zone, plus used automobile sales and/or automobile service outside the confines of an approved dealership of new automobiles; junkyard/salvage yard; stockyard; live animal sales; lumberyard or mill; self-storage units; and any use not specifically permitted or specifically permitted on appeal.

(g) *Specific requirements.*

(1) Minimum lot area: 15,000 square feet.

(2) Maximum building area: 60 percent of the lot.

(3) Minimum lot width: 150 feet.

(4) Minimum front setback: 40 feet.

(5) Minimum side setback: 10 feet; where it adjoins a residential district, the setback shall be 20 feet; where it adjoins a public street, the setback shall be 40 feet.

(6) Minimum rear setback: Ten feet; where it adjoins a residential district, the rear setback shall be 20 feet.

(7) Maximum height: Principle structure and appurtenances: 65 feet; signs: 110 feet.

(8) Every building or structure shall have a front setback of at least 40 feet; provided, however, that in the case of gasoline pumps, gasoline canopies and on-site signs the following setbacks shall apply: Signs: Ten feet; gas pumps and/or canopies: 15 feet.

(9) In the event of damage to a sign, the sign shall be repaired, replaced or removed within 60 days from the date the damage occurred.

(h) *Parking.* All parking lots or spaces shall be constructed of concrete or paved with asphalt and shall meet compaction and finished materials and marking specifications satisfactory to the Town's building official or engineer for the intended purposes of the particular parking lot or space. Parking spaces shall be based on total square footage of the principal structure as follows, unless provided for otherwise:

(1) Bank, drive-through: Space to accommodate autos equal to five times the number of teller windows.

- (2) Bank with business office: One space per 300 square feet plus one space per three employees.
- (3) Convenience market/center: Five spaces per 1,000 square feet.
- (4) Department store: One space per 300 square feet.
- (5) Fruit/vegetable market: One space per 100 square feet.
- (6) Hotel/motel: One space per guest unit plus one space per 200 square feet of meeting/restaurant area.
- (7) Recreational facility: One space per three patrons based on design capacity.
- (8) Restaurant, fast-food: One space per three patrons based on design capacity.
- (9) Restaurant: One space per four seats plus one space per employee.
- (10) Retail building materials/home improvement: One space per 300 square feet.
- (11) Truck stop: Five spaces per 1,000 square feet.
- (12) Truck wash: One space per three wash bays.

(i) *Landscaping.* Each site shall be landscaped with ten percent (10%) of the total land area in green treatment. A minimum of one-half the required landscaping shall be installed and maintained between the front property line and the structure. Where the site adjoins a residential district, an appropriate screening device at a height no less than six (6) feet shall be installed and maintained. This shall consist of evergreen trees or hedges, flowering plants, wood fence and the like.

(j) *Access roads.* Grouping of uses to provide an access off of the main road is strongly encouraged. The planning commission shall review each proposal for continuity and ease of travel. When an access road is required, each developer shall construct the road across that individual site. All access roads, drives and parking areas shall be constructed with concrete curbs and gutters unless specifically excepted by the building official or engineer, which shall only be given in the event adequate alternative facilities are provided.

(k) *Plan approval.* The Falkville Planning Commission shall review each proposal as a "Preliminary Site Plan." No building permit shall be issued until the Planning Commission has approved the final site plan. The intent of this requirement is to prevent undesirable site development which would unduly create inadequate circulation and congestion; to obtain maximum convenience, safety, economy and identity in relation to adjacent sites; and to provide maximum

flexibility for expansion, change in use and adaptation to individual needs. Accordingly, applicants for building permits shall submit site plans consisting of scale drawings no smaller than one inch equals fifty feet (1" = 50') clearly indicating the following:

- (1) Boundary information for the site including lot size and dimensions;
- (2) Building area percentage, dimensions and footprint;
- (3) Building setback lines;
- (4) Required fencing and/or screening;
- (5) Date of revision, if a revised plan;
- (6) Drainage ways and patterns, existing and proposed;
- (7) Easements for drainage and utilities;
- (8) Landscaping percentage;
- (9) Loading/unloading areas;
- (10) Vicinity/location map;
- (11) Location and size of existing and proposed utilities;
- (12) Name, address and telephone number of owner/developer;
- (13) Name, address and telephone number of site plan preparer;
- (14) Directional arrow indicating North;
- (15) Parking spaces and waste disposal (e.g. dumpster location);
- (16) Points of ingress/egress;
- (17) Names of all adjoining streets;
- (18) Scale not less than one inch equals one hundred feet;
- (19) Sign location with height and face size;
- (20) Name/identification of project and proposed use;

- (21) Names of adjacent property owners;
- (22) Flood plain information, if applicable;
- (23) Paved areas, curb and gutter.

(l) *Certificate of Occupancy.*

(1) Prior to the granting of a Certificate of Occupancy, all structures and landscaping shall be inspected and approved by the Town building official for conformance to the approved site plan. If, in the opinion of the official, all required landscaping has not been completed, the Certificate of Occupancy may nonetheless be issued if the owner provides a financial guarantee in the form of a performance bond. Said performance bond shall be received and accepted by the building official prior to the granting of the Certificate of Occupancy and shall be equal to one hundred twenty percent (120%) of the estimated total cost to complete all landscaping requirements. Performance bonding may be made by deposit with the Town of Falkville in the form of a certified check or in the form of an irrevocable letter of credit established with an acceptable financial institution, and automatic renewal after the initial period of ninety (90) calendar days wherein the Town has access to funds in the event the Town must contract for the completion of the required landscaping. The time allowed for the completion of all landscaping shall not exceed ninety (90) calendar days from the date of the issue of the Certificate of Occupancy and may be extended only by action of the Planning Commission. Any owner disagreeing with the refusal of the building official to issue the Certificate of Occupancy may appeal his decision to the Planning Commission, whose decision shall be final. Under no circumstance shall the Commission partially approve landscaping. Approval of landscaping by the Commission shall result in the return of the performance bond to the owner within ten (10) days. Rejection shall require the continued holding of the performance bond until such time as the Planning Commission has given its full approval.

(2) No land or building or other structure or part thereof hereafter built, moved or altered in its use shall be occupied or used until the Town's building official shall have issued a Certificate of Occupancy stating that such land or structure or part thereof, including landscaping, is found to be in conformity with the provisions of this Ordinance. The Town official shall have five (5) business days after submission of a request for a Certificate of Occupancy by an owner to make a final inspection. The building official shall then issue the Certificate of Occupancy if the premises are found to conform with the provisions of this Ordinance or, if it not found to so conform, shall refuse to issue such certificate and shall state the reasons for refusal in writing, together with remedial actions which must be taken to correct the defects.

(m) *Site Plan Expiration.* Once a site plan has been approved it is valid for a period of twelve (12) months, after which it becomes void unless a building permit has been issue based upon the approved site plan.

(n) *Enforcement.*

(1) Any person or entity violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500.00 or sentenced to not more than thirty (30) days in jail or punished by both such fine and imprisonment, plus the court costs. Each day that a violation continues shall constitute a separate offense.

(2) In addition to enforcing the criminal sanctions provided in subsection (1) hereof, the Town may institute an appropriate civil action to compel compliance with this Ordinance or to correct or abate such violations and to prevent the occupancy of any such building, structure or land until the same is made to conform with the provisions of this Ordinance.

(o) *Scope of Application.* All provisions of this Section 6.2 shall apply to all real property hereafter designated as within the B-3 zone. Such provisions shall be in addition to the provisions in effect as to such property attributable to such property's primary or underlying zoning designation. In the event of conflicts between the overlay zone and the primary zone provisions, the overlay provisions shall prevail. It is the intent of this Section that any given parcel of real property hereafter designated as within the B-3 zone should continue subject to all of the allowed uses and the restrictions of the primary zoning designation applicable to them unless the provisions of the B-3 zone specifically require otherwise and that the B-3 provisions apply over and above the provisions of the primary zoning designation. That is to say the overlay zone provisions shall govern over the underlying zone provisions where they conflict.

(p) *Nonconforming Uses.* As applicable to this Section 6.2, the provisions of Section 5.0 "nonconforming use" shall be applicable, except that within the B-3 zone and regardless of the underlying zone, the time allowed by Section 5.0(a)(ii) shall be reduced from six (6) months to ninety (90) days and except that where the actual use is strictly residential, the time allowed by Section 5.0(a)(ii) shall remain six (6) months.

ARTICLE VII

EXCEPTIONS AND MODIFICATIONS

Section 7.0 Lot of Record

Where the owner of a lot of official record at the time of adoption of this ordinance does not own sufficient adjacent land to enable him to conform to the yard and other requirements of this ordinance, one (1) building and its accessory structures may be built provided the yard space and other requirements conform as closely as possible, in the opinion of the Board of Zoning Adjustment, to the requirements of the district in which it is located and further provided that neither side yard shall be reduced to less than five (5) feet in width.

Section 7.1 Front Yard Setbacks

No building need be set back more than the average of the setbacks of the existing residences

within one hundred (100) feet each side thereof.

Section 7.2 Height Limitations

Height limitations shall not apply to church steeples, hospitals, sanitariums, barns, silos, farm structures, chimneys, flag poles, public utility poles, radio and television towers, antennae, and aerials, cooling towers, water tanks, and industrial structures when required by manufacturing process.

ARTICLE VIII

ADMINISTRATION, ENFORCEMENT AND PENALTIES

Section 8.0 Enforcing Officer

The provisions of this ordinance shall be administered and enforced by the Municipal Building Inspector, his or her designee or such other person designated by the Mayor or Council. This official shall have the right to enter upon any premises at any reasonable time prior to the issuance of a certificate of occupancy for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this ordinance.

Section 8.1 Building Permit Required

It shall be unlawful to commence the excavation or site preparation for or the construction of any building or other structure, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair (except repairs not changing the character of the structure or not exceeding five hundred dollars) in cost of any structure, including accessory structures, 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. Application for a building permit shall be made to the Building Inspector of the municipality on forms provided for that purpose.

Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within one (1) year of its date of issue, or if the work authorized by it is suspended or abandoned for a period of one (1) years.

Section 8.2 Approval of Plans and Issuance of Building Permit

It shall be unlawful for the building inspector of the Town to approve any plans or issue a building permit for any excavation, site preparation or construction until he has inspected such plans in detail and found them in conformity with this ordinance. To this end, the building inspector of the Town shall require that every application for a building permit for excavation, site preparation, 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 building inspector of the Town 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.

If the proposed excavation, site preparation, construction, moving or alteration as set forth in the application are in conformity with the provisions of this ordinance, the building inspector of the Town shall issue a building permit accordingly. If an application for a building permit is not approved, the building inspector of the Town shall state in writing on the application the cause for such disapproval. Issuance of building permit shall, in no case, be construed as waiving any provision of this ordinance.

Section 8.3 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 shall have issued a certificate of occupancy stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance.

Within three (3) days after the owners, or his agent, have notified the Building Inspector of the Municipality 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 occupancy if the building or premises or part thereof is found to conform with the provisions of this ordinance or, if such certificate is refused, to state the refusal in writing with the cause.

Section 8.4 Penalties

Any person violating any provision of this ordinance shall be fined upon conviction not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and costs for each offense, by a jail sentence not to exceed six (6) months, or by both such fine and jail sentence plus costs. Each day such violation continues shall constitute a separate offense.

Section 8.5 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 Building Inspector 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 remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to correct or abate such violation or to prevent occupancy of such building, structure or land.

ARTICLE IX

BOARD OF ZONING ADJUSTMENT

Section 9.0 Establishment and Membership of the Board of Zoning Adjustment

A Board of Zoning 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 Town Council, except that in the first instance one member shall be appointed for a term of three years, two members for a term of two years each, and two members for a term of one year each, and thereafter each member appointed shall serve for a term of three years or until his successor is duly appointed. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Additionally, to the five regular members, two supernumerary members shall be appointed to serve on the board at the call of the chairman only in the absence of regular members and while so serving shall have and exercise the powers and authority of regular members. Each member may be removed for cause by the appointing authority upon written charges and after a public hearing.

Section 9.1 Meetings, Procedure and Records

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 examination 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 9.2 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 appeal was taken. An appeal stays all proceedings in furtherance of the action appeal from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notices 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 restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

Section 9.3 Hearing

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. Upon hearing, any party may appear in person or by agent or by attorney.

Section 9.4 Powers and Duties

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

9.41 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administration official in the enforcement of this article or of any ordinance adopted pursuant thereto.

9.42 To hear and decide only such special exceptions as the board is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this ordinance.

9.43 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. A variance from the terms of this ordinance shall not be granted by the board of adjustment unless and until a written application for a variance is submitted demonstrating all of the following:

1. That special conditions and circumstances exist which are peculiar to the lands, structures, or buildings involved and which are not applicable to other lands, structure, or buildings in the same district.

2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
3. That the special conditions and circumstances do not result from the actions of the applicant.
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. The board of adjustment shall not grant a variance to permit a use expressly or by implication prohibited by the terms of this ordinance in said district.

9.44 In exercising the above mentioned powers, such Board may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and, to that end, shall have all the powers of the 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 this ordinance, or to effect any variation in this ordinance.

Section 9.5 Appeals From Action of the Board of Adjustment

Any party aggrieved by any final judgment or decision of the Board of Adjustments, may, within fifteen (15) days thereafter appeal the judgment or decision to the Circuit Court and file with the Board a written notice of appeal specifying the judgment or decision from which the appeal is taken.

ARTICLE X

AMENDMENT

Section 10.0 Procedure

The regulations and the number, area, and boundaries of the 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 recommendation to the municipal governing body. The provisions of Sections 11-52-76 and 11-52-77, *Code of Alabama, 1975*, as the same may be amended, shall apply to all changes and amendments.

ARTICLE XI

LEGAL STATUS PROVISIONS

Section 11.0 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, morals, 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 or regulations 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 11.1 Saving Clause

If any section, 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, clause, provision, or portion of this ordinance which is not in and of itself invalid or unconstitutional.

ARTICLE XII

FEES

Section 12.0 Fees

The provisions of Ordinance No. 2001-13 of the Town of Falkville, Alabama relating to Planning Commission fees shall be applicable to all zoning or rezoning applications.

ARTICLE VIII

COMMUNICATION TOWERS

Section 13.0 Purpose

- a. To establish minimum standards for wireless telecommunications facilities.
- b. To develop minimum requirements for site location, height, density.
- c. To accommodate telecommunications facilities consistent with the Federal Telecommunications Act of 1996, as amended.
- d. To prevent discrimination between and among the various providers in the wireless communication industry.
- e. It is encouraged to maximize the use of existing and approved towers, buildings, and other acceptable structures to accommodate new wireless communication facilities.
- f. To protect the public safety, health and welfare.

Section 13.1 Applicability and Severability.

a. **Applicability.** This section applies to communications towers located in business, industrial, agricultural and residential districts. No new Communication Tower shall be permitted or constructed without first obtaining a site plan approval or variance approval from the Board of Zoning Adjustment in accordance with the application and approval procedures set forth in this Article.

b. **Severability.** If any subsection, sentence or clause of this Article is held invalid or otherwise unenforceable by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and be severed without affecting the validity of the remaining portions of the Article.

Section 13.2 Definitions.

a. *Accessory structure compound:* A fenced, secured enclosure in which a wireless Telecommunications facility and its equipment, buildings, access roads, parking area and other accessory devices/auxiliary structures are located. The outline of an accessory structure compound shall be accurately defined on a site plan.

b. *Alternative support structure:* Any structure other than a wireless telecommunications tower, which may include, but is not limited to, buildings, water towers, light poles, power poles, telephone poles, church steeple, and other essential public utility structures.

c. *Communications Antenna:* A device used to transmit and/or receive wireless communication services as authorized by the Federal Communications Commission, including all mounts and supporting structures, other than supporting communications towers as defined herein.

Communications antennas shall include:

- (1) Microwave dish - parabolic antennas that emit microwave signals.
- (2) Panel antenna- vertical and horizontal plane antennas that aim radio signals in specific directions also known as *sector antennas*.
- (3) Whip antenna- cylindrical antennas, which emit radio signals in a 360- degree horizontal plane and compressed vertical plane as referred to as *stick, Omni-directional* or *pipe antennas*.

d. *Engineer:* An engineer registered with the State of Alabama and qualified to analyze and render a written opinion on the relevant issue(s) necessary for Town approval.

e. *Antenna:* An electromagnetic device that conducts radio signals through an attached cable or waveguide, to or from a radio transmitter or receiver. Typically this includes "whips," "cornucopia horns," "panels" and "parabolic dishes."

f. *Antenna support structure:* Any structure on which telecommunications antennas and cabling can be attached. Typically this includes steel towers with guy-wires (guyed-towers; wooden, steel or concrete single poles (monopoles); self-supporting steel towers with three or four "legs" (self-supporting/lattice towers); rooftops of existing buildings or structures (such as elevated water storage tanks).

g. *Co-location:* The placement of more than one wireless communications antenna by one or more telecommunications service providers on a single existing or new antenna support structure.

h. *Concealment Techniques:* Design techniques used to blend a wireless telecommunications facility, including an antenna thereon, unobtrusively into the existing surroundings so as to not have the appearance of a wireless telecommunications facility. Such structures shall be considered wireless telecommunications facilities and not spires belfries, cupolas, or other appurtenances usually required to be placed above the roof fluvial for purposes of applying height limitations. Due to their height, such structures must be designed with sensitivity to elements such as building bulk, massing, and architectural treatment of both the wireless telecommunications facility and surrounding development. Concealed towers developed on unimproved property must be disguised to blend in with existing vegetation. Example: A tower of such design and treated with architectural material so camouflaged to resemble a woody tree with a single trunk and branches on its upper pad also known as *monopine*.

i. *FAA:* Federal Aviation Administration.

j. *FCC:* Federal Communications Commission.

k. *Height:* When referring to a tower or other structure, the distance measured from the ground level at the base of the tower to the highest point on the tower or other structure, including if said highest point is an antenna placed on a structure or tower.

l. *Fall Radius:* The maximum engineer-certified distance from the tower base within which the tower is designed to collapse.

m. *Communications Towers:* Any ground-mounted structure that is designed and constructed primarily for the purpose of supporting one or more communications antennas including self supporting lattice towers, guyed towers or monopole towers.

The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, and the like taller than 60'.

Communications towers shall include:

1. Monopole towers - cylindrical self-supporting towers constructed as a single spire.
2. Self-supporting or lattice towers - self-supporting towers with multiple sides of open-framed supports.
3. Guyed towers - towers anchored with guy wires.
4. Camouflaged towers - self-supporting towers concealed such that they blend in with their surroundings. Such towers may be constructed to resemble objects, such as a tree or a street light, or may be concealed within another structure, such as a clock tower, church steeple or lamp post.

n. *Protected residential area:* Lots, subdivisions or otherwise designated areas planned or clearly intended for residential use, or areas currently in residential use, regardless of zoning classification or jurisdiction. A protected residential area shall include vacant lots carrying a residential zoning classification.

o. *Wireless Communication facilities:* Any and all buildings, structures, fixtures or other accessories (such as electrical boxes, equipment, sheds, guy wires, etc.) installed, used or intended for use in conjunction with any of the following:

1. Cellular Communications facilities- Low-powered transmitters used to transmit signals in a cell for cellular radio-telephone services (cellular phones), personal communication services (PCS), enhanced specialized mobile radios (ESMR), trunk mobile cellular radios, paging services and similar cellular-based communications to the general public.
2. Commercial Satellite facilities- Satellite earth stations which are greater than two (2) meters in diameter and are used to send and/or receive satellite signals and similar communications.

3. Microwave Relay facilities- Used to transmit radio signals between two or more fixed points by microwave antennas and similar transmission services.

p. *Wireless Communication Service Provider:* Any private company, corporation or similar such entity providing two-way interactive communications services (e.g. not to include paging services) to the general public by way of Cellular Communication facilities as defined under Wireless Communications Facilities.

Section 13.3 Standards and Requirements:

1. Co-Location Requirements.

All new towers constructed after the adoption of this Ordinance shall be designed and built to accommodate additional wireless communication service providers based on the height of the tower as follows:

Towers 61 to 150 feet in height shall accommodate a minimum of two (2) different providers, except as follows;

Towers 151 to 200 feet in height shall accommodate a minimum of three (3) different providers, except as follows;

Towers 201 to 250 feet in height shall accommodate a minimum of four (4) different providers.

Documentation that reasonable efforts have been made to achieve co-location shall be submitted. Applications for new antenna support structures must include an affidavit from the applicant verifying that no existing sites are available for co-location. If the owner of an approved antenna support structure refuses to allow a co-location, an affidavit shall be required that states the reason for the refusal.

Any existing communications tower that has space structurally and technically available for any additional communications antennas shall make such space reasonably and economically available to other providers.

As one of the conditions for approval of any new communication tower that has space structurally and technically available for any additional communications antennas the owner/operator shall make provision to accommodate or allow the use of the tower for the local law enforcement and fire department agencies for emergency purposes.

2. Lighting Restrictions.

Towers shall not be artificially illuminated, except for test indicator and safety lighting,

unless such lighting is specifically required by the Federal Aviation Administration (FAA) or other federal or state authority for a particular tower. In cases where the FAA does require a tower to be lighted, only red blinking lights shall be used at night and white strobe lights will be permitted for daytime lighting unless restricted by the FAA. Written documentation of any FAA directives to light a tower differently than provided herein must be submitted with the zoning application.

Any security lighting used at the facility shall be of a low-intensity nature. This lighting shall be focused only on the compound itself and shall be directed away from any adjacent property. Security lighting for the site shall not be flashing lights or greater than 20 feet in height. Wattage of such lighting shall be restricted to the equivalent of a 150-watt bulb.

3. Visual Impact, Appearance and Landscaping.

a. All new communications towers shall be designed to minimize adverse visual impacts on/from surrounding residential properties, the public right-of-way, or historically significant or aesthetically-sensitive areas through landscaping, camouflaging and/or other similar techniques, given the topography of the tower site and the surrounding area. If adjacent to developed properties, landscaping shall be provided in a manner that is compatible with the surrounding character of development, buildings, and natural vegetation.

b. The perimeter of the compound shall be landscaped with a buffer of plant materials that effectively screens the view of the compound from adjacent property and public ways. The standard buffer shall consist of a landscaped strip of at least 4 feet wide outside the perimeter of the compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived by the Building Official.

c. A row of trees a minimum of eight (8') feet tall and a maximum of 10 feet apart shall be planted around the perimeter of the compound fence. A continuous hedge at least 30 inches high at planting capable of growing to at least 36 inches in height within 18 months shall be planted in front of the tree line.

d. All landscaping shall be of evergreen variety. All landscaping shall be low moisture tolerant or irrigated. Any dead vegetation shall be replaced with a new plant of same variety and properly maintained by the property owner or lessor to ensure good health and variety.

e. Appearance - The design of the tower shall be of a type that has the least visual impact on the surrounding area.

1. Towers and antennas shall be painted neutral or blending colors so as to reduce visual obtrusiveness, unless subject to any applicable FAA standards. If an antenna is installed on a structure other than a tower, the antenna and supporting telecommunications facilities must be of a neutral color that is identical to, or close-

compatible with, the color of the supporting structure.

2. Towers shall not be taller than 250'.

4. Safety.

a. Radio Frequency - The applicant shall be required to submit documentation that the proposed wireless telecommunications facility complies with Federal Communications Commission standards for radio frequency emissions, as adopted by the FCC on August 1, 1996 or thereafter amended.

b. Structural - A Professional Engineer shall certify that all antenna support structure and wireless telecommunications equipment are erected and/or installed so as to comply with wind loading and other structural standards contained in the Standard Southern Building Code and the applicable technical codes established by the Electronic Industries Association (EINTIA 222-E "Structural Standards for Steel Antenna towers and Antenna Structures or the Telecommunications Industry Association.) The certification will also state that proposed communication tower is structurally and technically designed and capable and will be so constructed to meet the co-location requirements set forth in paragraph in this Section. This shall apply to new and modified structures and facilities.

c. Security of Site - Fencing shall be required to ensure that antenna support structures and their accessory buildings are fully secured. Sufficient anti-climbing measures must be incorporated into each facility, as needed, to reduce potential for trespass and injury. A sign shall be discreetly placed on the outermost structural element, which indicates the name and telephone number of a person responsible for the safety and maintenance of the facility.

d. Access - Provisions shall be made to provide access clearances for emergency vehicles.

5. Maintenance

Towers must be properly maintained. The owner of a communications tower shall be responsible for maintaining the structural integrity, safety, appearance, screening, buffers, security and other installations required by this Section and by any other applicable codes, ordinances, regulations, statutes or conditions of approval imposed by the Town of Falkville or its authorized representative, in perpetuity for as long as said tower remains on a site. Estimated life of structure must be included in submittal information.

Abandoned or Obsolete Towers. In the event the use of any wireless telecommunications facility has been discontinued for the period of 180 consecutive days, the wireless telecommunications facility shall be deemed to be abandoned. The Building Inspector, who shall have the right to request documentation and/or affidavits from the wireless telecommunications

facility owner regarding the issue of telecommunications facility usage, shall make determination of the date of the abandonment. Upon abandonment, the owner/operator of the wireless telecommunications facility shall have an additional 180 days within which to reactivate the use of the wireless telecommunications facility or transfer the wireless telecommunications facility to another owner/operator who makes actual use of the wireless telecommunications facility, or dismantle and remove the wireless telecommunications facility. At the earlier of 180 days from the date of abandonment with reactivation or upon completion of dismantling and removal, any variance approval for the tower facility shall automatically expire. The applicant shall sign an affidavit to this effect to be placed on file with the Town Clerk. In addition, the applicant shall provide the Town Clerk with a copy of the notice to the F.C.C. of the intent to cease operations and shall have 90 days from the date of such ceasing to remove the obsolete tower and all accessory structures and to restore the site to its original, or to an improved state at the tower owner's expense.

6. Signs and Advertising.

Except for original manufacturer's nameplates, warning placards and other reasonable signage affixed for safety and direction to authorized personnel as shown on the plan, no advertising messages or other information intended to be visible off-site shall be placed upon the tower, its antennas, or other appurtenances.

7. Uses and Standards.

Use Permitted: Towers in business districts as accessory structures shall not exceed a height of 60' and, in industrial districts towers as accessory structures are permitted to provide communications services internal to the facility owner or to its affiliates, provided that there is no fee charged for or lease of the communication services and provided further that such communication services are only accessory to the principal use of the owner's property on which they are located.

Use Permitted on Appeal: Communication towers above 60' shall be "uses permitted on appeal" in all districts and identified as "semi-public facilities."

Minimum Lot Size: Minimum lot size must not be less than 10,000 sq. ft.

Height and location restrictions:

a. No Communication Tower shall be located closer than 500 feet to the nearest boundary of a residential zoning district. Provided, however, that this requirement may be waived or otherwise modified with regard to a residence owned by the lessor of a tower site. However, such waiver or modification shall be contingent upon said owner/lessor submitting an affidavit indemnifying the Town of Falkville from any litigation, by the current and any subsequent owners, relating to the tower in question.

b. The maximum height of any tower whose underlying zoning district boundary lies, at any point, within five hundred (500') feet from a residential area shall be one hundred and eighty (180') feet.

c. Height in general in relation to a communication tower shall not exceed a maximum height of two hundred fifty (250') feet.

Setbacks. The setback from all property lines is:

a. Minimum setback shall be equal to the minimum principal structure setback of the underlying zoning district and shall be set back from the nearest residential structure a distance equal to the fall radius plus 10 feet. Variance from minimum setback standards may be considered only after an engineer certifies that the collapse of the tower would occur within a lesser distance. No towers shall be constructed within the front and side yard setbacks of the underlying zoning district.

b. The use of any concealment technique does not exempt a wireless telecommunications facility from any minimum yard requirements. Towers setbacks do not apply to alternative support structures.

c. Setback shall be measured between the base of the tower located nearest the property line and the property line.

8. Approval Procedure:

1. Each proposed communication tower applicant shall submit 4 sets of detailed site plan to the Town Clerk showing at a minimum the following:

a. the conceptual layout of the facility, including the location and dimensions of all improvements, setbacks, accesses, security installations (including fencing), landscaping and screening;

b. a description and drawing or photo simulation of the visual aspects of the proposed facility;

c. a buffer plan showing the nature of the setback space, both as it presently exists and as it will be after installation of the proposed facility; how it will address the requirements under visual impact, landscaping, screening; and the provisions that will be made for the ongoing maintenance of such space.

d. a current U.S.G.S quadrangle map (1:24,000), or equivalent, showing the proposed site location and at least a 2-mile radius around the site.

- e. a scaled elevation diagram of the facility, showing the type, height, finish, lighting, site improvements and other such details as necessary to convey an image of the facility at the proposed location
2. All proposed communication towers other than the use permitted by this section shall obtain approval from the Falkville Board of Zoning Adjustment.
 3. Each proposed communication tower shall submit a letter of approval/acceptance from the FAA/FCC concerning the proposal.
 4. Additionally, each applicant shall submit:
 - a. A list, description and map of the potential co-location, non-residential use or alternative location sites that are located within the geographical service area of the proposed site.
 - b. Documentation that requests for co-location have been made at least thirty (30) days prior to the filing of application with the Board of Zoning Adjustment.
 - c. An inventory of all the provider's existing communication tower and communication antenna sites in the planning jurisdiction of Falkville.
 - d. A study prepared by a radio frequency specialist that includes a mapped coverage analysis of the proposed facility and its relationship to the next nearest adjacent "cell" and an inventory and evaluation of existing towers, alternative sites and available structural facilities (e.g., buildings, billboards, water towers, etc., which could be used for support in lieu of a new tower considered within a 2-mile radius of the proposed location.
 - e. A fee of five hundred (\$500.00) to cover review costs incurred by reviewing the materials submitted with each application as required herein. This fee shall include the Board of Zoning Adjustment processing cost for variance request.
 5. After obtaining site plan approval from the City Staff and an approved variance request from the BZA, tower applicant may now proceed to obtaining a building permit with the Falkville Building Department."

SECTION 4. This Ordinance shall be effective immediately upon its adoption and publication according to law.

ADOPTED and **APPROVED** this the 8th day of March 2016., ~~2015~~.

APPROVED BY:

Bob Ramey, Mayor

ATTEST:
(Seal)

Dawn Estes, Town Clerk
LMW/zip1215/falkville.zoningordinance
T102-15M