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Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of Ordinances, City of Abbeville, Alabama," and may be so cited. This Code also may be cited by the title of "Abbeville City Code."

(Code 1987, § 1-1)

State Law reference— Authority to adopt code of ordinances, Code of Ala. 1975, § 11-45-7.

Sec. 1-2. Rules of construction and definitions.

In the construction of this Code, and of all ordinances, the following rules shall be observed, provided these rules of construction shall not be applied to any section of this Code or any ordinance which

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contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto:

General rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

Acts by agents. When any provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

Bond. The term "bond" means an obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event.

Building. The term "building" means any structure intended to have walls and a roof.

Business. The term "business" means any profession, trade, occupation and any other commercial enterprise conducted for monetary reward.

Chapter, article, division, subdivision, section, subsection. Unless otherwise indicated in the context, reference in this Code to chapters, articles, divisions, subdivisions, sections or subsections shall mean chapters, articles, divisions, subdivisions, sections or subsections of this Code.

State Law reference— Similar provision regarding state statutes, Code of Ala. 1975, § 1-1-15.

City, this city, in the city. The term "the city," "this city" or "in the city" means the City of Abbeville, Alabama, and includes any duly authorized officer or employee if the context so admits. Every section contained in this Code, whether expressed to apply "in the city" or not so expressed, shall apply, and have full force and effect within the corporate limits of the city and within the police jurisdiction thereof and within the territorial limits of any property or right-of-way owned by the city, wherever situated; provided that any such section shall not apply within the police jurisdiction if expressed to apply within the corporate limits of the city, or if the same cannot legally be made to apply in the police jurisdiction, or if the same, otherwise than by use of such terms as "in the city" or "within the city," contains clear inherent evidence of intent that it shall not apply in the police jurisdiction.

City officials, officers and employees. Whenever reference is made to officials, boards, commissions, departments, officers or employees by title only, this shall be construed as though followed by the words "of the City of Abbeville" and shall be taken to mean the official, board, commission, department, officer or employee of the city having the title mentioned or performing the duties indicated; and powers and authority granted to them shall be deemed to be grants of such powers and authority to their respective duly designated subordinates.

Code of Alabama. Whenever reference is made to the "Code of Alabama" or the "Alabama Code," it shall mean the Code of Alabama, 1975, as amended, or any subsequent code of the state.

Computation of time. The time in which an act is to be done must be computed by excluding the first and including the last day; and if the last day is a Sunday or legal holiday, that shall be excluded.

Council, city council, governing body. The terms "council," "city council" and "governing body" mean the city council of the City of Abbeville, Alabama.

County. The term "county" or "this county" means Henry County, Alabama.

Definitions. The definitions given within a chapter or article shall apply only to words or phrases used in such chapter or article, unless otherwise provided.

Gender. A word importing one gender only shall also extend and be applied to the opposite gender, and to firms, partnerships and corporations.

Interpretation. In the interpretation and application of any provision, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and

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general welfare. Where any provision imposes greater restrictions upon the subject matter than the general provisions imposed by this Code, or another ordinance, the provision imposing the greater restriction on regulation shall be controlling.

Joint authority. All words giving joint authority to three or more persons or officers give such authority to a majority of such persons or officers, unless it is otherwise declared.

Jurisdiction. All provisions of this Code and other laws and ordinances of the city prescribing police or sanitary regulations and prescribing penalties for violations thereof, shall have force and effect in the corporate limits of the city and in the police jurisdiction thereof and on any property or rights-of-way belonging to the city, except those provisions, laws and ordinances which specifically limit their force and effect to the corporate limits, or which, for any reason mentioned under the definition of "city" in this section, cannot legally apply in any such area outside of the corporate limits.

State Law reference— City planning commission jurisdiction over the subdivision of land extends five miles from the city, with exceptions, Code of Ala. 1975, § 11-52-30.

Licensee. The term "licensee" means any person to whom a city license is issued.

May. The term "may" is permissive and discretionary.

Month. The term "month" means a calendar month, unless otherwise expressed.

Must. The term "must" is to be construed as being mandatory.

Number. Words used in the singular include the plural, and the plural includes the singular.

Oath. The term "oath" includes affirmation.

Occupant. The term "occupant" means tenant or person in actual possession.

Operate. The term "operate" means carry on, keep, conduct, maintain, manage, direct or superintend.

Or, and. The term "or" may be read as "and" and the term "and" may be read as "or," where the sense requires it.

Owner. The term "owner" includes not only the owner of the whole, but includes the owner of any part of the property, any joint owner, tenant in common or joint tenant of the whole or a part of property.

Person. The term "person" extends and is applied to firms, partnerships, corporations, associations, organizations, trustees, agents and bodies politic, or any combination thereof, as well as to natural persons.

Personal property. The term "personal property" includes every species of property except real property, as defined herein.

Police jurisdiction. The term "police jurisdiction" means the territory outside the corporate limits of the city within 1½ miles thereof, or as otherwise permitted by statute, but not including territory within the corporate limits of any other incorporated municipality. The police jurisdiction shall not overlap the police jurisdiction of a neighboring municipality, but shall extend to the median line of such police jurisdiction lines, or as otherwise provided by laws of the state and the decisions of its courts.

State Law reference— Police jurisdiction determined by population, Code of Ala. 1975, § 11-40-10.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and personal property.

Real property. The term "real property" includes lands, tenements, and hereditaments.

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Reasonable time. In all cases where any provisions shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty, or compliance with such notice.

Shall. The term "shall" is mandatory.

Sidewalk. The term "sidewalk" means any portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

Signature or subscription. The term "signature" or "subscription" includes a mark when a person cannot write.

State Law reference— Proof of mark in conveyancing, Code of Ala. 1975, § 35-4-20.

State. The term "the state" or "this state" means the State of Alabama.

Street. The term "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the city, and shall embrace all parts thereof within the designated right-of-way. In those instances where the context requires, the term "street" shall embrace only the area between the opposite curbs or curb lines designated for vehicular traffic.

Tense. Words used in the present, future or past tense shall include each of the other tenses.

Wholesaler, wholesale dealer. In all cases where the term "wholesaler" or "wholesale dealer" is used in this Code or any ordinance, unless otherwise specifically defined, it shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale, as distinguished from a retail dealer who sells directly to the consumer.

Writing or in writing. The term "writing" or "in writing" may be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.

(Code 1968, §§ 1-2, 1-3; Code 1987, § 1-2)

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

(Code 1987, § 1-3)

Sec. 1-4. Effect of repeal of an ordinance.

- (a) No new ordinance shall be construed or held to repeal a former ordinance, whether or not such former ordinance is expressly repealed, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

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- (b) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinances repealed took effect.
- (c) This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.
- (d) Nothing contained in this Code shall be construed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, or as waiving any right of the city under any ordinance or provision thereof in force at the time of adoption of this Code.

(Code 1968, § 1-5; Code 1987, § 1-4)

Sec. 1-5. Severability.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code and all ordinances are severable, and if any phrase, clause, sentence, paragraph or section of this Code or any ordinance shall be declared invalid by the valid judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the validity or enforceability of any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code or an ordinance.

(Code 1987, § 1-5)

Sec. 1-6. Supplementation of Code.

- (a) By contractor or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them in a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing sections or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

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- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect or ordinance material included in the supplement or already embodied in the Code.

(Code 1987, § 1-6)

Sec. 1-7. Altering Code.

It shall be unlawful to change or amend by addition or deletion any part of this Code or to insert or delete pages or portions thereof, or to alter or tamper with this Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(Code 1987, § 1-7)

Sec. 1-8. General penalty; violations of Code, ordinance, or state law.

- (a) Any person committing an offense within the corporate limits of the city, or within the police jurisdiction thereof, which is in violation of this Code or any ordinance of the city, now existing or hereafter enacted, shall, upon conviction, be punished by a fine of not less than \$1.00 nor more than \$500.00, and/or may be imprisoned or sentenced to labor for the city for a period not exceeding six months, at the discretion of the court trying the case; provided, however, no penalty shall consist of a fine or sentence of imprisonment exceeding the maximum fine or sentence of imprisonment established under state law for the commission of substantially similar offenses.
- (b) Any person committing an offense within the corporate limits of the city, or within the police jurisdiction thereof, which is declared by a law or laws of the state, now existing or hereafter enacted, to be a misdemeanor shall, upon conviction, be punished by a fine of not less than \$1.00 nor more than \$500.00, and/or may be imprisoned or sentenced to labor for the city for a period of time not exceeding six months for a Class A or Class B misdemeanor, and not exceeding three months for a Class C misdemeanor, at the discretion of the court trying the case.
- (c) Any person found to be driving under the influence, in violation of Code of Ala. 1975, § 32-5A-191, as amended, shall, upon conviction, be punished by a fine of not less than \$250.00 and not more than \$1,000.00 for the first offense, not less than \$500.00 and not more than \$2,500.00 for the second offense, and not less than \$1,000.00 and not more than \$5,000.00 for the third or subsequent offense, as provided in the statute, in the discretion of the court trying the case. Imprisonment and labor shall be as provided by statute.
- (d) Any person committing an offense within the corporate limits of the city, or within the police jurisdiction thereof, which is declared by a law or laws of the state, now existing or hereafter enacted, to be an offense as defined in Code of Ala. 1975, § 13A-1-2, which is not declared by a law of the state to be a felony, misdemeanor or violation, shall, upon conviction, be punished by a fine of not less than \$1.00 nor more than \$500.00, and/or may be imprisoned or sentenced to labor for the city for a period of time not exceeding six months, at the discretion of the court trying the case.
- (e) Any person committing an offense within the corporate limits of the city, or within the police jurisdiction thereof, which is declared by a law or laws of the state, now existing or hereafter enacted, to be a violation shall, upon conviction, be punished by a fine of not less than \$1.00 nor more than \$200.00, and/or may be imprisoned or sentenced to labor for the city for a period of not exceeding 30 days, or double the pecuniary gain as authorized in Code of Ala. 1975, § 13A-5-12, at the discretion of the court trying the case.
- (f) Any corporation found to be in violation shall, upon conviction, be punished by a fine of not less than \$1.00, nor more than \$500.00, at the discretion of the court trying the case.

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- (g) In all cases where the same offense is made punishable or is created by different clauses or sections of this Code or of an ordinance, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense, provided the revocation of a license or permit, or the abatement of a nuisance and the assessment, of the cost thereof, shall not be considered a recovery or penalty so as to bar the enforcement of any other penalty.
- (h) Whenever a minimum, but not a maximum, fine or penalty is imposed, the court may in its discretion fine the offender the minimum or any sum exceeding the minimum fine or penalty so imposed, but not exceeding the maximum provided in this section.
- (i) No provision of this Code or any ordinance designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the city council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

(Code 1968, § 18-24; Code 1987, § 1-8; Ord. No. 3, 11-19-1977; Ord. No. 8-83, §§ 1—3, 8-15-1983)

State Law reference— Authority of city to enforce obedience to ordinances by fine not exceeding \$500.00 and by imprisonment or hard labor not exceeding six months, or both, Code of Ala. 1975, §§ 11-45-1, 11-45-9; punishment for DUI up to \$500.00 and one year in jail, Code of Ala. 1975, § 11-45-9; authority to abate nuisances, Code of Ala. 1975, §§ 11-47-117, 11-47-118; municipal courts, Code of Ala. 1975, § 12-14-1 et seq.; punishment, Code of Ala. 1975, § 13A-5-1 et seq.

Sec. 1-9. Violation of orders, rules and regulations adopted.

Any person who shall violate, or fail, neglect or refuse to comply with any lawful order of any lawful officer of the city made in pursuance of and under such officer's authority as such officer, who shall violate, or shall fail, neglect or refuse to comply with any of the codes, rules, regulations or laws adopted by this Code, shall be guilty of an offense; provided, however, the provisions of this section shall not apply to violations of official duty imposed by this Code upon officers or employees of the city as such, unless the provision imposing the duty also expressly makes the violation thereof unlawful or punishable.

(Code 1987, § 1-9)

Sec. 1-10. Imprisonment in default of payment of fine.

If a fine is assessed against any party by the judge, upon conviction under this Code or any of the ordinances of the city, and in the event the fines and costs are not then paid, the judge shall sentence the party so in default to work out the fine and costs under the direction of the city authorities, allowing an amount not exceeding \$15.00 for each day's service, within the limit prescribed by Rule 10(g) of the Rules of Civil Procedure for the courts of the state.

(Code 1968, § 1-10; Code 1987, § 1-10; Ord. No. 4-77, § 4, 4-4-1977)

State Law reference— Similar provisions, Code of Ala. 1975, § 12-14-12.

Sec. 1-11. Payment of costs by city.

No part of the costs, nor any of the fees due any officer in any case or proceeding for a violation of the city laws shall be taxed against or be paid by the city.

(Code 1968, § 25-27; Code 1987, § 1-11)

Sec. 1-12. Conflicts with technical codes.

In case of conflict between this Code and any technical code adopted herein by reference, the more restrictive provision shall apply.

(Code 1987, § 1-12)

Sec. 1-13. Ordinances, resolutions and activities not affected by Code.

The adoption of this Code shall not repeal or otherwise affect any of the following acts and ordinances in effect at the time of adoption of this Code:

- (1) Any offense or act committed or done or any penalty of forfeiture incurred or any contract or right established or accruing before the effective date of this Code;
- (2) Any ordinance promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;
- (3) Any resolution not mentioned in this Code and not inconsistent with it;
- (4) Any contract or obligation assumed by the city;
- (5) Any ordinance prescribing zoning or subdivision regulations, or zoning particular property;
- (6) Any right or franchise granted by the city;
- (7) Any ordinance dedicating, naming, establishing, locating, opening, widening, paving, etc., any street or public way in the city;
- (8) Any appropriation ordinance;
- (9) Any administrative or personnel ordinance not mentioned in this Code and not inconsistent with it, including, but not limited to, those concerning personnel manuals and policies;
- (10) Any ordinance dedicating or accepting any subdivision plat;
- (11) Any ordinance or resolution not in conflict with such Code regulating traffic on specific streets or portions thereof or in specific areas of the city;
- (12) Any ordinance levying any tax;
- (13) Any ordinance establishing any board, agency, commission or authority not mentioned in this Code and not inconsistent with it;
- (14) Any ordinance establishing voting districts;
- (15) Any ordinance not of a general and permanent nature (e.g., ordinances with expiration dates, ordinances concerning specific properties or locations, ordinances concerning named individuals and appointments, etc.).

(Code 1987, § 1-13)

Chapter 2 ADMINISTRATION

[Sec. 2-1. Composition of city council.](#)

[Sec. 2-2. Terms of office of elected officers.](#)

[Sec. 2-3. Councilmember places.](#)

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[Sec. 2-9. Procedure for the appointment of additional election officers for absentee ballots and provisional ballots.](#)

Sec. 2-1. Composition of city council.

The city council shall consist of a mayor and five councilmembers.

(Code 1968, § 2-11; Code 1987, § 2-1)

State Law reference— Similar provisions, Code of Ala. 1975, § 11-43-2.

Sec. 2-2. Terms of office of elected officers.

Officers elected at general municipal elections shall commence their terms of office on the first Monday in October following their election and serve for four-year terms, or until their successors are lawfully chosen and installed in office.

(Code 1968, § 9-14; Code 1987, § 2-2)

Sec. 2-3. Councilmember places.

(a) The offices of councilmember are hereby designated by place, as follows:

- (1) Councilmember, Place Number One.
- (2) Councilmember, Place Number Two.
- (3) Councilmember, Place Number Three.
- (4) Councilmember, Place Number Four.
- (5) Councilmember, Place Number Five.

(b) Persons qualifying as candidates for the office of councilmember at the general municipal election shall specify the place on the council for which they are a candidate.

(c) No person shall qualify as a candidate for more than one office on the council.

(Code 1968, § 9-15; Code 1987, § 2-3)

Sec. 2-4. Candidate qualification fees or qualifying without fee payment.

- (a) There is hereby established as fees for candidates qualifying for election to offices of the city to be paid to the city clerk, upon qualification as follows:
 - (1) For mayor, a fee in an amount as established from time to time.
 - (2) For councilmember, a fee in an amount as established from time to time.
- (b) Any person desiring to run for office in the city who is unable financially to pay the foregoing qualification fee may qualify by doing the following:
 - (1) File an oath with the city clerk, declaring that such person is financially unable to pay the foregoing qualification fee; and
 - (2) File a petition signed by not less than 50 qualified electors of the city, requesting the qualification of such proposed candidate.
- (c) No person shall be allowed to run for city office in the city without first qualifying in one of the methods set forth in this section.

(Code 1987, § 2-4; Ord. No. 5-84, §§ 1—3, 5-1-1984)

Sec. 2-5. Dates of elections.

- (a) Municipal elections shall be held on the fourth Tuesday in August of every fourth year.
- (b) In the event a runoff election is necessary, it will be held six weeks after the regular election.

(Code 1968, § 9-2; Code 1987, § 2-5)

State Law reference— Similar provisions, Code of Ala. 1975, §§ 11-43-2, 11-46-21.

Sec. 2-6. At-large elections.

The mayor and councilmembers shall be elected from the city at large, by the qualified electors of the city.

(Code 1968, § 9-13; Code 1987, § 2-6)

Sec. 2-7. Council meeting days.

The regular council meetings shall convene on the first and third Mondays each month, at such time as designated by the council at 6:00 p.m.

(Code 1987, § 2-7; Mo. of 5-5-1980)

Sec. 2-8. Council appointments.

The city council shall appoint the following city officials and all or some of the members of various boards, commissions, committees and authorities:

- (1) *City officials.* Municipal attorney.
- (2) *Boards, commissions, committees and authorities.*

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- a. Planning commission.
- b. Zoning adjustment board.
- c. Industrial development board.
- d. Housing authority.
- e. Library board.
- f. Recreation board.
- g. Water and sewer board.
- h. Southeast Alabama Gas District Board of Directors.
- i. Southeast Alabama Regional Planning and Development Commission Board of Directors.
- j. Human resource development corporation board of directors.
- k. Houston/Henry Crimestoppers board of directors.
- l. Henry County Board of Equalization.
- m. Abbeville Historic Preservation Commission.

(Code 1987, § 2-8)

Sec. 2-9. Procedure for the appointment of additional election officers for absentee ballots and provisional ballots.

- (a) At the time all other election officials are appointed pursuant to law, there shall be appointed three additional election officials who shall meet on the day of the election at the place and hour as provided for all election officials for the purpose of receiving, counting, and returning the absentee ballots cast in the election.
- (b) In addition to the duties so noted in subsection (a) of this section, these election officials shall also be responsible for the handling of any provisional ballots in the manner as required by law.
- (c) The election officials appointed pursuant to this section shall be in addition to other election officials required by law and shall be appointed in the same manner as other election officials.
- (d) When the election officials are appointed pursuant to this section, one of them shall be designated as the inspector.
- (e) The ordinance from which this section was derived shall remain in effect until repealed by subsequent ordinance adopted at least six months prior to an election.
- (f) The ordinance from which this section is derived shall be effective in all elections, both general and special, for aforesaid offices from and after the date of its adoption.

(Ord. No. 2-08-1, 2-18-2008)

Chapter 3 RESERVED

Chapter 4 AIRPORT [11](#)

[Sec. 4-1. Tie-down fee.](#)

[Sec. 4-2. Trespass; illegal operation of vehicle thereon.](#)

Sec. 4-1. Tie-down fee.

There shall be a tie-down fee at the airport, in an amount as established from time to time.

(Code 1987, § 3-1; Mo. of 3-16-1981)

Sec. 4-2. Trespass; illegal operation of vehicle thereon.

It shall be unlawful for any person to trespass upon the area within the boundaries of the airport of the city or to operate any vehicle upon or drive across said airport or any property of the city used in connection with and adjacent to said airport, unless such person is authorized by the city, or unless such use is for administrative or maintenance purposes and such use is done by airport authorities of the state or municipal officers.

(Code 1987, § 3-2; Ord. No. 12-79, § 1, 12-21-1979)

FOOTNOTE(S):

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State Law reference— Municipal airports, Code of Ala. 1975, § 4-4-1 et seq. ([Back](#))

Chapter 5 RESERVED

Chapter 6 ALCOHOLIC BEVERAGES [u](#)

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State Law reference— Municipal regulation of alcoholic beverages, Code of Ala. 1975, § 11-47-112; local license taxes, Code of Ala. 1975, § 28-3A-21; approval of retail license applications by council, Code of Ala. 1975, § 28-3A-23. ([Back](#))

ARTICLE I. IN GENERAL

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Sec. 6-1. Adoption of alcoholic beverage control board regulations.

The rules and regulations adopted and promulgated by the state alcoholic beverage control board, now in effect and as may be adopted or amended thereafter by the state alcoholic beverage control board, the violation of which constitutes a misdemeanor, are hereby adopted as laws of the city. The violation of any rule or regulation shall be punished by a fine of not less than \$25.00 within the limit contained in section 1-8, or imprisonment as provided in section 1-8, or both. Upon a second or subsequent conviction of a beer, wine, liquor or other alcoholic beverage licensee, or upon a second or subsequent conviction of an employee of such licensee, at least two of such convictions arising out of the employment of such employee by such licensee, for the violation of any such rule or regulation, the court may in its discretion revoke the business licenses of such licensee issued by the city and dealing with the right to sell beer, wine, liquor or other alcoholic beverages.

(Code 1968, § 3-1; Code 1987, § 4-1; Ord. No. 1-85-1, § 1, 1-21-1985)

State Law reference— Promulgation, etc., of regulations, Code of Ala. 1975, § 28-3-49.

Sec. 6-2. Purchase by, sale to, etc., minors; misrepresentations as to age.

(a) It shall be unlawful for:

- (1) Any minor person, directly or indirectly, to purchase any malt or brewed beverages, any wine, or liquor, or any alcoholic or intoxicating beverage, or to attempt to purchase any of such beverages.
- (2) Any minor person to possess or to consume any alcoholic or intoxicating beverages in any public place, or in any business establishment or club.
- (3) Any person to sell, furnish, give to, or purchase for any minor person any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverage or to attempt to sell, furnish, give to, or purchase for any minor person any of such beverages.
- (4) Any minor person, directly or indirectly, to represent falsely that such person is not a minor, and by means of such false representation, to buy, receive or otherwise obtain, or attempt to buy, receive or otherwise obtain any malt or brewed beverages, any wine or liquor, or any alcoholic or intoxicating beverages.
- (5) Any person, directly or indirectly, to represent falsely or attempt to represent falsely that a minor person is not a minor, and by means of such false representation, to aid or abet, or attempt to aid or to attempt to aid or abet, such minor person to buy, receive or otherwise obtain, or aid or abet

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such minor person to buy, receive or otherwise obtain, any malt or brewed beverage, any wine or liquor, or any alcoholic or intoxicating beverages.

- (b) For the purpose of this section, the definitions of "malt or brewed beverages," "wine or liquor," or "alcoholic or intoxicating beverages" shall be the same as they are defined in Code of Ala. 1975, title 28, as amended.

State Law reference— Definitions, Code of Ala. 1975, § 28-3A-2.

- (c) It shall be considered a false representation that a person is not a minor, that the purchaser fails to disclose that the person making the purchase, obtaining, or securing such malt or brewed beverages, or such wines or liquors, or such alcoholic or intoxicating beverages, is a minor person.
- (d) The violation of any provision of this section shall be punished by a fine of not less than \$25.00 within the limit of section 1-8 or imprisonment as provided in section 1-8, or both. Upon a second or subsequent conviction of a beer, wine, liquor or other alcoholic beverage licensee of the city, or upon a second or subsequent conviction of an employee of such licensee, at least two of such convictions arising out of the employment of such employee by such licensee, for the violation of any such provision, the court may in its discretion revoke the business licenses of such licensee issued by the city and dealing with the right to sell beer, wine, liquor or other alcoholic beverages.

(Code 1968, § 3-2; Code 1987, § 4-2; Ord. No. 1-85-1, § 1, 1-21-1985)

State Law reference— Purchasing, etc., by minors, Code of Ala. 1975, § 28-1-5; unlawful acts on licensed premises, Code of Ala. 1975, § 28-3A-25.

Sec. 6-3. Location of establishments.

No privilege license shall be issued for the retail sale of malt or brewed beverages, wines, liquors or other alcoholic or intoxicating beverages for consumption off the premises of the licensee where the place or establishment for which such license applied for is less than 300 feet from any school, church or park; no privilege license shall be issued for the retail sale of malt or brewed beverages, wines, liquors or other alcoholic or intoxicating beverages for consumption on the premises of the licensee where the place or establishment for which such license applied for is less than 600 feet from any school, church or park. The distances as provided in this section shall be calculated by measuring the nearest point on the property line of the school, church or park property to the nearest point of the storehouse in which the malt or brewed beverages, wines, liquors or other alcoholic or intoxicating beverages are being sold or kept for the purpose of resale. The provisions of this section shall not apply to renewals of such licenses issued prior to January 21, 1985, and now in existence, nor shall they apply to the application for a new license by a transferee of the business interest owned by a licensee then and presently licensed, who continuously maintains such license in the future.

(Code 1968, § 3-3; Code 1987, § 4-3; Ord. No. 1-85-1, § 1, 1-21-1985)

Sec. 6-4. License applications.

- (a) All applications for privilege licenses for retail sales of beer, wine, liquor or other alcoholic beverages shall be made in writing to the city clerk, on forms prescribed by the mayor, accompanied by a nonrefundable application fee of \$25.00. The application form must require, at a minimum, the name and address of each person having a beneficial interest of more than five percent in the business, a list of any violations of law committed by any such person within the past five years, a list of the addresses where any such person has lived within the past five years, and the distance to the nearest

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school, church or park property as measured according to section 6-3 and certified by a registered surveyor.

- (b) In addition to the requirements set out in subsection (a) of this section, the applicant must advertise the fact of the pending license application for sale of beer, wine, liquor or other alcoholic beverages. Except as provided in subsection (d) of this section, in every case of application made to sell beer, wine, liquor or other alcoholic beverages at any location within the corporate limits of the city, in addition to other advertisement required by law, the applicant shall, at his own expense, post on the premises where the business of sale is to be conducted, continuously for a period of not less than seven days prior to the consideration of the application by the city council, a posted notice of the pending application meeting the following minimum specifications: The notice shall be painted or printed in black letters three inches or more in height against a white background on a board or metal sign having a surface of not less than six square feet, shall be placed with the bottom of the sign not more than three feet from the ground on the most conspicuous part of the premises facing the street, road or drive not more than ten feet therefrom, and shall state clearly the nature and purpose of the application and the name of the person, firm or corporation making the application. The sign to be posted on the proposed location should read as below:

I, _____ (Applicant), have made application to the City Council of the City of Abbeville, Alabama, for a _____ (on) (off) (type of license) premises consumption, at this location, _____, Abbeville, Alabama. A public hearing will be held by the City Council in the regular meeting in the City Council's Chamber in City Hall at _____ o'clock p.m., _____, 20____.

- (c) Except as provided in subsection (d) of this section, the applicant is required, at his expense, to publish in the local weekly newspaper a copy of the publication as stated below, which in size shall be two columns wide and two inches in depth and which shall be bordered in heavy black lines. Proof of publication of advertisements shall be mailed or personally delivered to the City Clerk, City of Abbeville, P.O. Box 427, 101 East Washington Street, Abbeville, Alabama 36310, after advertisements have been published for three consecutive weeks. After receipt of such proof of publication and a police survey report, the application will be placed on the agenda to be heard before the city council.

I, _____ (Applicant), have made application to the City Council of the City of Abbeville, Alabama, for a _____ (on) (off) (type of license) premises consumption, at this location, _____, Abbeville, Alabama. A public hearing will be held by the City Council in the _____ regular meeting in the City Council's Chamber in City Hall at _____ o'clock p.m., _____, 20____.

- (d) The requirements for posting notice on the premises and publication of notice in the newspaper under subsections (b) and (c) of this section shall not apply to the following applicants:
- (1) An applicant for a retail table wine license for off-premises consumption who at the time of said application has a retail beer license for off-premises consumption.
 - (2) An applicant for retail table wine license for on-premises consumption who at the time of said application has a retail beer license for on-premises consumption.

(Code 1968, § 3-4; Code 1987, § 4-4; Ord. No. 1-85-1, § 1, 1-21-1985; Ord. No. 2-94-1, § 1, 2-21-1994)

Sec. 6-5. Drinking or possession of alcoholic beverages in public and on Sunday.

- (a) It shall be unlawful for any person to drink, or have in open or unconcealed possession or custody for drinking, any liquor or wine, at or in any public place in the city other than inside the building of a licensed liquor place.
- (b) It shall be unlawful for any person to drink, or have in open or unconcealed possession or custody for drinking, any malt beverage or brewed beverage, at or in any public place in the city other than inside the building of a licensed beer place or licensed liquor place.

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- (c) It shall be unlawful for any person to drink, or have in open or unconcealed possession or custody for drinking, any liquor, wine, malt beverage or brewed beverage, at or in any licensed beer place or licensed liquor place in the city at any time after 2:00 a.m. on Sunday, except in bona fide private clubs where permitted by state alcoholic beverage control board regulations.

(Ord. No. 7-89-1, § 1, 7-17-1989)

Sec. 6-6. Special downtown restaurant service district.

Establishments meeting all of the criteria set out in this section shall be exempted from the distance provisions established in section 6-3, Location of establishments, of the alcoholic beverages regulations contained in this Code. All other regulations relating to alcohol sales contained in this Code remain in full force and effect.

- (1) *Downtown restaurant service district defined.* The downtown restaurant service district shall be defined as follows:

Beginning at the intersection of North Trawick Street and Washington Street, thence proceeding east along Washington Street to the intersection of Bradley Street, thence proceeding south along Bradley Street to the intersection of East Kelly Street, thence proceeding west along East Kelly Street to the intersection of Kirkland Street, thence proceeding north along Kirkland Street to the intersection of West Williams Street, thence proceeding west along West Williams Street to the intersection of North Trawick Street, thence proceeding north along North Trawick Street to the point of beginning. All properties inside the stated perimeter and also properties being immediately adjacent to both sides of the stated perimeter roadways listed shall fall within the district. Properties that are located in the defined district but not meeting required zoning requirements are ineligible.

- (2) *Qualifying establishments defined.* "Qualifying establishments" shall be defined as any "licensed" restaurant established predominantly for the sale of on site food which maintains a minimum gross sales ratio of 60 percent food to 40 percent alcohol.

- (3) *Additional requirements.*

- a. Alcoholic beverages must not be sold or consumed outside the interior area of the restaurant. This means that alcoholic beverages may not be served or consumed on porches, patios, gazebos, porticoes, stoops, alleyways, under attached awnings, and similar areas that are either attached or detached from the main restaurant building.
- b. Facilities located in this district that choose to serve alcohol shall be required to submit a detailed report showing compliance with the 60 percent gross food sales requirement in subsection (2) of this section. Said report shall be sufficiently detailed to clearly show the gross sales of food and alcohol and shall be submitted to the city on or before the twentieth day of each month. The stated report shall include all sales for the immediately preceding month.
- c. Facilities located in this district that choose to serve alcohol shall be subject to any and all record inspections necessary for the city to ensure compliance with subsection (2) of this section.

- (4) *Penalty for noncompliance with any of the mandates outlined in this section.* Any violation of the provisions of this section shall place the restaurant in probationary status. A second violation within a 12-month period shall result in the revocation of the privilege to sell alcohol in the district. The stated revocation shall remain in effect for 12 months from the date revocation was made.

(Ord. No. 10-12-01, § 1, 2012)

Secs. 6-7—6-28. Reserved.

ARTICLE II. WHISKEY, WINE AND LIQUOR TAX

[Sec. 6-29. Tax levied.](#)

[Sec. 6-30. Reports and payment.](#)

[Sec. 6-31. Collection from purchasers.](#)

[Sec. 6-32. Records to be kept.](#)

[Secs. 6-33—6-52. Reserved.](#)

Sec. 6-29. Tax levied.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities as follows: upon every person, except private clubs which do not sell to the general public, engaged in the business of selling whiskey, wine or liquor at retail, \$0.25 for each half pint, \$0.50 for each pint, \$0.75 for each four-fifths quart, \$1.00 for each quart, \$2.00 for each one-half gallon, and \$0.10 for each miniature sold in establishments duly licensed under the provisions of this chapter and chapter 12.

(Code 1968, §§ 3-12, 29-79; Code 1987, § 4-20; Ord. No. 12-75, § 2, 12-1-1975; Ord. of 9-2-1980, § 1)

Sec. 6-30. Reports and payment.

The tax levied under provisions of this article shall be due and payable in monthly installments on or before the 20th day of the month next succeeding the month in which sales are made. On or before the 20th day of each month, every person upon whom the tax is hereby levied shall render to the city, on a form prescribed by the city, a true and correct statement showing the number of half-pints, pints, four-fifths quarts and quarts of whiskey, wine or liquor sold during the next preceding month, which report shall accompany payment of the tax herein levied.

(Code 1968, §§ 3-13, 29-80; Code 1987, § 4-21; Ord. No. 12-75, § 2, 12-1-1975)

Sec. 6-31. Collection from purchasers.

All persons subject to the provisions of the tax levied under this article may add the same to the sales price of the whiskey or liquor sold, and collect from the purchasers, but this is not mandatory; the seller may pay the tax without collecting same from the purchaser.

(Code 1968, §§ 3-14, 29-81; Code 1987, § 4-22; Ord. No. 12-75, § 2, 12-1-1975)

Sec. 6-32. Records to be kept.

All persons subject to provisions of the tax levied under this article shall keep and preserve for a period of two years all invoices, sales slips or evidences received from or issued by the state alcoholic beverage control store or agency from whom purchases are made, which will be subject to examination at all reasonable times by authorized representatives of the city.

(Code 1968, §§ 3-15, 29-82; Code 1987, § 4-23; Ord. No. 12-75, § 1, 12-1-1975)

Secs. 6-33—6-52. Reserved.

ARTICLE III. BEER TAX

[Sec. 6-53. Levy; collection from purchaser.](#)

[Sec. 6-54. Wholesale transactions exempt.](#)

[Sec. 6-55. Unlawful acts by licensees; punishment of violators.](#)

[Sec. 6-56. Penalties.](#)

[Sec. 6-57. Legislative intent.](#)

Sec. 6-53. Levy; collection from purchaser.

- (a) *Levy.* There is hereby levied a privilege or excise tax on every person licensed under the provisions of Code of Ala. 1975, title 28, article 3A, who sells, stores, or receives for the purpose of distribution, to any person within the corporate limits of the city, malt or brewed beverages. The tax levied hereby shall be measured by and graduated in accordance with the volume of sales by such person of beer, and shall be an amount equal to \$0.01625 for each four fluid ounces or fractional part thereof.
- (b) *Collection from purchaser required.* The tax levied by subsection (a) of this section shall be added to the sales price of all beer sold, and shall be collected from the purchasers. It shall be unlawful for any person who is required to pay the tax in the first instance to fail or refuse to add to the sales price and collect from the purchaser the required amount of tax, it being the intent and purpose of this provision that the tax levied is in fact a tax on the consumer, with the person who pays the tax in the first instance acting merely as an agent of the city for the collection and payment of the tax.
- (c) *Returns.* The tax levied by subsection (a) of this section shall be collected by a return in the form as prescribed or approved by the city, which shall be filed by the wholesaler with the city not later than the 15th day of the month following the month during which the beer is sold, which return shall be accompanied by the remittance of the tax due; provided, where the taxes are timely paid, the tax due shall be discounted by 2½ percent, which discount shall, subject to the provisions of section 6-56, be retained by said wholesaler for collecting the tax.
- (d) *Inspection, etc., of books.* The city shall have the authority to inspect, examine and audit the books and records of any person who sells, stores, or receives for the purpose of distribution, any beer, to determine the accuracy of any return required to be filed with it.
- (e) *Bond of licensee.* Any wholesale beer licensee who sells, distributes or delivers beer within the corporate limits of the city is hereby required to file with the city a bond in the penal sum of twice the amount of the average monthly tax due by the licensee to the city estimated by the city, conditioned upon the payment of the tax on beer levied by this article to become due by the licensee.

(Code 1968, §§ 3-17, 3-19, 3-20, 3-24; Code 1987, § 4-30; Ord. No. 9-82, § 1, 9-20-1982)

Sec. 6-54. Wholesale transactions exempt.

The tax levied in this article shall not be imposed upon the sale, trade or barter of malt or brewed beverages by one licensed wholesaler or distributor to another wholesaler or distributor licensed to sell and handle malt or brewed beverages within the city, which transaction is hereby made exempt from said

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tax; provided, however, that all such wholesale transactions shall be specifically reported in writing in such form as the city may require.

(Code 1987, § 4-31; Ord. No. 9-82, § 2, 9-20-1982)

Sec. 6-55. Unlawful acts by licensees; punishment of violators.

(a) It shall be unlawful for:

- (1) Any licensee to sell, give away or otherwise dispose of beer taxable under this article within the city, on which the taxes required by this article have not been paid within ten days after the date upon which they were due.
- (2) Any wholesale beer licensee to fail to keep for a period of at least three years complete and truthful records covering the operation of such license and particularly showing all purchases and sales of beer within the corporate limits of the city and the name and address of the vendor or vendee, or to refuse the city council or any authorized employee or agent of the city, access to such records or the opportunity to make inspection, examination, audit or copies of the same when the request is made at any time during which the licensed premises are open for the transaction of business.
- (3) Any wholesale beer licensee to refuse the city council, or any authorized employee or agent thereof or any duly commissioned law enforcement officer thereof the right to completely inspect the entire licensed premises at any time during which such premises are open for the transaction of business.
- (4) Any person to knowingly or willfully make, exhibit or file a falsified return or any information upon which said return is based for the purpose of defrauding the city by evading the payment of the tax levied by this article.

(b) Any violation of subsection (a) of this section shall be a misdemeanor punishable as provided in section 1-8.

(Code 1987, § 4-32; Ord. No. 9-82, § 3, 9-20-1982)

Sec. 6-56. Penalties.

- (a) Every wholesaler licensee collecting tax on beer levied by this article shall timely pay the same as provided in this article. Each such wholesaler licensee failing for a period of ten days beyond the due date to pay the tax due pursuant to this article shall be required to pay as part of the taxes imposed under this article a penalty of not less than \$50.00 nor more than \$250.00, to be assessed and collected by the city. In addition to such penalty, any wholesaler licensee failing for a period of ten days beyond the due date to pay all or any part of the tax due pursuant to this article shall not be entitled to deduct and retain the 2½ percent discount prescribed in section 6-53(c) upon any portion of the tax which is not timely paid.
- (b) If any taxes or penalties imposed by this section remain due and unpaid for a period of ten days, the mayor may issue a warrant or execution directed to any sheriff of the state, commanding such sheriff to levy upon and sell the real and personal property of the taxpayer found within such sheriff's county for the payment of the amount thereof, with penalties, if any, and the cost of executing the warrant, and to return such warrant to the city council and pay to it the money collected by virtue thereof. Upon receipt of such execution, the sheriff shall file with the clerk of the circuit court of such sheriff's county a copy thereof and thereupon the clerk of the circuit court shall enter in such clerk's abstract of judgments the name of the taxpayer mentioned in the warrant and in proper columns the amount of tax, with penalties, and costs for which the warrant was issued and the date and hour when such copy is filed, and shall index the warrant upon the index of judgments. The sheriff shall thereupon proceed

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upon the warrant in all respects with like effect and in the same manner prescribed by law in respect to executions issued against the property upon judgments of a court of record and shall be entitled to the same fees for services in executing the warrant to be collected in the same manner. The sheriff shall make return of such execution to the city council within 30 days of issuance thereof. The taxes and penalties imposed by this article shall be deemed a debt owing to the city by the party against whom the same shall be charged and shall be a preferred lien on all property of the party against whom the same shall be charged.

(Code 1968, § 3-25; Code 1987, § 4-33; Ord. No. 9-82, § 4, 9-20-1982)

Sec. 6-57. Legislative intent.

It is hereby declared the intention and purpose of this article to prescribe and levy a municipal tax on the sale of beer in conformity with the statewide act, Code of Ala. 1975, §§ 28-3-190 through 28-3-199, as amended, and the provisions of said statewide act shall prevail in any instance in which this article is contrary thereto.

(Code 1987, § 4-34; Ord. No. 9-82, § 6, 9-20-1982)

Chapter 7 RESERVED

Chapter 8 ANIMALS AND FOWL [\[1\]](#)

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[Sec. 8-13. Vicious, dangerous animals running at large prohibited.](#)

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[Sec. 8-15. Restraint of animals becoming nuisance to user of public streets or habitually trespassing in a damaging way.](#)

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Sec. 8-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means and includes dogs, cats and any other domesticated animals which are kept or maintained as pets.

Animal control officer means and includes such officer appointed by the city council and the police department.

Enclosure means the entire housed or fenced area where an animal is confined and also means the area where an animal is tied, chained or tethered.

Health officer means the county health officer or his authorized agents.

Owner means and includes any person having a property right in any animal, or who keeps or harbors an animal, or who has an animal in his care, or acts as its custodian, or who permits an animal to remain on or about any premises occupied by him or under his control.

Running at large means that an animal or fowl is off the controlled premises of the owner.

Vicious or dangerous means and includes any animal known to have attacked any person or known to have attacked any animal or fowl without provocation or otherwise having exhibited vicious tendencies.

(Ord. No. 8-02-1, § 1, 8-19-2002)

Sec. 8-2. Form of complaints.

Any citizen who desires to file a complaint regarding any alleged violation of this chapter must be willing to cooperate with the animal control officer and/or police department by signing a written complaint and agreeing to testify in open court if necessary. The written complaint shall serve as written documentation of the alleged violation and shall be used in the prosecution of the alleged violation.

(Ord. No. 8-02-1, § 2, 8-19-2002)

Sec. 8-3. Abandonment of animals.

It shall be a violation of this chapter for any person to intentionally abandon or drop off an animal inside the police jurisdiction of the city with the intent of abandoning the animal.

(Ord. No. 8-02-1, § 3, 8-19-2002)

Sec. 8-4. State rabies law adopted by reference.

There is adopted by reference Code of Ala. 1975, § 3-7A-1 et seq. The animal control officer may be appointed a deputy to the rabies inspector as provided in this chapter.

(Ord. No. 8-02-1, § 4, 8-19-2002)

Sec. 8-5. Maintenance of enclosure where animal is kept.

- (a) For the protection of the public health, every person who keeps an animal within the city shall at all times maintain the premises where any such animal is kept in a sanitary condition to prevent the hatching of fly or insect larvae and to prevent offensive odors emanating from the premises.

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- (b) Any person having care, custody or control of any such premises where any animal is kept confined or in an enclosure, who is given written notice by an agent of the police department pointing out any conditions that exist in violation of the provisions of this section, and who fails to remedy such conditions within five days from the receipt of such notice shall be guilty of a misdemeanor.
- (c) It shall be unlawful for any person who fails within five days after the receipt of such notice from an agent of the police department to correct the conditions pointed out in the notice to further keep or maintain such animal within the city.

(Ord. No. 8-02-1, § 5, 8-19-2002)

Sec. 8-6. Barking and howling animals.

It shall be unlawful for the owner of any animal kept within the city to permit the loud and frequent or continued meowing, barking, howling or yelping of such animal that annoys and disturbs the neighbors.

(Ord. No. 8-02-1, § 6, 8-19-2002)

Sec. 8-7. Cruelty to animals prohibited.

- (a) It shall be unlawful for any person to torture, cruelly beat, mutilate, cruelly kill, override, overload, confine in a vehicle without adequate ventilation, intentionally abandon or inflict any unnecessary cruelty upon any animal. The animal control officer may enter any unattended motor vehicle in which an animal is confined without adequate ventilation. It shall likewise be unlawful for any person who, having charge, custody or control of any animal, either as owner or otherwise, to inflict any unnecessary cruelty on or fail to provide the necessary sustenance, water and proper shelter for any such animal. This section shall not apply to the dehorning of cattle and normally accepted animal husbandry practices nor to the use of animals in connection with medical or scientific teaching or research.
- (b) It shall be unlawful for any person to set upon his property within the city any stakes, pits, snares, traps, poison or other device or substance calculated to cause hurt, injury, or death to any domestic animal. The fact that such device or substance is found or located on such land shall be presumptive evidence that the device or substance was set by the person in charge or control of such land.

(Ord. No. 8-02-1, § 7, 8-19-2002)

Sec. 8-8. Impoundment of animals.

- (a) When an animal is impounded under this section, an agent of the police department shall serve a written notice to the owner of the animal that such animal has been impounded.
- (b) Any animal impounded may be redeemed by the owner thereof within ten days upon payment of a daily impoundment fee to cover the cost of boarding and a penalty fee as established from time to time. If the animal is not redeemed by the owner within ten days, after notice is duly given as required in the section, it may be sold at private or public sale or humanely disposed of by the animal control officer.

(Ord. No. 8-02-1, § 8, 8-19-2002)

Sec. 8-9. Duties of animal control officer.

- (a) It shall be the duty of the animal control officer to take up and impound any animal authorized to be impounded by this chapter or by any other ordinances of the city.
- (b) It shall be the duty of the animal control officer or his designee to investigate all reported violations of this chapter and to report such violations to the police department.

(Ord. No. 8-02-1, § 9, 8-19-2002)

Sec. 8-10. Interference with, obstruction of enforcement.

- (a) It shall be unlawful for any person having charge, custody or control of any animal to fail or refuse to permit the animal control officer or health officer to inspect such animals and the premises on which they are kept to determine whether the provisions of this chapter have been complied with.
- (b) Any person who by word or act resists, obstructs or impedes the animal control officer or health officer or any other officer of the city or who uses threatening language toward such officer while engaged in the enforcement of this chapter or while engaged in the performance of any duty or in the exercise of any authority authorized by ordinance of the city or state law shall be guilty of a misdemeanor.

(Ord. No. 8-02-1, § 10, 8-19-2002)

Sec. 8-11. Duty of keeper to permit inspection of premises and to comply with direction of animal control officer.

Any person who keeps any animal within the city limits or its police jurisdiction shall permit the animal control officer or health officer to go on the premises at any reasonable time to inspect such premises and to comply with all reasonable requirements and directions given by the animal control officer or health officer pertaining to sanitation, fly or insect larvae control and the prevention of offensive odors.

(Ord. No. 8-02-1, § 11, 8-19-2002)

Sec. 8-12. Failure to comply with notice from animal control officer or health officer relative to premises.

- (a) Any person having charge, custody or control of any premises where any animal is kept who is given written notice by an agent of the police department pointing out any conditions that exist in violation of the provisions of this chapter, and who fails to remedy such condition within five days from the receipt of such notice shall be guilty of a misdemeanor.
- (b) It shall be unlawful for any person who fails within five days after the receipt of such notice from an agent of the police department to correct the conditions pointed out in the report to further keep or maintain such animal within the city.

(Ord. No. 8-02-1, § 12, 8-19-2002)

Sec. 8-13. Vicious, dangerous animals running at large prohibited.

- (a) It shall be unlawful for any owner of any vicious or dangerous animal to allow such animal to run at large in the city unless the animal control officer, after investigation, or the judge of the court trying a

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case for violation of this section shall find that the animal, although having bitten or attacked persons, animals or fowl, was provoked to such action in a manner that an animal that was not vicious would have responded to such provocation.

- (b) It shall be the duty of the animal control officer to investigate all complaints concerning vicious or dangerous animals. After investigation, the animal control officer shall make a determination as to whether such animal should be confined pursuant to this section.
- (c) If, after investigation, the animal control officer determines that the animal should be confined pursuant to this section, an agent of the police department shall so notify the owner in writing. The owner or any party aggrieved by the decision may appeal such decision of the animal control officer to the mayor or his designee. Such notice of appeal must be filed with the city clerk within five days of the receipt by the owner of the animal control officer's decision. The filing of such notice of appeal shall entitle the person seeking the appeal to a hearing before the mayor, but the filing of such appeal shall not suspend the decision of the animal control officer.
- (d) It shall be unlawful for the owner of any animal required to be confined under this section to allow such animal to run at large in the city.
- (e) It shall be no defense to a prosecution for a violation of this section that such animal was at large without the knowledge, consent, or permission of the owner.

(Ord. No. 8-02-1, § 13, 8-19-2002)

Sec. 8-14. Destruction of animal authorized.

After it has been reasonably investigated and ascertained that any vicious or dangerous animal has no owner and the animal is found running at large, the animal control officer, any policeman, or other officer of the city exercising police authority is authorized to destroy such animal.

(Ord. No. 8-02-1, § 14, 8-19-2002)

Sec. 8-15. Restraint of animals becoming nuisance to user of public streets or habitually trespassing in a damaging way.

- (a) It shall be unlawful for any animal to be at large off the owner's property or free to travel in the public streets unless under the restraints of a leash or chain or in the company and under the voice control of a responsible person when the owner of such animal has been notified that such animal:
 - (1) Has at any time destroyed the property of another, or habitually trespassed in a damaging way on property of persons other than the owner of the animal; or
 - (2) Has habitually run after and barked at pedestrians or vehicles (including cycles) lawfully using the public streets or sidewalks of the city.
- (b) It shall be the duty of the animal control officer to investigate all written complaints under this section. Upon a determination by the animal control officer that one or more of the following conditions exists, he shall notify the owner in writing that restraint is required:
 - (1) That an animal has habitually trespassed in a damaging way on the property of another; or
 - (2) That an animal has habitually run after and barked or threatened individuals or vehicles (including cycles) using the public streets and sidewalks.
- (c) It shall be unlawful for the owner of any animal, after having been notified that restraint is required, to allow his animal to be at large, off the owner's property, or free to travel in the streets, unless under restraint of a leash or chain or in the company of and under voice control of a responsible person.

(Ord. No. 8-02-1, § 15, 8-19-2002)

Sec. 8-16. Penalty.

Any person violating this chapter shall be guilty of a misdemeanor and shall be fined not less than \$25.00 nor more than \$100.00. Each violation shall constitute a separate offense.

(Ord. No. 8-02-1, § 16, 8-19-2002)

Sec. 8-17. Repeal.

The ordinance from which this chapter is derived does not repeal any other prior ordinance concerning the regulation of public streets which has been previously adopted by the city.

(Ord. No. 8-02-1, § 18, 8-19-2002)

FOOTNOTE(S):

--- (1) ---

State Law reference— Authority to regulate, Code of Ala. 1975, §§ 3-5-14, 3-7-13, 11-47-110; cruelty, Code of Ala. 1975, § 13A-11-14; impounding and disposal of rabies-suspect or rabid animals, Code of Ala 1975, § 3-7-9. ([Back](#))

Chapter 9 RESERVED

Chapter 10 BUILDINGS, CONSTRUCTION AND RELATED ACTIVITIES [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - UNSAFE AND DILAPIDATED STRUCTURES

FOOTNOTE(S):

--- (1) ---

State Law reference— Authority to regulate, Code of Ala. 1975, §§ 11-43-59, 11-45-8, 11-49-2, 11-53-1 et seq.; refusal to permit inspection, Code of Ala. 1975, § 13A-10-3; state minimum building standards code, Code of Ala. 1975, § 41-9-160 et seq.; state energy confirmation building code, Code of Ala. 1975,

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§ 41-9-170 et seq.; adoption of Alabama Residential Building and Energy Codes, Ala. Admin. Code R 305-2-4-.09; adoption of Commercial Energy Code, Ala. Admin. Code R 305-2-4-.08. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 10-1. Building inspector—Office created.](#)

[Sec. 10-2. Same—Enforcement of codes.](#)

[Sec. 10-3. Technical codes—Adopted by reference; amendments and deletions.](#)

[Sec. 10-4. Same—Reference to enforcement officials.](#)

[Sec. 10-5. Same—Board of adjustment and appeals.](#)

[Sec. 10-6. Same—Penalty for violation.](#)

[Sec. 10-7. Same—Most stringent provisions apply.](#)

[Sec. 10-8. Permit required; fees.](#)

[Secs. 10-9—10-34. Reserved.](#)

Sec. 10-1. Building inspector—Office created.

There is hereby created the office of building inspector for the city.

(Code 1968, § 5-11; Code 1987, § 6-1)

Sec. 10-2. Same—Enforcement of codes.

The building inspector shall enforce the provisions of the various codes adopted by reference in this chapter, except as otherwise provided.

(Code 1968, § 5-18; Code 1987, § 6-2)

Sec. 10-3. Technical codes—Adopted by reference; amendments and deletions.

The following codes, one or more copies of each of which are on file in the office of the city clerk, are hereby adopted by reference as though they were fully copied herein, subject to amendments and deletions and more stringent provisions contained in this Code:

- (1) 2012 International Building Code;
- (2) 2012 International Fuel Gas Code;
- (3) 2012 International Plumbing Code;
- (4) 2012 International Mechanical Code;
- (5) 2012 International Swimming Pool and Spa Code;
- (6) 2011 National Electrical Code.

State Law reference— Authority of city to adopt technical codes by reference, Code of Ala. 1975, §§ 11-45-8, 41-9-166.

Sec. 10-4. Same—Reference to enforcement officials.

When reference is made within said technical codes as to the duties of certain officials, the building inspector of the city shall be deemed to be the responsible official insofar as enforcing the provisions of the codes is concerned, except as otherwise provided.

(Code 1987, § 6-4)

Sec. 10-5. Same—Board of adjustment and appeals.

The board of adjustment and appeals required by any of the codes adopted by reference in section 10-3 shall be the now-existing zoning board of adjustment established in section 113 of appendix A to this Code.

(Code 1987, § 6-5)

Sec. 10-6. Same—Penalty for violation.

Any person proceeding to erect, improve, remodel or move any building without complying with the provisions of the technical codes, or continuing to construct, remodel, improve or move the same in a manner not in accordance therewith after such person's attention has been called in writing to such variation by the building official, shall be liable to the penalty prescribed in section 1-8.

(Code 1987, § 6-6)

Sec. 10-7. Same—Most stringent provisions apply.

Unless specifically otherwise provided herein, if any provisions in the technical codes referenced in section 10-3 are contrary to existing ordinances of the city, said ordinance provisions shall prevail, and to that extent, any such code provisions to the contrary are hereby repealed in that respect only.

(Code 1987, § 6-7)

Sec. 10-8. Permit required; fees.

- (a) Before erecting, remodeling or demolishing a building in the city, any person doing such work shall obtain from the city clerk a permit therefor and shall pay for said permit a fee as established from time to time, and based upon criteria established from time to time by the city.
- (b) Any person undertaking any work covered by this chapter without first obtaining a permit shall be subject to punishment as provided in section 1-8.

(Code 1987, § 6-8; Ord. No. 4A-70, §§ 1, 2, 5-4-1970)

Secs. 10-9—10-34. Reserved.

ARTICLE II. UNSAFE AND DILAPIDATED STRUCTURES

[Sec. 10-35. Findings and purpose.](#)

[Sec. 10-36. Definitions.](#)

[Sec. 10-37. Notice.](#)

[Sec. 10-38. Request for hearing.](#)

[Sec. 10-39. Repair, demolition and assessment.](#)

[Sec. 10-40. Payment of assessment.](#)

[Sec. 10-41. Failure to pay assessment.](#)

[Sec. 10-42. Right of redemption.](#)

[Sec. 10-43. Certificate of warning to redeem.](#)

[Sec. 10-44. Emergency action.](#)

[Sec. 10-45. Conflicting issues.](#)

Sec. 10-35. Findings and purpose.

- (a) The existence of unsafe and dilapidated buildings and structures within the city constitutes a public nuisance, the abatement of which burdens the city treasury and contributes to blight and crime in neighborhoods.
- (b) Code of Ala. 1975, § 11-53B-1 permits the city, after meeting certain notice requirements, to repair or demolish unsafe buildings and to provide an effective means of collecting an assessment lien on the property for the costs of the work involved in abating the nuisance.
- (c) Implementing the procedures authorized by state law will be more efficacious in eliminating these nuisances and will protect the public safety, health, and welfare.
- (d) All buildings, structures, and equipment which are unsafe, unsanitary, or not provided with adequate egress or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are severally in contempt of this article.
- (e) It is the intent of the city to abate these public nuisances as the resources become available.

(Ord. No. 08-11-2, § 1, 9-6-2011)

Sec. 10-36. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assessment means the cost incurred to repair or demolish a structure as provided by this article.

Building means any building, structure, part of a building or structure, party wall, foundation used or intended for supporting or sheltering any use or occupancy.

Certifying agency means any independent public or private agency utilized for expertise in certifying condition of properties.

Designated official means the city clerk or any other municipal employee designated by the mayor to exercise the authority and perform the duties provided in this article.

Owner means the person last assessing the property who is the record owner of the property for state taxes according to the county tax assessor records.

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Permanent improvements means all repairs, improvements, appurtenances, buildings, and equipment attached to property as fixtures.

Person means any natural or legal person, including partnerships, corporations, limited liability companies, and the like.

Public nuisance means any condition that renders a building unsafe and dangerous to the public safety, health, or welfare.

(Ord. No. 08-11-2, § 2, 9-6-2011)

Sec. 10-37. Notice.

- (a) Whenever the designated official finds that any building situated in the city is unsafe to the extent that it is a public nuisance, the official shall give the owner and all mortgagees of record notice to remedy the unsafe condition of the building or structure. The designated official may utilize the assistance of a certifying agency to confirm the status of public nuisance. Notice shall be sent by certified or registered mail to:
- (1) The owner's address on file in the revenue commissioner's office;
 - (2) The address of the property; and
 - (3) All mortgagees of record to the address set forth in the mortgage, or, if no address is set forth in the mortgage, to the address determined to be the correct address by the official.
- (b) The notice shall set forth in detail the basis for the official's finding and shall direct the owner to take either of the following actions:
- (1) In the case where repair is required, accomplish the specified repairs or improvements within 45 days of the date appearing on the notice, or, if the same cannot be repaired within that time, to provide the official with a written work plan to accomplish the repairs. The work plan shall be submitted within 45 days of the making of the notice and shall be subject to the city's approval.
 - (2) In the case where demolition is required, demolish the structure within 45 days of the date appearing on the notice.
- In the case of either repair or demolition, the notice shall also state that in the event the owner does not comply within the time specified in the notice, the repairs or demolition shall be accomplished by the city and the costs of the repairs or demolition shall be assessed against the property.
- (c) The mailing of the certified or registered notice as specified in this section, properly addressed and postage prepaid, shall constitute notice as required by this section. A copy of the notice shall also be posted at or within three feet of an entrance to the building. If there is no entrance, the notice may be posted at any location upon the building. The notice shall be posted on the building within three days of the date the certified or registered notice was mailed.
- (d) If the owner fails to take action as directed by the official, the city may take either of the following actions:
- (1) In the case where repair is required, repair the building at the expense of the city and assess the expenses of the repair on the land on which the building stands or to which it is attached.
 - (2) In the case where demolition is required, demolish the building at the expense of the city and assess the expenses of the demolition on the land on which the building stands or to which it is attached.
- (e) If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not re-occupied until the specified repairs and improvements are completed, inspected, and approved by the designated official. The designated official shall cause to be posted at each entrance to such building a notice stating:

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THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE DESIGNATED OFFICIAL.

Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, his agent or other servant to remove such notice without written permission of the designated official, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.

(Ord. No. 08-11-2, § 3, 9-6-2011)

Sec. 10-38. Request for hearing.

- (a) Within 30 days from the date appearing on the notice given pursuant to section 10-37, any person having an interest in the building may file a written request for a hearing before the city council, together with that person's objections to the finding that the building is a public nuisance.
- (b) The filing of the request for a hearing shall hold in abeyance any action on the finding of the official until a determination is made by the council.
- (c) The council shall hold a hearing not less than five nor more than 30 days after the request. In the event no hearing is timely requested, the hearing shall be held no earlier than 30 days from the date the notice is given.
- (d) The council shall determine whether or not the building or structure is unsafe to the extent that it is a public nuisance. If the council finds that the building is a public nuisance, the council shall order the building or structure to be repaired or demolished, as the case may be.
- (e) Any person aggrieved by the council's decision may, within ten days thereafter, appeal to the circuit court upon filing with the clerk of the court notice of the appeal and bond for security of costs in the form and amount to be approved by the circuit clerk.
 - (1) Upon filing of the notice of appeal and approval of the bond, the clerk of the court shall serve a copy of the notice of appeal on the city clerk, and the appeal shall be docketed in the court, and shall be a preferred case therein.
 - (2) The city clerk shall, upon receiving the notice of appeal, file with the clerk of the court a copy of the council's findings. The proceedings and trials in the circuit court of the county shall be held without jury upon the determination of the council that the building is a public nuisance.

(Ord. No. 08-11-2, § 4, 9-6-2011)

Sec. 10-39. Repair, demolition and assessment.

- (a) The repair or demolition may be accomplished by a contract for the repairs or demolition. The city may sell or otherwise dispose of salvaged materials resulting from any demolition; provided, however, that the proceeds of any monies received from the sale of salvaged materials shall be used or applied against the cost of the demolition. If the building or structure is to be repaired, and the cost to repair is greater than the anticipated cost to demolish, the council shall be notified and determine whether or not the building or structure shall be repaired or demolished.
- (b) Upon the demolition or repair of the building, the official shall report to the council the amount of the proposed assessment, and shall include an administrative fee in an amount as established from time to time to offset the costs of administration.
- (c) The city clerk shall, by first class mail, give notice of the meeting at which the fixing of the costs is to be considered to the owner, all mortgagees of record, and any other person known to the clerk to have an interest in the property. Any person having an interest in the property may be heard at the meeting as to any objection to the fixing of such costs or the amounts thereof.

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- (d) The council shall adopt a resolution fixing the amount that was reasonably incurred in the demolition or repair and assessing the same against the property, including the administrative fee. The cost fixed by resolution shall constitute a final assessment against the lot or parcel of land upon which the building was/is located. The final assessment as made and confirmed shall constitute a lien on the property for the amount of the final assessment.
- (e) The lien shall be superior to all other liens on the property except liens for taxes, and except for mortgages recorded prior to the creation of the lien for the final assessment, and shall continue in force until paid.
- (f) A certified copy of the resolution fixing the final assessment shall also be recorded in the office of the judge of probate of the court.
- (g) The final assessment shall be assessed against any lot or parcel of land purchased by the state at any sale for the nonpayment of taxes, and where such final assessment is made against the lot or parcel of land, a subsequent redemption thereof by any person authorized to redeem or sale thereof by the state shall not operate or discharge, or in any manner affect the lien of the city for the assessment, but any redemptioner or purchaser at any sale by the state of any lot or parcel of land upon which final assessment has been levied, whether prior to or subsequent to a sale of the state for the nonpayment of taxes, shall take the same subject to the assessment.

(Ord. No. 08-11-2, § 5, 9-6-2011)

Sec. 10-40. Payment of assessment.

- (a) Any final assessment shall be paid in cash within 30 days after the final assessment.
- (b) If the final assessment is greater than \$10,000.00, the owner may, within 30 days of the final assessment, give written notice to the city clerk, or other designated person, that the owner elects to pay the final assessment in ten equal annual installments or in 36, 60, or 120 monthly installments. The first installment shall be payable within 30 days after the final assessment is determined, and all installments thereof shall be payable to the city clerk or other designated person. Installment payments shall bear interest at the rate of 12 percent per annum. Interest shall begin to accrue upon the expiration of 30 days from the date of the final assessment and the interest shall be due and payable at the time and place the final assessment is due and payable.
- (c) Any owner electing installment payments may pay the outstanding balance, together with all accrued interest thereon, at any time during the installment payment schedule.
- (d) Upon full payment of the final assessment and accrued interest thereon, the city shall record a satisfaction of the lien in the office of the judge of probate of the county.

(Ord. No. 08-11-2, § 6, 9-6-2011)

Sec. 10-41. Failure to pay assessment.

- (a) If the property owner fails to pay the final assessment within 30 days, or, having elected to make installment payments, fails to make any installment payment when due, the entire balance shall immediately become due and payable, and the city may proceed to sell the property to the highest bidder for cash, but in no event less than the amount of the lien plus interest through the date of default.
- (b) Prior to the sale, notice shall be given by publication once a week for three consecutive weeks in a newspaper published in the city or of general circulation therein, setting forth the date and time of the sale and the purpose for which the same is made, together with a description of the property to be sold. If the official shall fail to advertise and sell any property on which the payments are past due, any taxpayer of the city shall have the right to apply for a writ of mandamus requiring the official to take

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such action to any court of competent jurisdiction, and the court shall, on proof, issue and enforce the writ.

- (c) Any owner, notwithstanding his default, may pay the final assessment lien with interest and all costs if tendered before a sale of the property.
- (d) The cost of any notice and sale resulting from a default shall constitute a charge against the property to be sold and shall be retained out of the proceeds of the sale.
- (e) The official making the sale shall execute a deed to the purchaser, conveying all the right, title, and interest that the owner had or held on the date of the final assessment or on the date of sale.
- (f) Any surplus arising from the sale shall be paid to the city treasurer to be kept as a separate fund by the treasurer for the owner upon the responsibility of his official bond. The city may, by its agents, purchase real estate sold as provided under this article and, in the event of the purchase, the deed for the same shall be made to the city.
- (g) No mistake in the notice of sale in the description of the property or in the name of the owner shall vitiate the final assessment or the lien and, if for any reason the sale is ineffectual to pass title, it shall operate as an assignment of the lien and, upon the request of the purchaser, supplementary proceedings of the same general character as required in this article may be had to correct the errors in the proceedings for his benefit or the lien so assigned to him may be enforced by civil action.

(Ord. No. 08-11-2, § 7, 9-6-2011)

Sec. 10-42. Right of redemption.

- (a) Any real property sold for the satisfaction of an assessment lien imposed hereon by the city council may be redeemed by the former owner, or his assigns, or other persons authorized to redeem property sold for taxes by the state, within two years from the date of the sale by depositing with the city treasurer:
 - (1) The amount of money for which the lands were sold, with interest thereon at the rate of 12 percent per annum from the date of the sale through the date of the payment;
 - (2) The amount of all insurance premiums paid plus interest computed from the date the premiums were paid at the rate of 12 percent per annum through the date of payment;
 - (3) The value of all permanent improvements as determined in accordance with this section;
 - (4) Interest on the value of all permanent improvements computed from the date the improvements were made at the rate of 12 percent per annum through the date of the payment.
- (b) The value of the permanent improvements shall be determined as follows:
 - (1) The proposed redemptioner shall make written demand upon the purchaser of a statement of the value of all permanent improvements made on the property since the assessment sale.
 - (2) The purchaser shall within ten days from the receipt of the demand, furnish the proposed redemptioner with the amount claimed as the value of the permanent improvements.
 - (3) The proposed redemptioner shall within ten days either accept the value so stated by the purchaser, or, disagreeing therewith, appoint a referee to ascertain the value of the permanent improvements. The proposed redemptioner shall in writing notify the purchaser of his disagreement as to the value and inform the purchaser of the name of the referee appointed by him.
 - (4) Within ten days after the receipt of the notice, the purchaser shall appoint a referee to ascertain the value of the permanent improvements and advise the proposed redemptioner of the name of the appointee. The two referees shall, within ten days after the purchaser has appointed his referee, meet and confer upon the award to be made by them.

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- (5) If they cannot agree, the referees shall at once appoint an umpire, and the award by a majority of the body shall be made within ten days after the appointment of the umpire and shall be final between the parties.
- (c) If the proposed redemptioner fails or refuses to nominate a referee as provided in subsection (b) of this section, he shall pay the value put upon the improvements by the purchaser. If the purchaser refuses or fails to appoint a referee, as provided in subsection (b) of this section, the purchaser shall forfeit his claim to compensation for the improvements. The failure of the referees or either of them to act or to appoint an umpire shall not operate to impair or forfeit the right of either the proposed redemptioner or the purchaser in the premises. In the event of failure without fault of the parties to effect an award, the appropriate court shall proceed to ascertain the true value of the permanent improvements and enforce the redemption accordingly.
- (d) The fixed two-year period of redemption for any property sold for the satisfaction of any assessment lien may be extended to a date 60 days after the date of the certificate of warning to redeem, but in no event for a longer period than six years from the date of such sale.

(Ord. No. 08-11-2, § 8, 9-6-2011)

Sec. 10-43. Certificate of warning to redeem.

- (a) At any time after an assessment sale deed has been recorded in the office of the judge of probate of the county and after expiration of the fixed two-year period of redemption, any person may apply to the judge of probate for the certificate of warning to redeem, which references the recorded volume and page number of the deed to be recorded in the real estate records, in substantially the following form:

"I hereby certify that on or prior to the date of this certificate, I mailed a certified copy of the deed here recorded, together with notice that the same is here recorded, and a warning to redeem to each of the one or more persons other than the grantee in said deed, to whom the property herein described was last finally assessed for ad valorem taxation at the address of each such Person as shown by said ad valorem tax assessment records.

This ____ day of _____, _____, Judge of Probate, Henry County, Alabama."

- (b) At the time of application for entry of the certificate of warning to redeem, the applicant shall deliver to the judge of probate three certified copies of the recorded deed and shall pay to the judge of probate a fee as established from time to time. Copies of the deed need not include any certificate of acknowledgment. The applicant shall also deliver to the judge of probate a certified copy of the ad valorem tax assessment records of the county containing the name of the person or persons other than the grantee in the deed to whom the property described in the deed was last finally assessed for ad valorem taxation, together with the address of each person as shown by the tax assessment records, or an affidavit that there is no one else. The judge of probate shall promptly mail to each person at such address one of the aforesaid certified copies of the deed, together with an attached warning to redeem in substantially the following form:

"Take notice that there is recorded in my office in Deed Book ____ at page ____ a deed of which the attached is a correct copy. You are warned that unless you, or those claiming under you, take prompt steps to redeem from those claiming under the deed, all rights of redemption may be lost.

This ____ day of _____, _____, Judge of Probate, Henry County, Alabama."

Promptly upon or after mailing the notice or notices and certified copy or copies of the deed, it shall be the duty of the judge of probate to record in the real estate records the signed and dated certificate of warning substantially as prescribed by this section. At the expiration of 60 days after the date of the certificate all rights to redeem from the sale shown by the deed shall cease and desist.

- (c) Redemption may be effected after expiration of the fixed two-year period of redemption allowed or provided by this section and before the extended period of redemption has expired in the same manner and at the same redemption price as is provided in this section, provided that, if the judge of probate has made the certificate of warning to redeem as provided in this section, said redemption price shall be increased by an amount as established from time to time.

(Ord. No. 08-11-2, § 9, 9-6-2011)

Sec. 10-44. Emergency action.

Notwithstanding any other provisions of this article, the official may initiate immediate repair or demolition of a building when, in the opinion of the official so designated, such emergency action is required due to imminent danger of structural collapse endangering adjoining property, the public right-of-way or human life or health. The cost of the emergency action shall be fixed by the court and shall be assessed as provided in this chapter.

(Ord. No. 08-11-2, § 10, 9-6-2011)

Sec. 10-45. Conflicting issues.

All portions of ordinances, resolutions, and any other regulations in conflict herewith are hereby repealed, but only to the extent they are in conflict with this article.

(Ord. No. 08-11-2, § 11, 9-6-2011)

Chapter 11 RESERVED

Chapter 12 BUSINESS LICENSES, TAXES AND REGULATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - BUSINESS LICENSING

ARTICLE III. - DETECTIVES; PRIVATE INVESTIGATORS

ARTICLE IV. - MOTOR VEHICLE DEALERS, RECONDITIONERS, REBUILDERS AND WHOLESALERS

ARTICLE V. - DOOR-TO-DOOR SOLICITATION

ARTICLE I. IN GENERAL

[Secs. 12-1—12-18. Reserved.](#)

Secs. 12-1—12-18. Reserved.

ARTICLE II. BUSINESS LICENSING ¹¹

[Sec. 12-19. Levy of tax.](#)

[Sec. 12-20. Definitions.](#)

- [Sec. 12-21. License term; minimums.](#)
- [Sec. 12-22. License shall be location specific.](#)
- [Sec. 12-23. Restriction on transfer of license.](#)
- [Sec. 12-24. Unlawful to do business without a license.](#)
- [Sec. 12-25. License must be posted.](#)
- [Sec. 12-26. Duty to file report.](#)
- [Sec. 12-27. Duty to permit inspection and produce records.](#)
- [Sec. 12-28. Unlawful to obstruct.](#)
- [Sec. 12-29. Privacy.](#)
- [Sec. 12-30. Failure to file assessment.](#)
- [Sec. 12-31. Lien for nonpayment of license tax.](#)
- [Sec. 12-32. Criminal penalties.](#)
- [Sec. 12-33. Civil penalties.](#)
- [Sec. 12-34. Penalties and interest.](#)
- [Sec. 12-35. Prosecutions unaffected.](#)
- [Sec. 12-36. Procedure for denial of new applications.](#)
- [Sec. 12-37. Procedure for revocation or suspension of license.](#)
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Sec. 12-19. Levy of tax.

Pursuant to the Code of Alabama, the ordinance from which this article is derived is hereby declared to be and is adopted as the business license code and schedule of licenses for the city. There is hereby levied and assessed a business license fee for the privilege of doing any kind of business, trade, profession or other activity in the municipality, or the police jurisdiction, by whatever name called.

(Ord. No. 12-07-1, § 1, 12-17-2007)

Sec. 12-20. Definitions.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means any commercial or industrial activity or any enterprise, trade, profession, occupation, or livelihood, including the lease or rental of residential or nonresidential real estate, whether

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or not carried on for gain or profit, and whether or not engaged in as a principal or as an independent contractor, which is engaged in, or caused to be engaged in, within the municipality.

Business license means an annual license issued by the municipality for the privilege of doing any kind of business, trade, profession, or any other activity in the municipality, by whatever name called, which document is required to be conspicuously posted or displayed except to the extent the taxpayer's business license tax or other financial information is listed thereon.

Business license remittance form means any business license return, renewal reminder notice, or other writing on which the taxpayer calculates the business license tax liability for all or part of the license year and remits the amount so calculated with the form.

Department or department of revenue means the state department of revenue, as created under Code of Ala. 1975, § 40-2-1 et seq.

Designee means an agent or employee of the municipality authorized to administer or collect, or both, the municipality's business license taxes, which may include another taxing jurisdiction, the department of revenue, or a private auditing or collecting firm as defined in Code of Ala. 1975, § 40-2A-3.

Gross receipts means the measure of any and all receipts of a business from whatever source derived, to the maximum extent permitted by applicable laws and constitutional provisions, to be used in calculating the amount due for a business license; provided, however, that:

- (1) Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Code of Ala. 1975, § 40-21-80 et seq.; license taxes levied pursuant to Code of Ala. 1975, § 40-21-50 et seq.; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.
- (2) A different basis for calculating the business license may be used by the municipality with respect to certain categories of taxpayers as prescribed in Code of Ala. 1975, § 11-51-90B.
- (3) For a utility or other entity described in Code of Ala. 1975, § 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the municipality during the preceding year that are taxed under Code of Ala. 1975, § 40-21-80 et seq., except that nothing herein shall affect any existing contract or agreement between the municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.
- (4) Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowing, the sale of a capital asset, the repayment of the principal portion of a loan, the issuance of stock or other equity investments, or capital contributions, or the undistributed earnings of subsidiary entities.

License form means any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.

License officer or municipal license officer means the municipal employee charged by the municipality with the primary responsibility of administering this article and matters related thereto.

License year means the calendar year.

Municipality includes the city's police jurisdiction, where the business license tax is levied in the police jurisdiction. The term "municipality" shall apply specifically to the City of Abbeville, Alabama.

Person means any individual, association, estate, trust, partnership, limited liability company, corporation, or other entity of any kind, except for any nonprofit corporation formed under the laws of the state which is operated to enable municipalities that become members of such nonprofit corporation to finance or refinance capital projects and related undertakings, on a cooperative basis, and whose board of directors or other governing body consists primarily of elected officials of the municipality.

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Taxing jurisdiction means any municipality that levies a business license tax, whether or not a business license tax is levied within its police jurisdiction, or the department of revenue acting as agent on behalf of the municipality pursuant to Code of Ala. 1975, § 11-51-180 et seq., as the context requires.

Taxpayer means any person subject to or liable under this article for any business license tax; any person required to file a return with respect to, or pay or remit the business license tax levied under this article or to report any information or value to the taxing jurisdiction; or any person required to obtain, or who holds any interest in, any business license issued by the taxing jurisdiction; or any person that may be affected by any act or refusal to act by the taxing jurisdiction under this chapter, or to keep any required by this article.

USC means the applicable title and section of the United States Code, as amended from time to time.

- (b) Other specialized terms used in this article, and not defined in this section, shall have the same meanings ascribed to them in Code of Ala. 1975, § 40-2A-80, unless the context therein otherwise specifies.

(Ord. No. 12-07-1, § 2, 12-17-2007)

Sec. 12-21. License term; minimums.

The license term and the minimum amount for a business license are as follows:

- (1) *Full year.* Every person who commences business before July 1 shall be subject to and shall pay the annual license fee for such business in full. The minimum annual license shall be as established from time to time.
- (2) *Half year.* Every person who commences business on or after July 1 shall be subject to and shall pay one-half the annual license for such business for that calendar year.
- (3) *Issue fee.* For each license issued there shall be an issue fee as established from time to time collected, and said issue fee shall be collected in the same manner as the license tax. Additionally, per state law, the business license issuance fee shall adjust automatically every five years, to an amount to be determined by the department of revenue.
- (4) *Annual renewal.* Except as provided in subsection (4)a or b of this section, the business license shall be renewed annually on or before February 15 of each year.
 - a. If the due date for payment of any business license falls on a weekend or a holiday recognized by the municipality, the due date shall automatically be extended until the next business day.
 - b. Insurance company annual license renewals shall be renewed in accordance with Code of Ala. 1975, § 11-51-122, which states that each year each insurance company shall furnish the municipality a statement in writing duly certified showing the full and true amount of gross premiums received during the preceding year and shall accompany such statement with the amount of license tax due according to the licensing schedule. Failure to furnish such statement or to pay such sum shall subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in this chapter.
 - c. On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1 in order for them to receive their notice.
 - d. Business license renewal payments received by the municipality shall be applied to the current renewal only when any other debts the licensee owes to the municipality are first paid in full. No business license shall be issued if the current renewal payment does not meet

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said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license provided for in this chapter.

(Ord. No. 12-12-01, § 1, 12-3-2012)

Sec. 12-22. License shall be location specific.

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.
- (b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations or professions scheduled herein, shall take out and pay for a license for each line of business.
- (c) A taxpayer subject to the license authorized by this chapter that is engaged in business in other municipalities may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business license imposed by this article. To establish a bona fide branch office, the taxpayer must demonstrate proof of all following criteria:
 - (1) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
 - (2) The taxpayer must maintain books and records which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility.
 - (3) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
 - (4) Billing and/or collection activities relating to the business conducted at the branch office are performed by an employee or other representative of the taxpayer who has such responsibility for the branch office.
 - (5) All business claimed by a branch office must be conducted by and through said office.
 - (6) The taxpayer must supply proof that all applicable business licenses with respect to the branch office have been issued.
- (d) Nothing in this section shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.

(Ord. No. 12-07-1, § 4, 12-17-2007)

Sec. 12-23. Restriction on transfer of license.

No license shall be transferred except with the consent of the city council or the director of finance or other chief revenue officer or his designee, and no license shall be transferred to reflect a physical change of address of the taxpayer within the municipality more than once during a license year and never from one taxpayer to another. Provided that a mere change in the name or ownership of a taxpayer that is a corporation, partnership, limited liability company or other form of legal entity now or hereafter recognized by the laws of the state shall not constitute a transfer for purposes of this article, unless the change requires the taxpayer to obtain a new federal employer identification number or department of revenue taxpayer identification number, or, in the discretion of the municipality, the subject license is one

for the sale of alcoholic beverages. Nothing in this section shall prohibit the municipality from requiring a new business license application and approval for an alcoholic beverage license.

(Ord. No. 12-07-1, § 5, 12-17-2007)

Sec. 12-24. Unlawful to do business without a license.

It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in businesses or vocations in the municipality for which a license is required without first having procured a license. A violation of this section shall be punishable by a fine not less than \$50.00 and not to exceed the sum of \$500.00 for each offense, and, if a willful violation, by imprisonment not to exceed six months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.

(Ord. No. 12-07-1, § 6, 12-17-2007)

Sec. 12-25. License must be posted.

Every license shall be posted in a conspicuous place where said business, trade or occupation is carried on, and the holder of the license shall immediately show same to the designee of the municipality upon being requested so to do.

(Ord. No. 12-07-1, § 7, 12-17-2007)

Sec. 12-26. Duty to file report.

- (a) It shall be the duty of every person subject to such license tax to render to the municipality on such forms as may be required a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of license tax to which he is subject.
- (b) If the municipality determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of business license tax due, the municipality shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.
- (c) The municipality shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.
- (d) If the amount of business license tax remitted by the taxpayer is undisputed by the municipality, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the municipality shall enter a final assessment for the amount of the tax due, plus any applicable penalty and interest.
- (e) Taxpayer disagreement and appeal.
 - (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within 30 days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the license officer of the municipality shall

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schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the municipality to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to the assessment. The license officer shall issue findings of fact and law within 60 days following the conference, which shall promptly upon issuance be mailed or delivered to the taxpayer, consistent with the procedures set forth in subsection (c) of this section.

- (2) If the taxpayer disagrees with the license officer's findings of fact and law, the taxpayer may appeal to the municipal governing body by filing a notice of appeal with the municipal clerk within 30 days after the findings have been issued. The appeal shall be in writing and shall set forth in reasonable detail the grounds on which the taxpayer disagrees with the license officer's findings of fact and law.
- (3) If a petition for review is not timely filed, or is timely filed, and upon further review the license officer, or the administrative hearings officer or governing body of the municipality, as the case may be, determines that the preliminary assessment is due to be upheld in whole or in part, the taxing jurisdiction shall make the assessment final in the amount of business license tax due as computed by the taxing jurisdiction, with applicable penalty and interest.
- (4) A copy of the final assessment shall promptly be mailed to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of assessments of business license tax of \$500.00 or less, or by certified U.S. mail with return receipt requested in the case of assessments of business license tax of more than \$500.00. In either case, at the option of the taxing jurisdiction, a copy of the final assessment may be delivered to the taxpayer by personal delivery.

(Ord. No. 12-07-1, § 8, 12-17-2007)

Sec. 12-27. Duty to permit inspection and produce records.

Upon demand by the designee of the municipality, it shall be the duty of all licensees to:

- (1) Permit the designee of the municipality to enter the business and to inspect all portions of the place of business for the purposes of enabling said municipal designee to gain such information as may be necessary or convenient for determining the proper license classification, and determining the correct amount of license tax; and
- (2) Furnish information during reasonable business hours, at the licensee's place of business in the municipality or the police jurisdiction, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information from which the correct license tax classification of such person may be ascertained and the correct amount of license tax to which he is subject may be determined, including exhibition of bank deposit books, bank statements, copies of sales tax returns to the state, copies of state income tax returns and federal income tax returns.

(Ord. No. 12-07-1, § 9, 12-17-2007)

Sec. 12-28. Unlawful to obstruct.

It shall be unlawful for any person, or for any agent, servant or employee of such person, to fail or refuse to perform any duty imposed by this article; nor shall any person, agent, servant or employee of such person obstruct or interfere with the designee of the municipality in carrying out the purposes of this article.

(Ord. No. 12-07-1, § 10, 12-17-2007)

Sec. 12-29. Privacy.

- (a) It shall be unlawful for any person connected with the administration of this article to divulge any information obtained by him in the course of inspection and examination of the books, papers, reports and memoranda of the taxpayer made pursuant to the provisions of this article, except to the mayor, the municipal attorney or others authorized by law to receive such information described herein.
- (b) It shall be unlawful for any person to print, publish, or divulge, without the written permission or approval of the taxpayer, the license form of any taxpayer or any part of the license form, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the taxing jurisdiction, or upon order of any court, or as otherwise allowed in this article.
- (c) Nothing in this section shall prohibit the disclosure of the fact that a taxpayer has or has not purchased a business license. Statistical information pertaining to taxes may be disclosed to the municipal governing body upon its written request through the mayor's office. It shall be unlawful for any person to violate the provisions of this section.

(Ord. No. 12-07-1, § 11, 12-17-2007)

Sec. 12-30. Failure to file assessment.

- (a) In any case where a person subject to paying a license tax as provided herein fails to do so, the municipal designee shall be authorized to assess and determine the amount of license taxes due using the best information available either by return filed or by other means.
- (b) The taxpayer shall be notified by registered or certified mail, or by personal service, of the amount of any such assessment, and of his right to appear before the municipal governing body on a day named not less than 20 days from the date of notice and to show cause why such assessment shall not be made final. Such appearance may be made by agent or attorney.
- (c) If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the municipality, such assessment shall be made final in the amount originally fixed, or in such other amount as is determined by the municipality to be correct. If upon such hearing the municipal designee finds a different amount due than that originally assessed, he shall make the assessment final in the correct amount, and in all cases shall notify the taxpayer of the assessment as finally fixed.
- (d) A notice by the U.S. mail, addressed to the taxpayer's last known place of business, shall be sufficient. Any assessment made by the designee of the municipality shall be prima facie correct upon any appeal.

(Ord. No. 12-07-1, § 12, 12-17-2007)

Sec. 12-31. Lien for nonpayment of license tax.

On all property, both real and personal, used in the business, the municipality shall have a lien for such license, which lien shall attach as of the date when the license is due, as allowed by Code of Ala. 1975, § 11-51-44.

(Ord. No. 12-07-1, § 13, 12-17-2007)

Sec. 12-32. Criminal penalties.

Any person found guilty of violating any of the provisions of this article shall be fined in an amount not less than \$50.00 and not more than \$500.00, and may also be sentenced to imprisonment for a period of time not exceeding six months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

(Ord. No. 12-07-1, § 14, 12-17-2007)

Sec. 12-33. Civil penalties.

In addition to the remedies provided by Code of Ala. 1975, § 11-51-150 et seq., the continued or recurrent performance of any act within the corporate limits of the municipality or within its police jurisdiction for which a license may be revoked or suspended under this article is hereby declared to be detrimental to the health, safety, comfort and convenience of the public and is a nuisance. The municipality, as an additional or alternative remedy, may institute injunctive proceedings in a court of competent jurisdiction to abate the same.

(Ord. No. 12-07-1, § 15, 12-17-2007)

Sec. 12-34. Penalties and interest.

- (a) All licenses not paid within 30 days from the date they fall due shall be increased by 15 percent for the first 30 days they shall be delinquent, or fraction thereof, and shall be increased by an additional 15 percent for a delinquency of 60 or more days, but this provision shall not be deemed to authorize the delay of 30 days in the payment of the license due, which may be enforced at once.
- (b) In the case of persons who began business on or after the first day of the calendar year, the license for such new business shall be increased by 15 percent for the first 15 days they shall be delinquent, and shall be increased by an additional 15 percent for a delinquency of 45 days or more.
- (c) All delinquent accounts (both license taxes and penalties) shall also be charged simple interest at the rate of one percent per month.

(Ord. No. 12-07-1, § 16, 12-17-2007)

Sec. 12-35. Prosecutions unaffected.

The adoption of the ordinance from which this article is derived shall not in any manner affect any prosecution of any act illegally done contrary to the provisions of any ordinance now or heretofore in existence, and every such prosecution, whether begun before or after the enactment of the ordinance from which this article is derived, shall be governed by the law under which the offense was committed; nor shall a prosecution, or the right to prosecute, for the recovery of any penalty or the enforcement of any forfeiture be in any manner affected by the adoption of the ordinance from which this article is derived; nor shall any civil action or cause of action existing prior to or at the time of the adoption of the ordinance from which this article is derived be affected in any manner by its adoption.

(Ord. No. 12-07-1, § 17, 12-17-2007)

Sec. 12-36. Procedure for denial of new applications.

- (a) The municipal designee shall have the authority to investigate all applications and may refer any application to the municipal governing body for a determination of whether such license should or should not be issued.
- (b) If the municipal governing body denies the issuance of any license referred to it, the municipal clerk shall promptly notify the applicant of the municipal governing body's decision.
- (c) If said applicant desires to appear before the municipal governing body to show cause why said license should be issued, he shall file a written notice with the municipal clerk, said notice to be filed within two weeks from the date of mailing by the municipal clerk of the notice of the denial of such license by the municipal governing body.
- (d) Upon receipt of said notice, the municipal clerk shall promptly schedule a hearing, to be held within 15 days from the date of receipt of such notice, before the municipal governing body and shall give the notice of the date, time and place of said hearing to the applicant.
- (e) The applicant shall be given the opportunity to appear personally, or through his counsel, or both, and the municipal governing body shall proceed to hear any evidence which may be presented both for and against the issuance of said license.
- (f) If the municipal governing body determines from the evidence presented that in order to either provide for the safety, preserve the health, promote the prosperity, or improve the morals, order, comfort and convenience of the inhabitants of the municipality said license should not be granted, it shall enter an order to that effect; otherwise, said license shall be ordered issued upon payment of any required license fees.

(Ord. No. 12-07-1, § 18, 12-17-2007)

Sec. 12-37. Procedure for revocation or suspension of license.

- (a) Any lawful license issued to any person to conduct any business shall be subject to revocation by the municipal governing body for the violation by the licensee, his agent, servant, or employee of any provision of this article or of any ordinance of the municipality, or any statute of the state relating to the business for which such license is issued; and shall also be subject to revocation by the municipal governing body if the licensee, his agent, servant, or employee under color of such license violates or aids or abets in violating or knowingly permits or suffers to be violated any penal ordinance of the municipality or any criminal law of the state; and shall also be subject to revocation by the municipal governing body if, in connection with the issuance or renewal of any license, the licensee or his agent filed or caused to be filed any application, affidavit, statement, certificate, book, or any other data containing any false, deceptive or other misleading information or omission of material fact.
- (b) The conditions set forth in subsection (a) of this section as grounds for the revocation of a license shall also constitute grounds for refusing to renew a license.
- (c) The municipal governing body shall set a time for hearing on the matter of revoking or refusing to renew a license; and a notice of such hearing shall be given to the licensee, or the applicant for renewal, as the case may be, at least ten days before the day set for said hearing. At the hearing, the municipal governing body shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation or the refusal of renewal, as the case may be.

(Ord. No. 12-07-1, § 19, 12-17-2007)

Sec. 12-38. Refunds on overpayments.

- (a) Any taxpayer may file a petition for refund with the municipality for any overpayment of business license tax erroneously paid to the municipality. If a final assessment for the tax has been entered by the municipality, a petition for refund of all or a portion of the tax may be filed only if the final assessment has been paid in full prior to or simultaneously with the filing of the petition for refund.
- (b) A petition for refund shall be filed with the municipality within two years from the date of payment of the business license tax, which is the subject of the petition.
- (c) The municipality shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the municipality. The taxpayer shall be notified of the municipality's decision concerning the petition for refund by first class U.S. mail or by certified U.S. mail, return receipt requested, sent to the taxpayer's last known address. If the municipality fails to grant a full refund within the time provided herein, the refund petition shall be deemed to be denied.
- (d) If the petition is granted or the municipality or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the municipality, together with interest to the extent provided for in Code of Ala. 1975, § 11-51-92. If the municipality determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited by the municipality against any outstanding tax liabilities due and owing by the taxpayer to the municipality, and the balance of any overpayment shall be promptly refunded to the taxpayer. If any refund or part thereof is credited to any other tax by the municipality, the taxpayer shall be provided with a written detailed statement showing the amount of overpayment, the amount credited for payment to other taxes, and the resulting amount of the refund.
- (e) A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the clerk of the circuit court of the county. Said notice of appeal must be filed within two years from the date the petition was denied. The circuit court shall hear the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any. If an appeal is not filed with the appropriate circuit court within two years of the date the petition was denied, then the appeal shall be dismissed for lack of jurisdiction.

(Ord. No. 12-07-1, § 20, 12-17-2007)

Sec. 12-39. Delivery license.

- (a) In lieu of any other type of license, a taxpayer may, at its option, purchase for a fee established from time to time, plus the issuance fee, a delivery license for the privilege of delivering its merchandise in the municipality if the taxpayer meets all of the following criteria:
 - (1) Other than deliveries, the taxpayer has no other physical presence within the municipality or its police jurisdiction;
 - (2) The taxpayer conducts no other business in the municipality other than delivering merchandise and performing the requisite setup and installation of said merchandise;
 - (3) Such delivery and setup and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in that municipality, and is done by means of delivery vehicles owned, leased, or contracted by the taxpayer;
 - (4) The gross receipts derived from the sale and any requisite setup or installation of all merchandise so delivered shall not exceed \$75,000.00 during the license year;
 - (5) Any setup or installation shall relate only to that required by the contract between the taxpayer and the customer or as may be required by state or local law, and the merchandise so delivered;

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- (6) If, at any time during the current license year, the taxpayer fails to meet any of the above-stated criteria, then within ten days after any of said criteria have been violated or exceeded, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the municipality to assess a business license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the \$75,000.00 limitation described in subsection (a) of this section if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license.
- (d) The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.
- (e) The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the municipality for purposes of the taxes levied by or under the authority of Code of Ala. 1975, title 40 or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the municipality.

(Ord. No. 12-07-1, § 21, 12-17-2007)

Sec. 12-40. Exchange of information.

- (a) The license officer may exchange tax returns, information, records, and other documents secured by the municipality, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The license officer may charge a reasonable fee for providing such information or documents. Any tax returns, information, records, or other documents so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure as provided under state or municipal law.
- (b) Any such exchange shall be for one or more of the following purposes:
 - (1) Collecting taxes due.
 - (2) Ascertaining the amount of taxes due from any person.
 - (3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a state, county, or municipal agency.
- (c) Nothing in this section shall prohibit the use of tax returns or tax information by the municipality in the proper administration of any matter administered by the license officer. The license officer may also divulge to a purchaser, prospective purchaser as defined pursuant to the regulations of the state department of revenue, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which such purchaser, prospective purchaser or successor may be liable pursuant to the Code of Ala. 1975, § 40-23-25, 40-23-82, or 40-12-224.

(Ord. No. 12-07-1, § 24, 12-17-2007)

Sec. 12-41. License fees in police jurisdiction.

Any person, firm, association, or corporation engaged in any business outside the municipality but within the police jurisdiction thereof shall pay one-half of the amount of the license imposed for like business within the municipality.

(Ord. No. 12-07-1, § 25, 12-17-2007)

Secs. 12-42—12-70. Reserved.

FOOTNOTE(S):

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State Law reference— Municipal Business License Reform Act of 2006, Code of Ala. 1975, § 11-51-90 et seq. ([Back](#))

ARTICLE III. DETECTIVES; PRIVATE INVESTIGATORS

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[Sec. 12-74. Investigation and fingerprinting of applicant.](#)

[Sec. 12-75. Certification of compliance.](#)

[Sec. 12-76. Approval of license issuance.](#)

[Sec. 12-77. Employment of unlicensed person.](#)

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[Sec. 12-81. Badge—Issuance; illegal display.](#)

[Sec. 12-82. Same—Money deposit.](#)

[Sec. 12-83. Same—Transferring; illegal use.](#)

[Secs. 12-84—12-109. Reserved.](#)

Sec. 12-71. Definitions.

The following words, terms and phrases, when used in this article and in the license schedule under this category, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency means any person employing a private investigator or detective or a person to act in the capacity for client or patron of the agency; the term "agency" shall not include a governmental agency.

Private investigator, detective means any person engaged by individuals for private protection; a person unofficially engaged in obtaining secret information for the use and benefit of those who choose to employ such person and to pay such person compensation; one making an investigation for another when such investigation involves the conduct, life or affairs of the person investigated; one who locates or repossesses automobiles or chattels subject to lien; one who guards property or keeps it under

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surveillance, one who collects or attempts to collect debts; one who investigates claims; or one who shadows, keeps under surveillance, investigates or follows one to obtain evidence for or against such other one. The terms "private investigator" and "detective" shall not include public detectives, peace officers or deputy sheriffs; lawyers in the course of the practice of their profession; accountants engaged in the practice of their profession; insurance investigators acting solely in the employ of an insurance company, the insured thereof or agency of such insurance company; one conducting strictly the business of a collection agency; or the owner of an account or employees of the owner of the account who collect for the owner thereof.

(Code 1987, § 7-20; Ord. No. 7-86A, § 1, 7-7-1986; Ord. No. 12-94-2, § 1(7-20), 12-19-1994)

Sec. 12-72. License required.

It shall be unlawful for any person to carry on or be engaged in or to advertise as engaging in the vocation, profession or business of a private investigator or detective in the city or in its police jurisdiction until a license has been issued or to so engage after the license to so engage has been revoked or has expired.

(Code 1987, § 7-21; Ord. No. 7-86A, § 2, 7-7-1986; Ord. No. 12-94-2, § 1(7-21), 12-19-1994)

Sec. 12-73. License application; qualifications, bond, photograph.

- (a) Applicants for a license as a private investigator or detective or agency shall file with the chief of police written application under oath, outlining in such application the personal data as to the date and place of birth, education, law enforcement experience, business experience, and a complete and detailed record and report of all civil suits and criminal cases in which the applicant has been either a party or a witness within the preceding 12 months, specifying the name and location of the court, the nature of the proceeding and the result thereof. The application shall further give the applicant's present address, place of employment and the name and address of at least three residents of the city as references as to the applicant's moral and professional reputation and the name and address of each employee of the applicant during the past year.
- (b) The applicant must submit with the application a surety bond in the sum of \$2,000.00 with a guaranty bonding company authorized to do business in the state as surety to indemnify anyone who may be wrongfully injured by the words or acts of the applicant in following the vocation, profession, business or calling of a private investigator or detective.
- (c) No person shall engage in the business of private investigator, detective or agency operator unless and until such person shall have attained the age of 21 years.
- (d) No application for license as a private investigator or detective shall be received unless and until the same is accompanied by a photograph of the applicant. Any agency making application as such shall be accompanied by a photograph of each member of the firm and each employee thereof.
- (e) No person shall be licensed as a private investigator or detective who is not of good moral and professional reputation.

(Code 1987, § 7-22; Ord. No. 7-86A, § 3, 7-7-1986; Ord. No. 12-94-2, § 1(7-22), 12-19-1994)

Sec. 12-74. Investigation and fingerprinting of applicant.

The chief of police is directed to make a thorough investigation of each applicant for a license as a private investigator or detective or agency, and after full and complete investigation thereof, including the fingerprinting of the applicant, to report such officer's findings to the city council.

(Code 1987, § 7-23; Ord. No. 7-86A, § 4, 7-7-1986; Ord. No. 12-94-2, § 1(7-23), 12-19-1994)

Sec. 12-75. Certification of compliance.

The privilege license under this article may be issued only on the certification of the chief of police that all the requirements of this article have been complied with.

(Code 1987, § 7-24; Ord. No. 7-86A, § 5, 7-7-1986; Ord. No. 12-94-2, § 1(7-24), 12-19-1994)

Sec. 12-76. Approval of license issuance.

A license to a private investigator or detective agency is granted at the pleasure of the city council and may be revoked at any time on a majority vote of the council for cause.

(Code 1987, § 7-25; Ord. No. 7-86A, § 7, 7-7-1986; Ord. No. 12-94-2, § 1(7-25), 12-19-1994)

Sec. 12-77. Employment of unlicensed person.

It shall be unlawful for any person engaged in the vocation, profession, business or agency of private investigator or detective in the city or in its police jurisdiction to employ or engage the services of a private investigator or detective who does not have the license provided for by this article. The violation of this section shall be sufficient cause for revocation of the license of the person or agency violating the provisions hereof.

(Code 1987, § 7-27; Ord. No. 7-86A, § 8, 7-7-1986; Ord. No. 12-94-2, § 1(7-27), 12-19-1994)

Sec. 12-78. List of employees.

Each agency engaged in the business of furnishing private investigators or detectives in the city or in its police jurisdiction shall file with the chief of police on January 1, April 1, July 1 and October 1 of each year a statement of the name and address of each employee of the agency during the preceding three calendar months. Failure to furnish this statement or a correct statement shall be sufficient cause for revocation of the agency license.

(Code 1987, § 7-28; Ord. No. 7-86A, § 9, 7-7-1986; Ord. No. 12-94-2, § 1(7-27), 12-19-1994)

Sec. 12-79. Police supervision; carrying weapons.

Each private investigator or detective licensed under this article shall be subject to police supervision. Qualifying and being licensed under the terms of this article shall not of itself entitle the applicant to carry weapons concealed or otherwise in violation of the law.

(Code 1987, § 7-29; Ord. No. 7-86A, § 10, 7-7-1986; Ord. No. 12-94-2, § 1(7-29), 12-19-1994)

Sec. 12-80. Insolvency of bond surety.

Should the bond of any applicant, investigator, detective or agency be canceled or the surety company guaranteeing the same to be insolvent or in the hands of a receiver, the license of all such applicants, investigators, detectives and agencies bonded by such company shall be refused or revoked

upon notification by the city clerk, until a new bond approved by the city clerk shall have been posted in lieu thereof. If a new bond is not approved and substituted within 12 months after such revocation, a new application must be submitted as set forth in section 12-73 and a new investigation must be conducted by the chief of police as set forth in section 12-74, prior to issuance of a license.

(Code 1987, § 7-30; Ord. No. 7-86A, § 11, 7-7-1986; Ord. No. 12-94-2, § 1(7-30), 12-19-1994)

Sec. 12-81. Badge—Issuance; illegal display.

The chief of police may prescribe and furnish a numbered badge bearing the inscription "Private Detective Licensed by the City of Abbeville," and it shall be unlawful for any person engaged in the business of a private investigator or detective within the city or in its police jurisdiction to wear or display any badge other than the badge prescribed and approved by the chief of police or to wear or display that badge after the license shall have expired or been revoked.

(Code 1987, § 7-31; Ord. No. 7-86A, § 12, 7-7-1986; Ord. No. 12-94-2, § 1(7-31), 12-19-1994)

Sec. 12-82. Same—Money deposit.

The chief of police may charge a deposit of \$30.00 on each badge furnished to a licensee under this article, which shall be refunded upon the return of the same to the chief of police. The receipt for the deposit of this money shall be issued by the city clerk.

(Code 1987, § 7-32; Ord. No. 7-86A, § 13, 7-7-1986; Ord. No. 12-94-2, § 1(7-32), 12-19-1994)

Sec. 12-83. Same—Transferring; illegal use.

It shall be unlawful for any person licensed hereunder to transfer, give, loan or permit another to use any badge assigned by the chief of police to such licensee or to refuse to surrender the same to the chief of police or police officer of the city on the termination, expiration or revocation of the license of such private investigator or detective.

(Code 1987, § 7-33; Ord. No. 7-86A, § 14, 7-7-1986; Ord. No. 12-94-2, § 1(7-33), 12-19-1994)

Secs. 12-84—12-109. Reserved.

ARTICLE IV. MOTOR VEHICLE DEALERS, RECONDITIONERS, REBUILDERS AND WHOLESALERS

[Sec. 12-110. Definitions.](#)

[Sec. 12-111. License required; state sales tax number.](#)

[Sec. 12-112. Application; levy of application fee; wholesalers, reconditioners or rebuilders who are also dealers; restrictions on sales by other than dealer.](#)

[Sec. 12-113. Disposition of fees collected.](#)

[Sec. 12-114. Issuance of certificate; term.](#)

[Sec. 12-115. Supplemental license for each additional place of business; one licensed dealer permitted at same place of business.](#)

[Sec. 12-116. Due and delinquent dates.](#)

[Sec. 12-117. Penalty for violation.](#)

[Secs. 12-118—12-147. Reserved.](#)

Sec. 12-110. Definitions.

The definitions contained in Code of Ala. 1975, § 40-12-390, as amended, are adopted by reference and incorporated herein as fully as if set out at length in this article.

(Code 1987, § 7-40; Ord. No. 2-86, art. I, 2-17-1986; Ord. No. 12-94-2, § 1(7-40), 12-19-1994)

Sec. 12-111. License required; state sales tax number.

No person shall be licensed as an automobile dealer under the provisions of this Code, nor shall any person engage in business as, serve in the capacity or act as a motor vehicle dealer, motor vehicle reconditioner, motor vehicle rebuilder or motor vehicle wholesaler within the city limits without first obtaining a license therefor as provided in this article and, if a motor vehicle dealer, a state sales tax number.

(Code 1987, § 7-41; Ord. No. 2-86, art. II, 2-17-1986; Ord. No. 12-94-2, § 1(7-41), 12-19-1994)

Sec. 12-112. Application; levy of application fee; wholesalers, reconditioners or rebuilders who are also dealers; restrictions on sales by other than dealer.

- (a) The application for said license shall be in the form prescribed by the city council and as may be modified from time to time by the city council. Such application shall be verified by the oath or affirmation of the applicant. If the applicant is a sole proprietorship, the application shall contain the name and residence of the applicant. If the applicant is a partnership, the application shall contain the names and residences of each partner thereof. If the applicant is a corporation, the application shall contain the names and residences of the officers and directors thereof. If the applicant is a motor vehicle dealer, the application shall contain the state sales tax number assigned to the applicant. The application shall describe the exact location of the place of business and shall state that such location is a permanent one; that such location affords sufficient space upon and within which to adequately display one or more motor vehicles offered for sale and that an appropriate sign designates the location as being the place of business of a motor vehicle dealer; that it is a suitable place from which the applicant can in good faith carry on such business and keep and maintain books and records necessary to conduct such business, which shall be available at all reasonable hours for inspection by the city clerk or such other employee of the city as is designated for such purpose. The application shall state that the applicant is either franchised by a manufacturer of motor vehicles, and, if so, the name of the manufacturer that the applicant is authorized to represent; or an independent motor dealer, reconditioner, rebuilder, or wholesaler. Upon making such application, the person applying therefor shall pay an application fee as established from time to time to the city clerk, or such employee of the city as is designated for such purpose, in addition to any other fees now required by law. The city clerk, or such other employee of the city as is designated for such purpose, may cause an investigation to be made and upon being satisfied that the facts set forth in the application are true, shall issue a license to the applicant.
- (b) A motor vehicle reconditioner, motor vehicle rebuilder or a motor vehicle wholesaler shall not be required to maintain a sign designating the location, and may maintain books, records and files of the business at the licensee's home, provided that such books, records and files shall be accessible and

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available for inspection by the city clerk, or such other employee of the city as is designated for such purpose, during normal business hours on usual business days. The location may be adjacent to the licensee's residence, provided it is in compliance with current zoning ordinances.

- (c) A motor vehicle reconditioner, a motor vehicle rebuilder or a motor vehicle wholesaler shall also be a motor vehicle dealer within the meaning of this article; such applicant shall qualify with the city clerk, or such other employee of the city as is designated for such purpose, both as a motor vehicle dealer and motor vehicle reconditioner or motor vehicle business; and shall comply with the requirements of subsections (a) and (b) of this section as to the business location for each business licensed by the city.

(Code 1987, § 7-42; Ord. No. 2-86, art. III, 2-17-1986; Ord. No. 12-94-2, § 1(7-42), 12-19-1994)

Sec. 12-113. Disposition of fees collected.

The city clerk shall deposit the application fees collected under the provisions of this article in the general fund of the city.

(Code 1987, § 7-43; Ord. No. 2-86, art. IV, 2-17-1986; Ord. No. 12-94-2, § 1(7-43), 12-19-1994)

Sec. 12-114. Issuance of certificate; term.

A license certificate shall be issued by the city clerk, or such other employee of the city as is designated for such purpose, in accordance with such application when the same are in compliance with the provisions of this article. Such license shall entitle the licensee to carry on and conduct the business of a motor vehicle dealer, motor vehicle reconditioner, motor vehicle rebuilder or motor vehicle wholesaler, as the case may be, for a period of one year from January 1 of each year.

(Code 1987, § 7-44; Ord. No. 2-86, art. V, 2-17-1986; Ord. No. 12-94-2, § 1(7-44), 12-19-1994)

Sec. 12-115. Supplemental license for each additional place of business; one licensed dealer permitted at same place of business.

A person licensed under this article shall obtain a supplemental license for each additional place of business, on a form to be furnished by the city and upon payment of an additional application fee as established from time to time for each such additional location. Only one licensed dealer shall operate at the same place of business; however, a licensed motor vehicle reconditioner or motor vehicle rebuilder may operate on the premises for which such person is licensed to operate as a motor vehicle dealer.

(Code 1987, § 7-45; Ord. No. 2-86, art. VI, 2-17-1986; Ord. No. 12-94-2, § 1(7-45), 12-19-1994)

Sec. 12-116. Due and delinquent dates.

Collections for application fees will be due and payable on January 1 of each year and delinquent on February 15 following said due date.

(Code 1987, § 7-46; Ord. No. 2-86, art. VIII, 2-17-1986; Ord. No. 12-94-2, § 1(7-46), 12-19-1994)

Sec. 12-117. Penalty for violation.

It shall be unlawful for any person or such person's agent to engage in businesses or vocations in the city for which a license may be required without first having procured a license thereof. A violation of this section shall be punishable by a fine of not less than \$100.00 or more than \$500.00 for each offense, and by imprisonment not to exceed six months, or both, at the discretion of the court trying the same, and each day shall constitute a separate offense.

(Code 1987, § 7-47; Ord. No. 2-86, art. VII, 2-17-1986; Ord. No. 12-94-2, § 1(7-47), 12-19-1994; Ord. No. 7-01-1, § II, 7-2-2001)

Secs. 12-118—12-147. Reserved.

ARTICLE V. DOOR-TO-DOOR SOLICITATION

[Sec. 12-148. Definitions.](#)

[Sec. 12-149. Certain acts declared unlawful.](#)

[Sec. 12-150. Penalties.](#)

Sec. 12-148. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Door-to-door solicitation means any effort by an individual on behalf of a commercial, charitable, political, philosophical or religious enterprise to sell a product or service or to request a contribution of money, services or property or to promote a political position or candidate for public office or to espouse a belief or to proselytize the resident to a particular faith or belief by going upon the residential property of another without being invited to do so by the resident.

(Ord. No. 8-92-1, § I, 8-6-1992)

Sec. 12-149. Certain acts declared unlawful.

It shall be unlawful within the corporate limits of the city for any person to engage in door-to-door solicitation except during hours of daylight.

(Ord. No. 8-92-1, § II, 8-6-1992)

Sec. 12-150. Penalties.

Every person convicted of violating any of the provisions of this article shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment.

(Ord. No. 8-92-1, § III, 8-6-1992)

Chapter 13 RESERVED

Chapter 14 CEMETERIES

ARTICLE I. - IN GENERAL

ARTICLE II. - ABBEVILLE MEMORIAL CEMETERY

ARTICLE I. IN GENERAL

[Secs. 14-1—14-18. Reserved.](#)

Secs. 14-1—14-18. Reserved.

ARTICLE II. ABBEVILLE MEMORIAL CEMETERY

DIVISION 1. - GENERALLY

DIVISION 2. - FUNDS

DIVISION 3. - INTERMENTS AND DISINTERMENTS

DIVISION 4. - MONUMENTS AND MARKERS; STRUCTURES; TREES AND SHRUBBERY

DIVISION 1. GENERALLY

[Sec. 14-19. Definitions.](#)

[Sec. 14-20. Established; named; dedicated.](#)

[Sec. 14-21. Government and management.](#)

[Sec. 14-22. City's right to amend regulations; deeds subject to revision.](#)

[Sec. 14-23. Division of lands.](#)

[Sec. 14-24. Division of blocks.](#)

[Sec. 14-25. Purchase of burial lots.](#)

[Sec. 14-26. Deeds—Execution; form.](#)

[Sec. 14-27. Same—Lost; certificates of ownership.](#)

[Sec. 14-28. Transfer of ownership—Generally.](#)

[Sec. 14-29. Same—Surviving kin.](#)

[Sec. 14-30. Record of owner's name.](#)

[Sec. 14-31. Power of attorney to represent owner.](#)

[Sec. 14-32. Gifts of interment privilege.](#)

[Sec. 14-33. Lot grade.](#)

[Sec. 14-34. Records kept by city.](#)

[Sec. 14-35. Care of grounds and shrubbery.](#)

[Sec. 14-36. Wilted or unsightly decorations.](#)

[Sec. 14-37. Flower receptacles.](#)

[Sec. 14-38. Miscellaneous offenses.](#)

[Sec. 14-39. Driving on driveways.](#)

[Sec. 14-40. Vehicles turning around in drives.](#)

[Secs. 14-41—14-68. Reserved.](#)

Sec. 14-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burial lot means that portion of a block in the Abbeville Memorial Cemetery set aside and designated by number on the map or plat thereof, and which shall accommodate a single grave, or not more than two graves.

Permanent care or perpetual care means, whether the term shall be used in this article, ordinances, or rules and regulations adopted by the city council, or in deed form, the cutting of the grass upon the burial lot or grave and throughout the Abbeville Memorial Cemetery at reasonable intervals; the raking and cleaning of the grounds; the pruning of the shrubs and trees planted by the proper authorities, in good and neat condition, meaning and intending to continue forever similar work so that the cemetery may be kept in a clean and as beautiful condition as the reasonable means available to the city will provide in the judgment and discretion of the city council.

(Code 1968, § 6-5; Code 1987, § 8-20)

Sec. 14-20. Established; named; dedicated.

(a) A city cemetery is hereby created and established on the following described lands:

A vacant lot of land situated in the city, being particularly described as follows: Commencing at the northwest corner of the lot of land owned by J.L. Roberts and run thence east 222 feet; thence run north 939 feet; thence west 102 feet; thence north 104 feet; thence west 475 feet; thence south 420 feet; thence east 213 feet; thence south 610 feet; and thence east to starting point, containing 8.61 acres, more or less. Said lot being further described by boundaries as follows: North by Lightfoot Estate lands and McClellan lot; east by McClellan lot lands of L.G. Roberts, Galloway Estate, and Mrs. W.F. Murphy; south by lands of Mrs. Jennie Long, J.L. Roberts and O.E. Tompkins; west by lands of Mrs. E.L. Danzey and O.E. Tompkins; being the same property conveyed to the city by that certain deed recorded in the probate office of Henry County, Alabama, in deed book 48 at page 509.

(b) Said cemetery is hereby named the "Abbeville Memorial Cemetery."

(c) The lands described in subsection (a) of this section are hereby dedicated for use as a city cemetery.

(Code 1968, § 6-1; Code 1987, § 8-21)

Sec. 14-21. Government and management.

The Abbeville Memorial Cemetery shall be governed and managed by the city council according to the rules and regulations, set out in this article, and such amendments thereto, or further rules and regulations which may be hereafter adopted and prescribed by the city council.

(Code 1968, § 6-3; Code 1987, § 8-22)

State Law reference— Authority, Code of Ala. 1975, §§ 11-47-22, 11-47-40 et seq.

Sec. 14-22. City's right to amend regulations; deeds subject to revision.

- (a) The city reserves the right to amend the rules and regulations for the government and management of the Abbeville Memorial Cemetery and to promulgate other and further rules and regulations for such purposes as may be required or desired in the future.
- (b) All deeds to burial lots granted under the provisions of this article, and all rights and privileges vested in any burial lot owner, shall be subject to revision as may be brought about by any future action of the city council under the right reserved herein.

(Code 1968, § 6-4; Code 1987, § 8-23)

Sec. 14-23. Division of lands.

- (a) The lands dedicated to use as a city cemetery, described in section 14-20(a), shall be divided into burial lots, driveways, walkways, and reserved areas as shown by the map or plat of said property drawn by E.J. Ford, registered engineer and land surveyor (Alabama registration number 603), dated August 19, 1949, and filed in the office of the city clerk on May 8, 1950.
- (b) The areas designated and shown on said map or plat of the Abbeville Memorial Cemetery as Block 1 through Block 62, inclusive, and also Block A, Block B, and Block 30A and Block 30B, shall be and they are each, separately and severally, hereby designated, set aside, and declared to be the burial lots of the Abbeville Memorial Cemetery.
- (c) All other areas of said property are set aside, designated, and declared to be either driveways, walkways, or reserved areas, as indicated and shown in said map or plat.

(Code 1968, § 6-2; Code 1987, § 8-24)

Sec. 14-24. Division of blocks.

- (a) Blocks numbered 1 through 62, except the south one-half of Block 7 and Block 8, the north one-half of Blocks 21, 22 and Blocks 53, 59, 60, 62 and the south one-half of Blocks 30 and 33, and Block A, Block B, and the south one-half of Blocks 54, 30A, 30B, and Block 16, shall be divided into 32 equal parts and each of said 32 equal parts shall be designated by number and shall constitute one burial lot for a single grave or not more than two graves.
- (b) The blocks, or portions of blocks, excepted in subsection (a) of this section, shall be divided into appropriate burial lots for single graves, and each of said burial lots shall be designated by number as provided in subsection (a) of this section.
- (c) The division of blocks specified in subsections (a) and (b) of this section, together with the number assigned to each burial lot in each block, shall be drawn according to scale and noted by place and number on the map or plat of the cemetery, referred to in section 14-23.

(Code 1968, § 6-28; Code 1987, § 8-25)

Sec. 14-25. Purchase of burial lots.

- (a) Burial lots purchased in the cemetery are to be conveyed by deeds as provided in section 14-26 and are conveyed to the purchasers, their families, and their heirs, as a burial place forever.
- (b) The city shall issue receipts for the money so paid for the purchase of burial lots, but no deed thereto shall be executed or delivered until the purchase price of the burial lot has been paid in full.

(Code 1968, § 6-30; Code 1987, § 8-26)

Sec. 14-26. Deeds—Execution; form.

- (a) The mayor is hereby empowered, authorized, and directed to execute deeds to burial lots in the Abbeville Memorial Cemetery in the name of the city.
- (b) The city clerk is authorized to attest the execution of such deeds to the purchasers of such burial lots, upon payment to the city and deposit in the city cemetery fund of an amount equal to \$300.00 for each burial lot so conveyed. The stated amount shall be subject to future change by an affirmative vote of the city council.
- (c) Such deed, when so executed and delivered by the mayor, shall be in words and figures, and provide as follows:

"THE STATE OF ALABAMA

HENRY COUNTY

This indenture made and entered into on this the ____ day of _____, _____, by and between the undersigned, the City of Abbeville, Alabama, a municipal corporation, as party of the first part, and _____ as party of the second part, witnesseth:

"That said party of the first part, for and in consideration of the sum of _____ DOLLARS in hand paid to it by the party of the second part, the receipt thereof being hereby acknowledged, does hereby grant, bargain, sell, and convey unto the party of the second part for the burial of deceased persons the following described real estate, to wit:

Burial lot No. _____ of Block No. _____ of the Abbeville Memorial Cemetery, Abbeville, Alabama, according to and as shown by a map or plat thereof, originally drawn by E.J. Ford, dated August 19, 1949, and filed of record in the Office of the City Clerk of Abbeville, Alabama, to which map or plat reference is hereby made for further and a more accurate description of the burial lot herein conveyed.

Lying and being in the City of Abbeville, Henry County, Alabama.

"TO HAVE AND TO HOLD the same unto the party of the second part, his heirs and assigns, forever, for burial purposes only and subject to the terms and provisions of Chapter 14 of the Abbeville Code of Ordinances, and the terms and provisions thereof as well as any amendments that may be hereafter made thereto, and the rules and regulations with reference to the government and management of the Abbeville Memorial Cemetery, and any amendment or addition thereto.

"It is provided that the property herein conveyed, and the privilege and rights herein granted may be assigned only upon approval by the Council of the City of Abbeville, Alabama, in regular or special meeting assembled. As a part of the consideration, the City of Abbeville, Alabama, agrees with the party of the second part, such party's heirs and assigns, to provide permanent care for the Abbeville Memorial Cemetery as specified in aforesaid Code of Ordinances or any subsequently adopted ordinance of the city.

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"IN WITNESS WHEREOF, The City of Abbeville, Alabama, a municipal corporation, has caused its name to be hereunto subscribed and its seal affixed, by and through the Mayor of said city and attested by the City Clerk, who are duly authorized so to do, on this the ____ day of _____, 20__.

ATTEST:	
_____ City Clerk THE CITY OF ABBEVILLE, ALABAMA.	
By: _____ Mayor	

"THE STATE OF ALABAMA

HENRY COUNTY

I, the undersigned authority in and for said county in said state, hereby certify that _____, whose name as Mayor of the City of Abbeville, Alabama, a municipal corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance be, as such officer and with full authority, executed the same voluntarily for and as the act of said municipal corporation.

Given under my hand this ____ day of _____, 20__.

_____ Notary Public"	
-------------------------	--

(Code 1968, § 6-29; Code 1987, § 8-27; Ord. No. 10-10-2, § 1, 10-4-2010)

Sec. 14-27. Same—Lost; certificates of ownership.

- (a) A new deed will not be issued to replace a deed which is lost or destroyed.
- (b) A certificate setting out the recorded ownership will be issued on the payment of a fee as established from time to time.

(Code 1968, § 6-31; Code 1987, § 8-28)

Sec. 14-28. Transfer of ownership—Generally.

- (a) Burial lot owners are expressly prohibited from selling or transferring their burial lots without first obtaining consent of the city council thereto in writing at a regular or special meeting of the same.
- (b) All applications to sell or transfer burial lots must be accompanied by evidence to show good and sufficient cause.
- (c) Where a burial lot has been buried upon, the city council holds that the same has thereby become sacred ground and the city council the guardian of the dead, and it must refuse to allow such burial lots to be sold or transferred and the bodies removed therefrom, except:
 - (1) In cases where there has been an exchange of burial lots and bodies have simply to be removed to other burial lots in this Abbeville Memorial Cemetery; and
 - (2) In special cases which can not be covered by any rule, and must receive the consent of the city council.
- (d) The possession of the deed is not sufficient evidence of the transfer of a burial lot from the original owner.
- (e) No transfer is valid unless proper authority has been granted by the city council and a quit-claim deed is executed and recorded on the books of the city.

(Code 1968, § 6-32; Code 1987, § 8-29)

Sec. 14-29. Same—Surviving kin.

In case of the owner's death, the city will recognize the rights of surviving wife or husband and next of kin insofar as it is able to ascertain who such parties are, but shall not be responsible for errors committed, unless it is promptly notified of the death of the owner and given a certificate showing who are the next of kin.

(Code 1968, § 6-33; Code 1987, § 8-30)

Sec. 14-30. Record of owner's name.

The city can not recognize as burial lot owners persons whose names do not appear on its records.

(Code 1968, § 6-34; Code 1987, § 8-31)

Sec. 14-31. Power of attorney to represent owner.

- (a) Any lot owner may grant a power of attorney to a representative to act in all matters relating to such burial lot.
- (b) Such power must be filed with the city and will terminate at the death of the lot owner.

(Code 1968, § 6-35; Code 1987, § 8-32)

Sec. 14-32. Gifts of interment privilege.

Lot owners who desire to give the privilege for future interments to relatives or friends without consideration may file such instructions with the city in writing, duly signed, and same will be recorded on its books on payment of a recording fee as established from time to time.

(Code 1968, § 6-36; Code 1987, § 8-33)

Sec. 14-33. Lot grade.

The grade of all lots are established and no change will be permitted, except that done by the direction of the city council for the purpose of leveling the cemetery as much as possible to aid in the permanent care to be rendered by the city.

(Code 1968, § 6-37; Code 1987, § 8-34)

Sec. 14-34. Records kept by city.

The city will keep records showing each burial in the cemetery, the owner of each lot, any disinterments thereon, the location of monuments and markers, and any other outstanding instrument relative to such burial lots.

(Code 1968, § 6-73; Code 1987, § 8-35)

Sec. 14-35. Care of grounds and shrubbery.

All burial lots, driveways and reserved areas will be kept in good condition and the trees and shrubbery pruned by the city without charge to the burial lot owners.

(Code 1968, § 6-74; Code 1987, § 8-36)

Sec. 14-36. Wilted or unsightly decorations.

- (a) Floral or other decorations will be removed from the burial lots as soon as they become wilted or unsightly.
- (b) Persons wishing to retain any floral or other decorations must move them within 48 hours after interment.

(Code 1968, § 6-79; Code 1987, § 8-37)

Sec. 14-37. Flower receptacles.

- (a) All receptacles for cut flowers shall be sunk level with the ground to ensure safety and facilitate the cutting of the grass.
- (b) When not in conformity with this section, flower receptacles will be removed without notice to the burial lot owner.

(Code 1968, § 6-80; Code 1987, § 8-38)

Sec. 14-38. Miscellaneous offenses.

- (a) No person shall:
 - (1) Use the Abbeville Memorial Cemetery, or any portion thereof, as a trailway or passageway from one point in the city to another point;

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- (2) Loiter in the Abbeville Memorial Cemetery;
 - (3) Remove or take any flowers or decorations from any grave or lot without the consent of the owner; or
 - (4) Trespass upon the Abbeville Memorial Cemetery or any part of the same.
- (b) Nothing in this section with reference to removing flowers or decorations shall prohibit an officer, agent, servant, or employee of the city from the performance of any duty required under the rules and regulations herein provided for the government and management of the Abbeville Memorial Cemetery.

(Code 1968, § 6-81; Code 1987, § 8-39)

Sec. 14-39. Driving on driveways.

No person other than construction workers and caretakers in the course of authorized work as necessary shall drive or use vehicles of any kind or description in the Abbeville Memorial Cemetery, except by, through, and along the duly and legally constituted driveways in the cemetery.

(Code 1968, § 6-82; Code 1987, § 8-40)

Sec. 14-40. Vehicles turning around in drives.

No vehicle may be turned around in any drive, except on Main Street.

(Code 1968, § 6-84; Code 1987, § 8-41)

Secs. 14-41—14-68. Reserved.

DIVISION 2. FUNDS

[Sec. 14-69. Creation of special fund; separation.](#)

[Sec. 14-70. Proceeds from sale of lots; other appropriations.](#)

[Sec. 14-71. Gifts, devises and bequests.](#)

[Sec. 14-72. Authority of council.](#)

[Sec. 14-73. Use.](#)

[Sec. 14-74. Records and accounts.](#)

[Secs. 14-75—14-91. Reserved.](#)

Sec. 14-69. Creation of special fund; separation.

- (a) There is hereby created a special cemetery fund out of the funds of the city.
- (b) The special cemetery fund shall be kept separate and apart from all other funds of the city.

(Code 1968, §§ 6-16, 6-17; Code 1987, § 8-46)

Sec. 14-70. Proceeds from sale of lots; other appropriations.

- (a) The proceeds from the sale of cemetery lots shall be placed in the special cemetery fund.
- (b) Such other appropriations shall be made by the city council and deposited in said cemetery fund as is necessary to provide for the perpetual care for the Abbeville Memorial Cemetery as specified in this article, when and as the city council deems funds of the city available for appropriation to such purpose.
- (c) The discretion and judgment of the city council shall be final in this matter.

(Code 1968, § 6-18; Code 1987, § 8-47)

Sec. 14-71. Gifts, devises and bequests.

- (a) The city council shall be authorized to receive gifts, devises and bequests.
- (b) When so received, the gifts, devises or bequests shall be expended in the manner designated by the donor, the devisor or bequeather, if the same is not inconsistent with the provisions of this article or the rules or regulations for the government and management of the cemetery.
- (c) If no direction is made as to the use of the gift, devise or bequest, then said gift, devise or bequest shall be expended to accomplish the purposes for which the Abbeville Memorial Cemetery is created, subject to the provisions of this article, other ordinances of the city and rules and regulations with reference to the government and management of the city.

(Code 1968, § 6-22; Code 1987, § 8-48)

Sec. 14-72. Authority of council.

The city council shall have full authority to take charge of, control, manage, care for, and maintain all of the proceeds from the Abbeville Memorial Cemetery, and any funds belonging to or deposited in the cemetery fund.

(Code 1968, § 6-21; Code 1987, § 8-49)

Sec. 14-73. Use.

All funds deposited in the city cemetery fund shall be used exclusively for the maintenance, beautification, and permanent care of the Abbeville Memorial Cemetery.

(Code 1968, § 6-19; Code 1987, § 8-50)

Sec. 14-74. Records and accounts.

The city clerk shall keep or cause to be kept proper books and accurate accounts showing the receipts and disbursements of all funds deposited in the cemetery fund from the sale of burial lots or by appropriations made by the city council or from any other sources together with vouchers showing all payments and expenditures.

(Code 1968, § 6-20; Code 1987, § 8-51)

Secs. 14-75—14-91. Reserved.

DIVISION 3. INTERMENTS AND DISINTERMENTS

[Sec. 14-92. Death certificate required for interment.](#)

[Sec. 14-93. Orders and permits for burial required.](#)

[Sec. 14-94. Number of interments per grave.](#)

[Sec. 14-95. Burial in case of joint ownership of lot.](#)

[Sec. 14-96. Prerequisites to disinterment.](#)

[Sec. 14-97. Opening and closing; persons authorized, supervision.](#)

[Sec. 14-98. Location of graves within burial lot.](#)

[Sec. 14-99. Grave depth.](#)

[Sec. 14-100. Sodding of graves.](#)

[Secs. 14-101—14-128. Reserved.](#)

Sec. 14-92. Death certificate required for interment.

No interment shall be made in the cemetery, nor any vault installed therein, unless a proper certificate or information in writing is furnished to the city, showing the name and residence of the deceased, and the time and place of death.

(Code 1968, § 6-91; Code 1987, § 8-56)

State Law reference— Permit from register of vital statistics required, Code of Ala. 1975, § 22-19-3; death certificate required, Code of Ala. 1975, § 22-9-70.

Sec. 14-93. Orders and permits for burial required.

- (a) No grave will be opened in any burial lot, nor interment allowed therein, except upon written order or permission of owner of such burial lot, designating the exact location for same.
- (b) Written permits for interment must be obtained from the city before any grave opening or burial shall be made in the cemetery.
- (c) The city clerk is authorized to issue burial permits in accordance with the terms and provisions of this article, and all ordinances, rules, and regulations pertaining to the government and management of the Abbeville Memorial Cemetery and subject to the directions of the city council.

(Code 1968, §§ 6-92, 6-94; Code 1987, § 8-57)

Sec. 14-94. Number of interments per grave.

Only one interment will be allowed in any grave, except in cases of mother and infant child, or twin children.

(Code 1968, § 6-95; Code 1987, § 8-58)

Sec. 14-95. Burial in case of joint ownership of lot.

When a burial lot is held jointly by two or more persons, an order will be accepted from either or any of them for interment of a relative or member of the family in such part of the burial lot as may be requested, unless objection is made by a majority interested.

(Code 1968, § 6-96; Code 1987, § 8-59)

Sec. 14-96. Prerequisites to disinterment.

When a lot has been paid in full and a deed executed therefor, no disinterment in such burial lot or removal of a body will be allowed without the assent in writing of the surviving husband or wife, or the next of kin to the person whose body is to be disinterred or removed; also written permit or order for the same from the owner of the lot, or the owner's legal representative, and the written consent of the city council.

(Code 1968, § 6-102; Code 1987, § 8-60)

State Law reference— Permit from registrar of vital statistics required, Code of Ala. 1975, § 22-19-3.

Sec. 14-97. Opening and closing; persons authorized, supervision.

All graves shall be opened and closed by the burial lot owner, or such owner's agent, undertaker, servant, or employee under the supervision of the city clerk.

(Code 1968, § 6-43; Code 1987, § 8-61)

Sec. 14-98. Location of graves within burial lot.

Graves must be located at least six inches within the boundaries of the burial lot.

(Code 1968, § 6-44; Code 1987, § 8-62)

Sec. 14-99. Grave depth.

No grave shall be less than 4½ feet in depth.

(Code 1968, § 6-45; Code 1987, § 8-63)

Sec. 14-100. Sodding of graves.

All graves shall be sodded level with the lot.

(Code 1968, § 6-46; Code 1987, § 8-64)

Secs. 14-101—14-128. Reserved.

DIVISION 4. MONUMENTS AND MARKERS; STRUCTURES; TREES AND SHRUBBERY

[Sec. 14-129. Erecting of objectionable monuments or memorials.](#)

[Sec. 14-130. Application and permit prior to construction.](#)

[Sec. 14-131. Construction principles.](#)

[Sec. 14-132. Foundations—Permanency.](#)

[Sec. 14-133. Same—Delivery of markers prerequisite to construction.](#)

[Sec. 14-134. Specifications of markers and headstones.](#)

[Sec. 14-135. Joints; wedging.](#)

[Sec. 14-136. Number of stones per grave and burial lot.](#)

[Sec. 14-137. Boundary posts.](#)

[Sec. 14-138. Grade changes; use of sprawls.](#)

[Sec. 14-139. Work on wet or soft ground.](#)

[Sec. 14-140. Protection of grass and paths during construction.](#)

[Sec. 14-141. Liability for damage during construction.](#)

[Sec. 14-142. Saturday work.](#)

[Sec. 14-143. Exceptions and changes in regulations.](#)

[Sec. 14-144. Offensive structures or objects.](#)

[Sec. 14-145. Lot enclosures.](#)

[Sec. 14-146. Trees, shrubbery, etc.—Authorized planting only.](#)

[Sec. 14-147. Same—Supervision of planting.](#)

[Sec. 14-148. Plantings around burial lots.](#)

[Sec. 14-149. Ownership; removal when objectionable.](#)

Sec. 14-129. Erecting of objectionable monuments or memorials.

The city does not wish to interfere with individual taste in the construction of monuments or other memorials; but to protect the interest of each separate purchaser, it reserves to itself explicitly the right to prevent the erection of any improvement which might interfere with the general effect or obstruct any principal view.

(Code 1968, § 6-52; Code 1987, § 8-70)

Sec. 14-130. Application and permit prior to construction.

When stonework or other material is to be erected on any lot, application must be made in writing by the burial lot owner to, and assent granted by, the city.

(Code 1968, § 6-53; Code 1987, § 8-71)

Sec. 14-131. Construction principles.

- (a) All monumental work must be designed and executed so as to provide the most permanent construction.
- (b) Vertical joints in monuments will not be permitted.
- (c) All materials brought into the cemetery must be delivered to the lots on planking, and any surplus or rubbish left thereon will be removed at the expense of the burial lot owner.
- (d) During construction, adjacent burial lots must not be trespassed upon.
- (e) To prevent the obstruction of drives or passways, delivery of monuments, material, and apparatus will not be permitted until required for immediate use.
- (f) Persons engaged in erecting vaults, monuments or other structures are prohibited from attaching ropes to trees, shrubs or other permanent objects on the grounds.
- (g) After the erection of stonework on lots, the grade and sod must be restored at the expense of the burial lot owner.

(Code 1968, § 6-71; Code 1987, § 8-72)

Sec. 14-132. Foundations—Permanency.

All foundations of monuments and markers must be built of materials to ensure permanency.

(Code 1968, § 6-54; Code 1987, § 8-73)

Sec. 14-133. Same—Delivery of markers prerequisite to construction.

All grave markers or headstones must be delivered at the graves for which they are intended before the foundations are built.

(Code 1968, § 6-55; Code 1987, § 8-74)

Sec. 14-134. Specifications of markers and headstones.

Grave markers or headstones must be one piece and level with the lawn and must be within the following dimensions:

- (1) Not over 24 inches in width and not less than six inches thick.
- (2) Double markers must not exceed twice the length of single markers.

(Code 1968, § 6-56; Code 1987, § 8-75)

Sec. 14-135. Joints; wedging.

- (a) All stonework must have enough material to make a good level joint on the foundation at least two inches below the surface of the ground and set with cement.
- (b) No wedging will be allowed.

(Code 1968, § 6-57; Code 1987, § 8-76)

Sec. 14-136. Number of stones per grave and burial lot.

- (a) Only one stone may be placed at a grave.
- (b) Both headstones and footstones are not allowed, and no headstone or grave marker will be allowed to be set within two feet of any monument.
- (c) Both a monument and grave marker may be erected in a burial lot as defined and shown by the map or plat of Abbeville Memorial Cemetery; but both may not be erected on individual graves where only grave marker shall be installed.

(Code 1968, § 6-58; Code 1987, § 8-77)

Sec. 14-137. Boundary posts.

- (a) All lots are marked with corner stones.
- (b) If other boundary posts are desired, they must be granite set flush with the surface of the ground.
- (c) Said posts must be less than two feet long and dressed so no rock projection will protrude on adjoining lots.
- (d) Lettering must be V sunk.
- (e) The setting of such posts must be done under the supervision of the city clerk at the expense of the burial lot owner, and before installation, a sketch of same must be furnished to the city for approval.

(Code 1968, § 6-59; Code 1987, § 8-78)

Sec. 14-138. Grade changes; use of sprawls.

The changing of grade or the use of sprawls by the base stones and foundations will not be permitted.

(Code 1968, § 6-60; Code 1987, § 8-79)

Sec. 14-139. Work on wet or soft ground.

- (a) In the erection of stonework, no worker may enter on any burial lot when the surface is in a soft condition due to rain, frost or snow leaving the ground, or other cause.
- (b) The setting of monuments, stones or other improvements are prohibited when the ground is wet enough to cause damage to the lots from such work.
- (c) Lots shall be left in as good condition as they were when work commenced.

(Code 1968, § 6-61; Code 1987, § 8-80)

Sec. 14-140. Protection of grass and paths during construction.

In order to protect paths and grass from injury, planks must be laid down for runways while stones are in the course of being erected.

(Code 1968, § 6-62; Code 1987, § 8-81)

Sec. 14-141. Liability for damage during construction.

- (a) Stone contractors are held responsible for damaging drives, walkways or other cemetery property. Any damage done shall be repaired at the expense of such contractor.
- (b) It must be understood by the burial lot owner and contractor that if any damage is done to the grass, burial lots, trees, shrubbery, plants, driveways or walkways, the city may repair same at the expense of said burial lot owner or contractor.

(Code 1968, § 6-63; Code 1987, § 8-82)

Sec. 14-142. Saturday work.

No work shall be commenced on Saturday which cannot be finished and the debris entirely removed by the workers on that day.

(Code 1968, § 6-64; Code 1987, § 8-83)

Sec. 14-143. Exceptions and changes in regulations.

- (a) The city expressly reserves the right to make exceptions to these rules in favor of any construction work the city council considers exceptionally artistic or of general benefit to the appearance of the cemetery.
- (b) The city reserves the right to change the rules pertaining to stonework at any time.

(Code 1968, § 6-65; Code 1987, § 8-84)

Sec. 14-144. Offensive structures or objects.

If any monument, effigy, enclosure or any structure whatever, or any inscription, or any other thing is placed in or upon any burial lot, which shall be determined by the city council to be offensive or improper or detrimental to the appearance of the surrounding burial lots or grounds, the city council shall have the right, and it shall be its duty, to enter upon such burial lots and remove the offensive or improper objects.

(Code 1968, § 6-77; Code 1987, § 8-85)

Sec. 14-145. Lot enclosures.

Coping or enclosures around burial lots will not be allowed, nor the erection thereon of anything detrimental to the general appearance of the cemetery.

(Code 1968, § 6-76(2); Code 1987, § 8-86)

Sec. 14-146. Trees, shrubbery, etc.—Authorized planting only.

No trees, plants, flowers, or shrubbery will be allowed to be planted by a burial lot owner, or any person, except a duly authorized agent or servant of the city under the direction of the city council.

(Code 1968, § 6-72; Code 1987, § 8-87)

Sec. 14-147. Same—Supervision of planting.

As all planting is provided for on carefully studied landscape plan designed to give the greatest beauty to the grounds, no planting is allowed except by, or under the direct supervision of, the city.

(Code 1968, § 6-75; Code 1987, § 8-88)

Sec. 14-148. Plantings around burial lots.

Planting of borders around burial lots is prohibited.

(Code 1968, § 6-76(1); Code 1987, § 8-89)

Sec. 14-149. Ownership; removal when objectionable.

- (a) All trees and shrubs growing in the cemetery are the property of the city and not of the burial lot owners.
- (b) Whenever any tree or shrub becomes objectionable, for any cause whatever, the city reserves the right to remove said tree or shrub at its discretion, and no burial lot owner shall have the right to object thereto.

(Code 1968, § 6-78; Code 1987, § 8-90)

Chapter 15 RESERVED

Chapter 16 COURT [u](#)

[Sec. 16-1. Trial for ordinance violations.](#)

Sec. 16-1. Trial for ordinance violations.

All cases arising out of the violations of city ordinances shall be tried in the district court of the state having jurisdiction over such cases.

(Ord. No. 8-87-1, § 2, 8-17-1987)

State Law reference— Effect of abolition of municipal court, Code of Ala. 1975, § 12-14-17.

FOOTNOTE(S):

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Editor's note— Upon adoption of Ord. No. 8-87-1 in 1987, the city abolished its municipal court, and jurisdiction of the former municipal court was transferred to Henry County District Court. ([Back](#))

State Law reference— Municipal courts generally, Code of Ala. 1975, § 12-14-1 et seq.; powers of municipal judgments generally, Code of Ala. 1975, § 12-14-31; powers of courts as to trial and disposition of cases generally, Code of Ala. 1975, § 12-14-10; issuance of arrest and search warrants by municipal judges, Code of Ala. 1975, § 12-14-32; municipal court costs authorized, Code of Ala. 1975, § 12-14-14; court costs, fees, and fines in criminal cases, Code of Ala. 1975, § 12-19-150 et seq.; court costs may be imposed in municipal criminal cases, Code of Ala. 1975, § 12-19-153; additional costs for peace officers' annuity fund, Code of Ala. 1975, § 36-21-67; docket fees in district court and circuit court, Code of Ala. 1975, § 12-19-171; fees required to be uniform, Code of Ala. 1975, § 12-19-170; fair trial tax, Code of Ala. 1975, § 12-59-250; requirement for working out judgment if not paid within time prescribed, Code of Ala. 1975, § 12-14-12. ([Back](#))

Chapter 17 RESERVED

Chapter 18 EMERGENCY MANAGEMENT ⁽¹⁾

[Sec. 18-1. Definitions.](#)

[Sec. 18-2. Emergency management organization—Composition.](#)

[Sec. 18-3. Same—Powers and duties.](#)

[Sec. 18-4. Same—Volunteers.](#)

Sec. 18-1. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency management means preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake or other natural cause. These functions include, without limitation, firefighting services; police services; medical and health services; rescue, engineering, air raid warning services; communications; radiological, chemical and other special weapons of defense; evacuation of persons from stricken areas; emergency welfare services (civilian war aid); emergency transportation; plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

(Code 1968, § 7-1; Code 1987, § 9-1)

Sec. 18-2. Emergency management organization—Composition.

The emergency management organization consists of officers and employees of the city with volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who make the agreements on operation of law, charged with duties necessary for the protection of life and property in the city during an emergency.

(Code 1968, § 7-12; Code 1987, § 9-2)

Sec. 18-3. Same—Powers and duties.

It shall be the duty of the city emergency management organization, and it is hereby empowered to:

- (1) Develop a municipal emergency management operational survival plan. This plan shall provide for the effective mobilization of all resources of the city, both private and public.
- (2) Prepare and recommend for consideration by the city council ordinances necessary to implement the emergency management operational survival plan.
- (3) Consider and recommend to the council for approval all mutual aid plans and agreements.

(Code 1968, § 7-13; Code 1987, § 9-3)

Sec. 18-4. Same—Volunteers.

All persons, other than officers and employees of the city, volunteering in the service pursuant to compliance with this chapter, shall serve with or without compensation. While engaged in such service, they shall have the same immunities as persons and employees of the city performing similar duties.

(Code 1968, § 7-14; Code 1987, § 9-4)

FOOTNOTE(S):

--- (1) ---

State Law reference— Emergency Management Act, Code of Ala. 1975, § 31-9-1 et seq.; mutual aid agreements, Code of Ala. 1975, § 31-9-9; local emergency management agency and emergency powers of political subdivisions, Code of Ala. 1975, § 31-9-10; certified directors of local emergency management agency, Code of Ala. 1975, § 31-9-61; compensation of local emergency management directors, Code of Ala. 1975, § 31-9-62; employees of political subdivisions rendering outside aid, Code of Ala. 1975, § 31-9-11; political activities by emergency management agency, Code of Ala. 1975, § 31-9-19; Emergency Interim Succession Act, Code of Ala. 1975, § 29-3-1 et seq. [\(Back\)](#)

Chapter 19 RESERVED

Chapter 20 ENVIRONMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - TREES

ARTICLE I. IN GENERAL

[Secs. 20-1—20-18. Reserved.](#)

Secs. 20-1—20-18. Reserved.

ARTICLE II. TREES

[Sec. 20-19. Definitions.](#)

[Sec. 20-20. Street tree species to be planted.](#)

[Sec. 20-21. Spacing.](#)

[Sec. 20-22. Distance from curb and sidewalk.](#)

[Sec. 20-23. Distance from street corners and fireplugs.](#)

[Sec. 20-24. Utilities.](#)

[Sec. 20-25. Public tree care.](#)

[Sec. 20-26. Tree topping.](#)

[Sec. 20-27. Pruning; corner clearance.](#)

[Sec. 20-28. Dead or diseased tree removal on private property.](#)

[Sec. 20-29. Removal of stumps.](#)

[Sec. 20-30. Interference with city.](#)

[Sec. 20-31. Arborist's license and bond.](#)

[Sec. 20-32. Review by city council.](#)

[Sec. 20-33. Penalty.](#)

Sec. 20-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park trees means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city or to which the public has free access as a park.

Street trees means trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city.

(Ord. No. 4-89-1, § 1, 4-17-1989)

Sec. 20-20. Street tree species to be planted.

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without the written permission of the city.

Small trees	Medium trees	Large trees
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Red tops	Holly	Sycamore
Crabapple, flowering (sp)	Honeylocust (thornless)	Cottonwood
	Pagodatree, Japanese	Oak
Golden rain tree	Persimmon	Pecan
Hawthorne (sp.)	Poplar	Pine
Pear, Bradford	Sassafras	Cedar
Redbud	Magnolia	
Lilac, Japanese tree	Cherry laurel	
Peach, flowering	Chinese elm	
Plum, purpleleaf		
Dogwood		
Popcorn		
Crepe myrtle		
Grants		
Greybeard		

(Ord. No. 4-89-1, § 7, 4-17-1989)

Sec. 20-21. Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in section 20-25, and no trees may be planted closer together than the following, except in special plantings designed or approved by a landscape architect:

- (1) Small trees 30 feet
- (2) Medium trees 40 feet

- (3) Large trees 50 feet

(Ord. No. 4-89-1, § 8, 4-17-1989)

Sec. 20-22. Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 20-20, and no trees may be planted closer to any curb or sidewalk than the following:

- (1) Small trees two feet
- (2) Medium trees three feet
- (3) Large trees four feet

(Ord. No. 4-89-1, § 9, 4-17-1989)

Sec. 20-23. Distance from street corners and fireplugs.

No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet from any fireplug.

(Ord. No. 4-89-1, § 10, 4-17-1989)

Sec. 20-24. Utilities.

No street trees other than those species listed as small trees in section 20-20 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Ord. No. 4-89-1, § 11, 4-17-1989)

Sec. 20-25. Public tree care.

The city shall have the right to plant, prune, maintain and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with sections 20-20 through 20-24.

(Ord. No. 4-89-1, § 12, 4-17-1989)

Sec. 20-26. Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. The term "topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to

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remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the city.

(Ord. No. 4-89-1, § 13, 4-17-1989)

Sec. 20-27. Pruning; corner clearance.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub or private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. No. 4-89-1, § 14, 4-17-1989)

Sec. 20-28. Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of the owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owners' property tax notice.

(Ord. No. 4-89-1, § 15, 4-17-1989)

Sec. 20-29. Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Ord. No. 4-89-1, § 16, 4-17-1989)

Sec. 20-30. Interference with city.

It shall be unlawful for any person to prevent, delay or interfere with the city, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this article.

(Ord. No. 4-89-1, § 17, 4-17-1989)

Sec. 20-31. Arborist's license and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be as established from time to time; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public

service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amount of \$50,000.00 for bodily injury and \$100,000.00 property damage, indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(Ord. No. 4-89-1, § 18, 4-17-1989)

Sec. 20-32. Review by city council.

The city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the city council who may hear the matter and make final decision.

(Ord. No. 4-89-1, § 19, 4-17-1989)

Sec. 20-33. Penalty.

Any person violating any provision of this article shall, upon conviction or a plea of guilty, be subject to a minimum fine of \$100.00, but not to exceed a maximum fine of \$500.00, for each separate offense.

(Ord. No. 4-89-1, § 20, 4-17-1989)

Chapter 21 RESERVED

Chapter 22 FINANCE AND TAXATION [u](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - AD VALOREM TAXES

ARTICLE III. - SALES AND USE TAXES

ARTICLE IV. - CIGARETTE TAX

ARTICLE V. - GASOLINE TAX

ARTICLE VI. - AMUSEMENTS ADMISSIONS TAX

ARTICLE VII. - TRANSIENT LODGING TAX

ARTICLE VIII. - BUSINESS LICENSING TAX

FOOTNOTE(S):

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State Law reference— Revenue and taxation generally, Code of Ala. 1975, § 40-1-1 et seq.; Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, Code of Ala. 1975, § 40-2A-1 et seq.; exemptions from taxation and licenses, Code of Ala. 1975, § 40-9-1 et seq.; sales and use taxes generally, Code of Ala. 1975, § 40-23-1 et seq.; transient occupancy tax, Code of Ala. 1975, § 40-26-1 et seq.; management and control of finances and property of municipalities, Code of Ala. 1975, § 11-43-56; municipal property taxation, Code of Ala. 1975, § 11-51-1 et seq.; municipal license taxes, Code of Ala. 1975, § 11-51-90 et seq.; municipal sales and use taxes, Code of Ala. 1975, § 11-51-200 et seq.; municipal limitation on property tax rates applicable to municipalities generally, Ala. Const. art. XI, § 216; tax exemption regarding commercial property in Class 6 municipalities, authority of municipality to impose ad valorem taxes, Code of Ala. 1975, § 11-51-1; municipal authority to levy sales tax, Code of Ala. 1975, §§ 11-51-200, 11-51-206. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 22-1. Special assessments—Where payable.](#)

[Sec. 22-2. Same—Accounts.](#)

[Sec. 22-3. Same—Deposit of funds.](#)

[Secs. 22-4—22-20. Reserved.](#)

Sec. 22-1. Special assessments—Where payable.

All assessments for local improvements shall be collected by the city clerk and all such assessments shall be payable at the office of the city clerk.

(Code 1968, § 11-11; Code 1987, § 11-1)

Sec. 22-2. Same—Accounts.

The city clerk shall keep an accurate and separate account of funds arising from the collection of assessments made under each improvement ordinance or resolution.

(Code 1968, § 11-12; Code 1987, § 11-2)

Sec. 22-3. Same—Deposit of funds.

All monies collected by the city clerk from assessment for local improvements shall be, as soon as collected, deposited in the city depository.

(Code 1968, § 11-13; Code 1987, § 11-3)

Secs. 22-4—22-20. Reserved.

ARTICLE II. AD VALOREM TAXES

[Sec. 22-21. Tax year.](#)

[Sec. 22-22. Basis of tax assessments; time due and delinquent.](#)

[Sec. 22-23. Adoption of optional method of collecting municipal taxes.](#)

[Secs. 22-24—22-44. Reserved.](#)

Sec. 22-21. Tax year.

The tax year for the city shall commence on October 1 of each year and end the next succeeding September 30.

(Code 1968, § 29-11; Code 1987, § 11-20)

State Law reference— Authority of municipality to provide for such tax year, Code of Ala. 1975, § 11-51-41.

Sec. 22-22. Basis of tax assessments; time due and delinquent.

- (a) The municipal taxes for the city shall be based and due on state and county assessments for the preceding tax year.
- (b) Said city taxes shall be due and delinquent at the time the state and county taxes are due and delinquent.

(Code 1968, § 29-13; Code 1987, § 11-21)

Sec. 22-23. Adoption of optional method of collecting municipal taxes.

All laws now in force or hereafter enacted in regard to the collection of state and county taxes and procedure with reference thereto and the enforcement of collection shall apply to and be in force as to the municipal taxes of the city, except as such laws are changed by or in conflict with the provisions of this article and with the state law under which the ordinance from which this article is derived is adopted, it being the intention of the city by the adoption of the ordinance from which this article is derived to take advantage of the optional method of collecting municipal taxes provided in Code of Ala. 1975, § 11-51-40 et seq.

(Code 1968, § 29-14; Code 1987, § 11-22)

Secs. 22-24—22-44. Reserved.

ARTICLE III. SALES AND USE TAXES [\[2\]](#)

DIVISION 1. - GENERALLY

DIVISION 2. - 1975 ORDINANCE

DIVISION 3. - 1986 PRIVILEGE/LICENSE TAX

DIVISION 4. - GROSS RECEIPTS SALES TAX

FOOTNOTE(S):

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State Law reference— Municipal sales and use taxes, Code of Ala. 1975, § 11-51-200 et seq.; state sales and use taxes, Code of Ala. 1975, § 40-23-1 et seq. ([Back](#))

DIVISION 1. GENERALLY

[Secs. 22-45—22-57. Reserved.](#)

Secs. 22-45—22-57. Reserved.

DIVISION 2. 1975 ORDINANCE

Subdivision I. - Sales Tax

Subdivision II. - Use Tax

Subdivision I. Sales Tax

[Sec. 22-58. Levy within city.](#)

[Sec. 22-59. Within police jurisdiction.](#)

[Sec. 22-60. State law applies.](#)

[Sec. 22-61. Subdivision cumulative to general license code.](#)

[Secs. 22-62—22-72. Reserved.](#)

Sec. 22-58. Levy within city.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

- (1) Upon every person (including the state, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions are denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged or continuing within the city in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks, or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of over 50 tons burden), an amount equal to one percent of the gross proceeds of sales of the business except where a different

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amount is expressly provided in this division; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when such person's books are kept so as to show separately the gross proceeds of sales of each business, and when such person's books are not so kept such person shall pay the tax as retailer on the gross sales of the business.

- (2) Upon every person engaged or continuing within the city in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within the city, or any athletic association thereof, other association whether such institution or association is a denominational, a state, or county, or municipal institution or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the city, an amount equal to one percent of the gross receipts of any such business.
- (3) Upon every person engaged or continuing within the city in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an equal amount to one-fourth percent of the gross proceeds of the sale of such machines; provided that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.
- (4) Upon every person engaged or continuing within the city in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, and amount equal to one-fourth percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semitrailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from such person's stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for the use by such person or by such person's employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee as established from time to time per year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the 12 succeeding months or part thereof during which automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied by this section shall be paid on the next difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.
- (5) Upon every person engaged or continuing within the city in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements thereof which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, and amount equal to one-fourth percent of the gross proceeds of the sale thereof; provided, however, the one-fourth percent rate prescribed in this section with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine,

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machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied by this section shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

- (6) Upon every person engaged or continuing within the city in the business of selling through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

(Code 1987, § 11-30; Ord. No. 9-75, § 1, 10-6-1975)

Sec. 22-59. Within police jurisdiction.

Upon every person engaged in doing any act, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business, who shall engage in the operation of any business, within the police jurisdiction of the city, but beyond the corporate limits of the city, for which or upon which a privilege or license tax is in this division levied or required within the corporate limits of the city, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by city ordinance, to be collected as herein provided for the privilege or license taxes herein levied within the corporate limits of the city, a privilege or license tax equal to one-half of that provided, levied or required in this division for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the city; provided further that, except for the amount of the privilege or license tax herein levied within the police jurisdiction of said city but without the corporate limits thereof, all the provisions of this division extend and apply to all the area within the police jurisdiction of the city.

(Code 1987, § 11-31; Ord. No. 9-75, § 2, 10-6-1975)

Sec. 22-60. State law applies.

The taxes levied by sections 22-58 and 22-59 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the state sales tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state sales tax statutes for enforcement and collection of taxes.

(Code 1987, § 11-32; Ord. No. 9-75, § 3, 10-6-1975)

Sec. 22-61. Subdivision cumulative to general license code.

This subdivision shall not be construed to repeal any of the provisions of the general license code of the city, but shall be held to be cumulative, and the amounts of the taxes herein shall be in addition to the amounts of all other license taxes imposed by the city by its general license code.

(Code 1987, § 11-36; Ord. No. 9-75, § 6, 10-6-1975)

Secs. 22-62—22-72. Reserved.

Subdivision II. Use Tax

[Sec. 22-73. Imposed within city.](#)

[Sec. 22-74. Within police jurisdiction.](#)

[Sec. 22-75. State law applies.](#)

[Sec. 22-76. Subdivision cumulative to general license code.](#)

[Secs. 22-77—22-92. Reserved.](#)

Sec. 22-73. Imposed within city.

- (a) An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden) purchased at retail for storage, use or other consumption in the city, except as provided in subsections (b), (c), and (d) of this section, at the rate of one percent of the sales price of such property within the corporate limits of the city.
- (b) An excise tax is hereby imposed on the storage, use or other consumption in the city of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property purchased at retail at the rate of one-fourth percent of the sales price of any such machine, within the corporate limits of the city; provided that the term "machine," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.
- (c) An excise tax is hereby imposed on the storage, use or other consumption in the city of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail for storage, use or other consumption in the city at the rate of one-fourth percent of the sales price of such automotive vehicle or truck trailer, semitrailer or house trailer within the corporate limits of the city. Where any used automotive vehicle or truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied by this subsection shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.
- (d) An excise tax is hereby levied and imposed on the storage, use or other consumption in the city of any machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail for the storage, use or other consumption in the city at the rate of one-fourth percent of the sales price of such property within the corporate limits of the city, regardless of whether the retailer is or is not engaged in the business in the city; provided, however, the one-fourth percent rate prescribed by this subsection with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit

or part payment on a sale of a new or used machine, machinery or equipment, the tax levied by this subsection shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

(Code 1987, § 11-33; Ord. No. 9-75, § 4, 10-6-1975)

Sec. 22-74. Within police jurisdiction.

An excise tax is hereby imposed on tangible personal property at one-half the rates specified in section 22-73 on the storage, use or other consumption of such tangible personal property outside the corporate limits of the city, but within the police jurisdiction.

(Code 1987, § 11-34; Ord. No. 9-75, § 4, 10-6-1975)

Sec. 22-75. State law applies.

The taxes levied by sections 22-73 and 22-74 shall be subject to all definitions, exceptions, proceedings, requirements, exemptions, rules, regulations, provisions, discounts, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state use tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state use tax statutes for enforcement and collection of taxes.

(Code 1987, § 11-35; Ord. No. 9-75, § 5, 10-6-1975)

Sec. 22-76. Subdivision cumulative to general license code.

This subdivision shall not be construed to repeal any of the provisions of the general license code of the city, but shall be held to be cumulative, and the amounts of the taxes herein shall be in addition to the amounts of all other license taxes imposed by the city by its general license code.

(Code 1987, § 11-36; Ord. No. 9-75, § 6, 10-6-1975)

Secs. 22-77—22-92. Reserved.

DIVISION 3. 1986 PRIVILEGE/LICENSE TAX

Subdivision I. - Sales Tax

Subdivision II. - Use Tax

Subdivision I. Sales Tax

[Sec. 22-93. Levy within city.](#)

[Sec. 22-94. Levy within police jurisdiction.](#)

[Sec. 22-95. State law applies.](#)

[Sec. 22-96. Subdivision cumulative.](#)

[Secs. 22-97—22-109. Reserved.](#)

Sec. 22-93. Levy within city.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as provided by this division, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

- (1) Upon every person engaged or continuing within the city in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds or other evidences of debts or stocks), an amount equal to one percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when such person's books are kept so as to show separately the gross proceeds of sales of each business, and when such person's books are not so kept, he shall pay the tax as retailer on the gross sales of the business.
- (2) Upon every person engaged or continuing within the city in the business of conducting, or operating, places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games, (including athletic contests, conducted by or under the auspices of any educational institution within the city, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a municipal institution or association or a state, county, or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the city, an amount equal to one percent of the gross receipts of any such business.
- (3) Upon every person engaged or continuing within the city in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to one-fourth percent of the gross proceeds of the sale of such machines; provided that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.
- (4) Upon every person engaged or continuing within the city in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, an amount equal to one-fourth percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semitrailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from such person's stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by such person or by such person's employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee as established from time to time per year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the 12 succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person. Where any used automobile vehicle or truck trailer, semitrailer or house trailer is taken in trade or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

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- (5) Upon every person engaged or continuing within the city in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements thereof which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, an amount equal to one-fourth percent of the gross proceeds of the sale thereof; provided, however, the one-fourth percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.
- (6) Upon every person engaged or continuing within the state in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

(Code 1987, § 11-39.1; Ord. No. 10-86-1, § 1, 10-21-1986)

Sec. 22-94. Levy within police jurisdiction.

Upon every person engaged in the doing of any act, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business, or who shall engage in the operation of any business, within the police jurisdiction of the city, but beyond the corporate limits of the city, for which or upon which a privilege or license tax is in this division levied or required within the corporate limits of the city, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by city ordinance, to be collected as herein provided for the privilege of license taxes herein levied within the corporate limits of the city, a privilege or license tax equal to one-half of that provided, levied or required in this division for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the city; provided further that, except for the amount of the privilege or license tax herein levied within the police jurisdiction of the city but without the corporate limits thereof, all the provisions of this division extend and apply to all the area within the police jurisdiction of the city.

(Code 1987, § 11-39.2; Ord. No. 10-86-1, § 2, 10-21-1986)

Sec. 22-95. State law applies.

The taxes levied by sections 22-93 and 22-94 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the state sales tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state sales tax statutes for enforcement and collection of taxes.

(Code 1987, § 11-39.3; Ord. No. 10-86-1, § 3, 10-21-1986)

Sec. 22-96. Subdivision cumulative.

- (a) This subdivision shall not be construed to repeal any of the provisions of the general license code of the city, but shall be held to be cumulative, and the amounts of the taxes herein shall be in addition to the amounts of all other license taxes imposed by the city by its general license code.
- (b) The tax levied and assessed by this division is levied and assessed in addition to the tax levied by division 1 of this article.

(Code 1987, § 11-39.7; Ord. No. 10-86-1, §§ 6, 8, 10-21-1986)

Secs. 22-97—22-109. Reserved.

Subdivision II. Use Tax

[Sec. 22-110. Imposed within city.](#)

[Sec. 22-111. Within police jurisdiction.](#)

[Sec. 22-112. State law applies.](#)

[Sec. 22-113. Subdivision cumulative.](#)

[Secs. 22-114—22-124. Reserved.](#)

Sec. 22-110. Imposed within city.

- (a) An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased at retail for storage, use or other consumption in the city, except as provided in subsections (b), (c), and (d) of this section, at the rate of one percent of the sales price of such property within the corporate limits of the city.
- (b) An excise tax is hereby imposed on the storage, use or other consumption in the city of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property purchased at retail at the rate of one-fourth percent of the sales price of any such machine, within the corporate limits of the city; provided that the term "machine," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.
- (c) An excise tax is hereby imposed on the storage, use or other consumption in the city of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail for storage, use or other consumption in the city at the rate of one-fourth percent of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer within the corporate limits of the city. Where any used automotive vehicle, truck trailer, semitrailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.
- (d) An excise tax is hereby levied and imposed on the storage, use or other consumption in the city of any machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine,

machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail for the storage, use or other consumption in the city at the rate of one-fourth percent of the sales price of such property within the corporate limits of the city, regardless of whether the retailer is or is not engaged in the business of the city; provided, however, the one-fourth percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery, or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery, or equipment taken in trade.

(Code 1987, § 11-39.4; Ord. No. 10-86-1, § 4, 10-21-1986)

Sec. 22-111. Within police jurisdiction.

An excise tax is hereby imposed on tangible personal property at one-half the rates specified in section 22-110 on the storage, use or other consumption of such tangible personal property outside the corporate limits of the city, but within the police jurisdiction.

(Code 1987, § 11-39.5; Ord. No. 10-86-1, § 4, 10-21-1986)

Sec. 22-112. State law applies.

The taxes levied by sections 22-110 and 22-111 shall be subject to all definitions, exceptions, proceedings, requirements, exemptions, rules, regulations, provisions, discounts, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state use tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state use tax statutes for enforcement and collection of taxes.

(Code 1987, § 11-39.6; Ord. No. 10-86-1, § 5, 10-21-1986)

Sec. 22-113. Subdivision cumulative.

- (a) This subdivision shall not be construed to repeal any of the provisions of the general license code of the city, but shall be held to be cumulative, and the amounts of the taxes herein shall be in addition to the amounts of all other license taxes imposed by the city by its general license code.
- (b) The tax levied and assessed by this division is levied and assessed in addition to the tax levied by division 2 of this article.

(Code 1987, § 11-39.7; Ord. No. 10-86-1, §§ 6, 8, 10-21-1986)

Secs. 22-114—22-124. Reserved.

DIVISION 4. GROSS RECEIPTS SALES TAX

[Sec. 22-125. Sales tax.](#)

[Sec. 22-126. Use tax.](#)

[Sec. 22-127. Levy of tax in police jurisdiction.](#)

[Sec. 22-128. Subject to state tax statutes.](#)

[Sec. 22-129. Application of Alabama Procedures.](#)

[Secs. 22-130—22-146. Reserved.](#)

Sec. 22-125. Sales tax.

There is hereby levied, in addition to all other taxes of every kind, and shall be collected as provided by this division, a sales tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, as follows:

- (1) Upon every person (including the state, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions are denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the city in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, an amount equal to one percent of the gross proceeds of sales of the business except where a different amount is expressly provided herein; provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as retailer on the gross sales of the business.
- (2) Upon every person engaged or continuing with the city in the business of conducting, or operating, places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution whether such institution or association is a denominational, a state, or county, or municipal institution or association of a state, county or city school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the city, an amount equal to one percent of the gross receipts of any such business.
- (3) Upon every person, firm or corporation engaged or continuing within the city in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to one percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.
- (4) Upon every person engaged or continuing within the city in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer or house trailer, the city shall not levy an additional tax amount in excess of the current rate applied to the gross proceeds of sale of said automotive vehicle or truck trailer, semi-trailer or house trailer; provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semi-trailer or house trailer for use by him or his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee as established from time to time per year or part thereof during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall

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run for the 12 succeeding months or part thereof during which such automotive vehicle, truck trailer; semi-trailer or house trailer shall remain the property of such person.

- (5) Upon every person engaged or continuing within the city in the business of selling at retail any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements thereof which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment, the city shall not levy an additional tax amount in excess of the current rate applied to the gross proceeds of sale thereof; provided, however, the percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting cultivating farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.
- (6) Upon every person engaged or continuing within the city in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to one percent of the gross proceeds of the sale of such machines; provided that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(Ord. No. 8-09-1, § 1, 9-8-2009)

Sec. 22-126. Use tax.

- (a) A use tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased at retail on or after the effective date of the ordinance from which this division is derived for storage, use or other consumption in the city, except as provided herein, at the rate of one percent of the sales price of such property within the corporate limits of the city.
- (b) A use tax is hereby imposed on the storage, use or other consumption in the city of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property purchased at retail on or after the effective date of the ordinance from which this division is derived at the rate of one percent of the sales price of any such machine, within the corporate limits of the city; provided that the term "machine," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.
- (c) The city will not levy an additional tax amount in excess of the current rate applied on the storage, use or other consumption in the city of any automotive vehicle or truck trailer, semi-trailer or house trailer purchased at retail on or after the effective date of the ordinance from which this division is derived for storage, use or other consumption in the city on the sales price of such automotive vehicle, truck trailer, semi-trailer or house trailer within the corporate limits of the city. Where any used automotive vehicle, truck trailer, semi-trailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on

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the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

- (d) The city will not levy an additional tax amount in excess of the current rate applied on the storage, use or other consumption in the city of any machine, machinery, or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, and the parts of such machines, machinery, or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessary to and customarily used in the operation of such machine, machinery, or equipment, which is purchased at retail after the effective date of the ordinance from which this division is derived for the storage, use or other consumption in the city on the sales price of such property within the corporate limits of the city, regardless of whether the retailer is or is not engaged in the business in the city; provided, however, the percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products or used in connection with the production of agricultural produce or products, livestock, and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery, or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery, or equipment sold, less the credit for the used machine, machinery, or equipment taken in trade.

(Ord. No. 8-09-1, § 2, 9-8-2009)

Sec. 22-127. Levy of tax in police jurisdiction.

Upon every person engaged in the doing of any act, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business, or who shall engage in the operation of any business, within the police jurisdiction of the city, as contemplated in sections 22-125 and 22-126 but beyond the corporate limits of the city, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by city ordinance, to be collected as herein provided for the sale and use taxes herein levied within the corporate limits of the city, a sale and use tax equal to one-half of that provided, levied or required in this division for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the city. All the provisions of this division extend and apply to all the area within the police jurisdiction of the city.

(Ord. No. 8-09-1, § 3, 9-8-2009)

Sec. 22-128. Subject to state tax statutes.

The taxes levied by sections 22-125 through 22-127 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state tax statutes for enforcement and collection of taxes.

(Ord. No. 8-09-1, § 4, 9-8-2009)

Sec. 22-129. Application of Alabama Procedures.

To the extent required by Act 98-192, "Local Tax Simplification Act of 1998," and unless otherwise provided for within this division, the city hereby adopts and includes as a part hereof by reference all

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definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedures Act, direct pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions for the corresponding state tax as are provided by Code of Ala. 1975, §§ 40-2A-7, 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to 40-23-31, inclusive, 40-23-36, 40-23-37, except for those provisions relating to the tax rate.

(Ord. No. 8-09-1, § 5, 9-8-2009)

Secs. 22-130—22-146. Reserved.

ARTICLE IV. CIGARETTE TAX ⁽³⁾

[Sec. 22-147. Definitions.](#)

[Sec. 22-148. Applicability of article.](#)

[Sec. 22-149. Tax on tobacco transactions inside city.](#)

[Sec. 22-150. Stamps required; inscription; costs to wholesale dealer; no fractional cent stamp purchased.](#)

[Sec. 22-151. Affixing stamps; cancelling, no reuse, continuous affixing on all products, placement on package.](#)

[Sec. 22-152. Failure to affix and cancel stamps.](#)

[Sec. 22-153. Transactions where stamps have not been affixed and cancelled.](#)

[Sec. 22-154. Counterfeiting stamps; possessing implements; altering stamps.](#)

[Sec. 22-155. Reusing stamps; possessing removed or altered stamps; selling stamps.](#)

[Sec. 22-156. Report of receipt of products without stamps.](#)

[Sec. 22-157. Possession of unstamped products; maximum time; exception to rule.](#)

[Sec. 22-158. Reusing package.](#)

[Sec. 22-159. Records; right of entry of clerk, period of retention.](#)

[Sec. 22-160. Interference with clerk.](#)

[Sec. 22-161. Uses of proceeds of tax.](#)

[Secs. 22-162—22-180. Reserved.](#)

Sec. 22-147. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dealer means any wholesale dealer or retail dealer.

Package means the individual box or other container from which or in which retail sales of the tobacco products are normally made or intended to be made.

Retail price means the usual retail selling price of the article before adding the amount of the tax assessed in this article or the tobacco tax assessed by the state.

Sale means any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or means, for a consideration or any agreement therefor, of tobacco products, including

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rewards, prizes or premiums on tobacco products given as a result of operations on punchboards, shooting galleries or other activities.

Stamps means the stamps by the use of which the tax levied under this article is paid.

Storer means any person who ships or causes to be shipped or receives tobacco products into the city and stores the same in any manner or withdraws or uses the same for any purpose other than for resale or reshipment outside the city.

Wholesale dealer and jobber means any person who sells or delivers within the city any tobacco products to any person operating under a retail dealer's license.

- (b) Any terms used in this article and not defined in this section which are defined in Code of Ala. 1975, §§ 40-25-1 and 40-25-40 shall have the meaning ascribed to them by such law.

(Code 1987, § 11-40; Ord. No. 5-86-1, § 1, 5-5-1986)

Sec. 22-148. Applicability of article.

- (a) This article shall not be applied so as to impose any unlawful tax or burden on interstate commerce or any business of the United States government or any branch or agency thereof.
- (b) This article shall not apply to the tobacco products mentioned herein stored by a wholesale dealer for the purpose of resale or reshipment outside the city and which are actually sold, resold or shipped.
- (c) This article shall not repeal or in any way affect any provision of the license schedule and pertinent provisions, but shall be held to be cumulative.
- (d) Whenever the requisite amount of stamps have been affixed to the tobacco products as required herein, this article shall not require additional stamps to be affixed thereto in case of subsequent sales, deliveries or storage.

(Code 1987, § 11-41; Ord. No. 5-86-1, § 2, 5-5-1986)

Sec. 22-149. Tax on tobacco transactions inside city.

In addition to all other taxes now imposed by law, every person who sells, stores or delivers any tobacco products shall pay a license tax to the city, which license tax is fixed and levied in the following amounts for the sale, storage or delivery of the following named tobacco products in the city:

- (1) All cigarettes made of tobacco or any substitute therefor, \$0.05 for each package.
- (2) All cigars made of tobacco or any substitute therefor, \$0.005 per cigar, regardless of packaging.
- (3) All tobacco packaged for cigarette or pipe smoking, \$0.03 per container containing five or less ounces, \$0.05 per container containing more than five ounces to ten or less ounces, and \$0.07 per container containing more than ten ounces.
- (4) All snuff or any form of smokeless tobacco packaged in can, box or tumbler, \$0.03 per container.
- (5) All forms of chewing tobacco, \$0.03 per plug or package.

(Code 1987, § 11-42; Ord. No. 5-86-1, § 3, 5-5-1986)

Sec. 22-150. Stamps required; inscription; costs to wholesale dealer; no fractional cent stamp purchased.

The city clerk shall keep on hand for sale an adequate quantity of stamps to be affixed to each package of such tobacco products in the denominations as required in this article. Each such stamp shall have inscribed thereon the words "CITY OF ABBEVILLE TOBACCO TAX," but such words need not to be arranged in the foregoing order and may be abbreviated. Such stamps may be sold to the wholesale dealer only by the city clerk at a price equal to 90 percent of the full amount thereof, the remaining ten percent of such full amount representing compensation to the wholesale dealer for the labor of affixing them to the tobacco products enumerated herein. All other persons, except such wholesale dealers, must pay the full amount of the stamps. No person shall be entitled to purchase any such number of stamps as would cause the purchase price to include the fraction of a cent.

(Code 1987, § 11-43; Ord. No. 5-86-1, § 4, 5-5-1986)

Sec. 22-151. Affixing stamps; cancelling, no reuse, continuous affixing on all products, placement on package.

- (a) Before any tobacco product shall be sold or delivered within the city by any dealer, such dealer shall affix to each package of tobacco products stamps obtained from the city clerk in the amounts set out in this article in payment of the license taxes imposed by this article.
- (b) Every dealer shall within six hours after the receipt of any such tobacco products within the city, unless sooner offered for sale, cause stamps of the requisite amount of the tax to be affixed as herein stated and to cause the same to be cancelled by writing or stamping with waterproof ink across the face of each stamp the registration number furnished such dealer by the state tax commission.
- (c) After such stamping has been begun, it shall be continued with reasonable diligence by such dealer until all of the unstamped tobacco products have been stamped and the stamps cancelled as herein provided, but no stamps required to be affixed to any package of the tobacco products shall, after the same have been affixed as herein provided, be again used in payment of any part of the tax levied under this article.
- (d) Such stamps shall be affixed in such a manner that their removal will require continued application of water or steam.
- (e) In the case of cigarettes sold at retail in packages, the stamps shall be affixed to each individual package in such a way that such stamps shall be torn in two and mutilated when such package is opened.

(Code 1987, § 11-44; Ord. No. 5-86-1, § 5, 5-5-1986)

Sec. 22-152. Failure to affix and cancel stamps.

It shall be unlawful for any person required by this article to affix stamps to tobacco products to fail to affix such stamps or to cancel such stamps in the manner or within the time required by this article.

(Code 1987, § 11-45; Ord. No. 5-86-1, § 9, 5-5-1986)

Sec. 22-153. Transactions where stamps have not been affixed and cancelled.

It shall be unlawful for any person to sell, offer for sale or deliver within the city any tobacco products to which stamps have not been affixed and cancelled as provided by this article.

(Code 1987, § 11-46; Ord. No. 5-86-1, § 10, 5-5-1986)

Sec. 22-154. Counterfeiting stamps; possessing implements; altering stamps.

It shall be unlawful to manufacture, buy, sell, offer for sale or possess or attempt so to do any reproduction or counterfeit of the stamps provided for in this article or to possess tools, implements, instruments or materials of any kind necessary or appropriate to reproduce or counterfeit such stamps or to alter any stamp herein provided for.

(Code 1987, § 11-47; Ord. No. 5-86-1, § 12, 5-5-1986)

Sec. 22-155. Reusing stamps; possessing removed or altered stamps; selling stamps.

It shall be unlawful to remove from a package or otherwise prepare any stamp with intent to use or cause the same to be used, or to buy, offer for sale, or give away any washed, removed, altered or restored stamp, or for the purpose of indicating the payment of any tax hereunder to reuse any stamp which has heretofore been used for the payment of any tax provided in this article, or, except as to the city clerk, to sell any stamp provided for herein.

(Code 1987, § 11-48; Ord. No. 5-86-1, § 13, 5-5-1986)

Sec. 22-156. Report of receipt of products without stamps.

Any person who purchases or receives in any manner tobacco products which do not have affixed thereto stamps required by this article shall, within three days after receipt of such articles of tobacco, report the receipt and purchase of the tobacco products to the city clerk, giving the date of purchase or receipt, the name and address of the person from whom purchased or received and a list describing the articles of tobacco purchased or received. Such report must be made by registered or certified mail or in person.

(Code 1987, § 11-49; Ord. No. 5-86-1, § 7, 5-5-1986)

Sec. 22-157. Possession of unstamped products; maximum time; exception to rule.

It shall be unlawful for any dealer to have in such dealer's possession or under such dealer's control any tobacco products not properly stamped as required by this article for more than six hours after receipt of such products on the premises of such person, provided this section shall not apply to tobacco products in the possession of wholesale dealers or jobbers kept for the purpose of sale or reshipment outside the city and which products are actually resold or reshipped. The possession of each article or commodity not having the proper stamps affixed thereto as required by this article shall be deemed a separate offense.

(Code 1987, § 11-50; Ord. No. 5-86-1, § 11, 5-5-1986)

Sec. 22-158. Reusing package.

It shall be unlawful to reuse or refill with any tobacco products any package from which such tobacco products, theretofore the tax having been paid, have been removed.

(Code 1987, § 11-51; Ord. No. 5-86-1, § 14, 5-5-1986)

Sec. 22-159. Records; right of entry of clerk, period of retention.

Every wholesale dealer shall, at the time of selling or delivering any tobacco products in the city, make a true duplicate invoice of the same which shall show full and complete details of the sale and delivery of such tobacco products and shall retain the same subject to the use and inspection of the city clerk or the clerk's duly authorized deputy for a period of three years. Wholesale and retail dealers shall also keep a record of the purchase, sale, exchange and receipt of all the tobacco products and hold all books, records, cancelled checks and all other memoranda pertaining to such purchase, sale, exchange and receipts for the period mentioned herein, subject to the inspection of the city clerk or his duly authorized deputy, who shall have the power and authority to enter upon the premises of any dealer and to examine such book, records and memoranda at all reasonable times.

(Code 1987, § 11-52; Ord. No. 5-86-1, § 6, 5-5-1986)

Sec. 22-160. Interference with clerk.

It shall be unlawful for any person to interfere with or obstruct the city clerk or such deputy in the exercise of the power and authority conferred by this article.

(Code 1987, § 11-53; Ord. No. 5-86-1, § 8, 5-5-1986)

Sec. 22-161. Uses of proceeds of tax.

All the proceeds derived from the tax herein levied shall be placed in the general fund account of the city, subject to appropriation of the city council for any lawful purpose of the city.

(Code 1987, § 11-54; Ord. No. 5-86-1, § 15, 5-5-1986)

Secs. 22-162—22-180. Reserved.

FOOTNOTE(S):

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State Law reference— Tobacco tax, Code of Ala. 1975, § 40-24-1 et seq. ([Back](#))

ARTICLE V. GASOLINE TAX ^[4]

[Sec. 22-181. Definitions.](#)

[Sec. 22-182. Levy—In city.](#)

[Sec. 22-183. Same—In police jurisdiction.](#)

[Sec. 22-184. Monthly statements; payments.](#)

[Sec. 22-185. Records.](#)

[Sec. 22-186. Enforcement; right to examine records.](#)

[Sec. 22-187. Acceptance of extra tax.](#)

[Sec. 22-188. Exemptions.](#)

[Sec. 22-189. Meters—Required.](#)

[Sec. 22-190. Same—Tampering with or damaging.](#)

[Sec. 22-191. Same—Refusal to permit reading.](#)

[Sec. 22-192. Same—Failure to install.](#)

[Sec. 22-193. Violations—Generally.](#)

[Sec. 22-194. Same—Failure to make monthly report.](#)

[Secs. 22-195—22-216. Reserved.](#)

Sec. 22-181. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Distributor means any person who shall engage in storing, selling, or delivering gasoline in the city and police jurisdiction thereof, by wholesale or domestic trade, but shall not apply to any transaction by such distributor in interstate commerce.

Gasoline means gasoline, naphtha and other liquid motor fuels, commonly used in internal-combustion engines.

Retail dealer means any person herein defined as distributor who is also engaged in the sale of gasoline in the city or the police jurisdiction thereof, in broken quantities.

(Code 1968, § 29-52; Code 1987, § 11-60)

Sec. 22-182. Levy—In city.

- (a) Every distributor and retail dealer in gasoline in the city shall pay an excise tax of \$0.01 per gallon upon the sale or distribution of gasoline sold, stored or handled in the city.
- (b) In no event shall any gasoline in interstate commerce be taxed so long as such gasoline shall be involved in interstate commerce; provided, further, that an excise tax of \$0.01 per gallon shall be paid only once.

(Code 1968, § 29-53; Code 1987, § 11-61)

Sec. 22-183. Same—In police jurisdiction.

- (a) Every distributor and retail dealer in gasoline in the police jurisdiction of the city shall pay an excise tax of \$0.005 per gallon upon the sale or distribution of gasoline stored, sold or handled in the police jurisdiction of the city.
- (b) In no event shall any gasoline in interstate commerce be taxed so long as such gasoline shall be involved in interstate commerce, and, in any event, shall be paid only once.

(Code 1968, § 29-54; Code 1987, § 11-62)

Sec. 22-184. Monthly statements; payments.

- (a) On or before the 20th day of each month, every distributor of gasoline and every retail dealer of gasoline within the corporate limits of the city and the police jurisdiction thereof shall render to the city a true and correct statement of all gasoline sold by such distributor or retail dealer during the next preceding month liable for the payment of tax herein prescribed, and shall furnish to the city such additional information as may be required, and at the time of making such report shall pay to the city an amount of money equal to the excise tax herein laid.
- (b) The statement herein required to be made by the distributor or retail dealer shall be sworn to before some officer authorized to administer oaths.

(Code 1968, § 29-55; Code 1987, § 11-63)

Sec. 22-185. Records.

- (a) All distributors and retail dealers in gasoline in the city and the police jurisdiction thereof shall keep at some certain place or office within the city or police jurisdiction thereof such books, documents or papers as will clearly show the amount of gasoline stored, handled, sold or distributed within the corporate limits of the city and the police jurisdiction thereof.
- (b) Said books, documents or papers shall clearly show whether said gasoline was stored, handled, sold or distributed within the corporate limits of the city or within the police jurisdiction thereof.

(Code 1968, § 29-56; Code 1987, § 11-64)

Sec. 22-186. Enforcement; right to examine records.

- (a) It shall be the duty of the city clerk to enforce the provisions of this article.
- (b) The city clerk shall have the right, either in person or by agent or representative, to examine the books of every distributor and retail dealer covered by this article at all reasonable times or places.

(Code 1968, § 29-57; Code 1987, § 11-65)

Sec. 22-187. Acceptance of extra tax.

The acceptance of any amount paid for the extra tax provided in this article shall not preclude the collection of the amount actually due. However, the amount actually paid shall constitute a credit against the amount actually due.

(Code 1968, § 29-58; Code 1987, § 11-66)

Sec. 22-188. Exemptions.

- (a) Any person engaged as seller or distributor or in selling or distributing gasoline purchased in whole from other sellers or distributors who have paid the excise tax thereon as fixed in this article shall not be required to pay any tax based on the sale or delivery of such gasoline so purchased or distributed, but, in order to obtain the exemption in this section, such seller or distributor must, on or before the 20th day of each month, file with the city clerk a sworn written statement showing each purchase by

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such person of gasoline during the calendar month next preceding and the name of the person from whom, and the date on which same was purchased.

- (b) Also, any person engaged a seller or distributor of or in selling or distributing gasoline who shall sell gasoline to the county board of education or the county road department shall not be required to pay any tax based on the sale or delivery of any gasoline sold or delivered to the county board of education or the county road department.
- (c) In order to obtain said exemption, such seller or distributor must, on or before the 20th day of each month, file with the city clerk a sworn written statement showing each sale or delivery of gasoline made by such person to the county board of education or the county road department during the calendar month next preceding, the name of the agent or individual to whom each sale or delivery was made, and the dates on which such sales or deliveries were made.

(Code 1968, § 29-60; Code 1987, § 11-67)

Sec. 22-189. Meters—Required.

Any person engaged as selling or distributing gasoline in the city or the police jurisdiction thereof shall have a meter to measure accurately and ascertain the amount of gasoline or other liquid motor fuel received, sold, or delivered by such distributor or retail dealer in or from a gasoline tank or receptacle for the storage or delivery of gasoline or other liquid motor fuel in the city, or the police jurisdiction thereof.

(Code 1968, § 29-61; Code 1987, § 11-68)

Sec. 22-190. Same—Tampering with or damaging.

It shall be unlawful for any person willfully to change, alter, set back or otherwise tamper or meddle with gasoline or a meter, or willfully to strike, break, crack or otherwise damage any gasoline meter.

(Code 1968, § 29-62; Code 1987, § 11-69)

Sec. 22-191. Same—Refusal to permit reading.

It shall be unlawful for any distributor and retail dealer in gasoline or other liquid motor fuel in the city or police jurisdiction thereof to refuse to permit any authorized representative of the city to read at any time any meter installed on any gasoline pump within the city or the police jurisdiction thereof, subject to such penalties as provided for the violation of the terms and provisions of this article.

(Code 1968, § 29-63; Code 1987, § 11-70)

Sec. 22-192. Same—Failure to install.

- (a) Any distributor or retail dealer in gasoline or other liquid motor fuel in the city or the police jurisdiction thereof who operates any pump, receptacle, tank or other container for the storage or delivery of gasoline within the city or the police jurisdiction thereof without having first attached thereto a meter as provided herein shall have committed a misdemeanor subject to such penalties as provided for the violation of the terms of this article.
- (b) In addition to subsection (a) of this section, the city shall have the right to revoke the license of such distributor or retail dealer and restrain such dealer from doing business within the city until the meters have been installed and provided.

(Code 1968, § 29-64; Code 1987, § 11-71)

Sec. 22-193. Violations—Generally.

Any distributor or retail dealer who shall violate any of the provisions of this article shall be subject to punishment as provided in section 1-8 and may be restrained by proper proceedings in the name of the city from either distributing or selling gasoline covered by the provisions of article, until such person shall have complied with the provisions of this article.

(Code 1968, § 29-65; Code 1987, § 11-72)

Sec. 22-194. Same—Failure to make monthly report.

- (a) If any distributor or retail dealer of gasoline covered by this article fails to make the prescribed monthly report, the city clerk shall make the return for such delinquent person upon such information as may reasonably be obtained, assess the tax thereon, and add a penalty of 25 percent of the tax to the amount as assessed.
- (b) The city clerk shall, as soon as practicable and before the 30th day of each month, issue execution for the collection of such tax, directed to the sheriff or the chief of police of the city, who shall proceed to collect the same in the manner now prescribed by law for the collection of delinquent taxes by county tax collectors and make return of such execution to the city.
- (c) The taxes and all penalties herein prescribed shall be held as a debt payable to the city upon which execution may issue by the clerk and against whom same shall be charged, and all such taxes, penalties and assessments shall be a lien upon all property in the city or the police jurisdiction thereof of the party charged therein.
- (d) If any distributor or retail dealer of gasoline in the city, or the police jurisdiction thereof, covered by the provisions of this article shall fail to make any report to the city, as required herein, such person shall, upon conviction, be punished as provided in section 1-8.

(Code 1968, § 29-59; Code 1987, § 11-73)

Secs. 22-195—22-216. Reserved.

FOOTNOTE(S):

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State Law reference— Tax on gasoline and other motor fuels, Code of Ala. 1975, § 40-17-1 et seq.

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ARTICLE VI. AMUSEMENTS ADMISSIONS TAX

[Sec. 22-217. Levy—Within city.](#)

[Sec. 22-218. Same—Within police jurisdiction.](#)

[Sec. 22-219. Payment by person paying admission.](#)

[Sec. 22-220. Collection.](#)

[Sec. 22-221. Monthly returns and payments.](#)

[Sec. 22-222. Records.](#)

[Secs. 22-223—22-242. Reserved.](#)

Sec. 22-217. Levy—Within city.

There is hereby levied, assessed, and shall be collected and paid a tax of \$0.03 for each \$0.35 or fraction thereof and \$0.02 for each \$0.20 or fraction thereof of the amount paid for admission to any motion picture theater or any other place of amusement operated for profit, within the corporate limits of the city.

(Code 1968, § 29-72; Code 1987, § 11-80)

Sec. 22-218. Same—Within police jurisdiction.

In the police jurisdiction of the city, there is hereby levied, assessed, and shall be collected and paid a tax of one-half of the amount of tax paid for admission to any motion picture theater, or other place of amusement operated for profit, within the corporate limits of the city.

(Code 1968, § 29-73; Code 1987, § 11-81)

Sec. 22-219. Payment by person paying admission.

The tax imposed by this article shall be paid by the person paying for such admission.

(Code 1968, § 29-74; Code 1987, § 11-82)

Sec. 22-220. Collection.

Every person receiving payments for admission subject to the tax imposed by this article shall collect the amount of tax hereby levied from the person making such payments.

(Code 1968, § 29-75; Code 1987, § 11-83)

Sec. 22-221. Monthly returns and payments.

- (a) Every person required by this article to collect taxes imposed by this article shall make monthly returns under oath to the city council on such forms as may be prescribed by the city council.
- (b) The returns required by this section, together with the amount of the tax, shall be filed with the city clerk on or before the 20th day of the month following that for which the return is made, less five percent of said total tax to be retained as cost of collection.

(Code 1968, §§ 29-76, 29-77; Code 1987, § 11-84)

Sec. 22-222. Records.

- (a) Upon demand by the city clerk or the clerk's authorized representative, it shall be the duty of any person subject to the tax imposed by this article to furnish without delay all such information as may be required for determination of the proper tax due under this article.
- (b) To that end, it shall be the duty of such person to submit to the city clerk or his authorized representative for inspection and examination, at such person's place of business in the city or its police jurisdiction, all books and accounts, invoices, papers, reports and all memoranda containing entries showing the amount of ticket sales and receipts, and any other information from which the correct tax due by the person may be ascertained, and the correct amount of such tax determined.

(Code 1968, § 29-78; Code 1987, § 11-85)

Secs. 22-223—22-242. Reserved.

ARTICLE VII. TRANSIENT LODGING TAX

[Sec. 22-243. Imposed.](#)

[Sec. 22-244. Exemptions.](#)

[Secs. 22-245—22-261. Reserved.](#)

Sec. 22-243. Imposed.

There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person engaging in the business of renting or furnishing any room, lodging or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration in an amount to be determined by the application of the rate of four percent of the charge for such rooms, lodgings or accommodations, including the charge for use or rental of personal property and services furnished in such room.

(Ord. No. 5-93-1, § 1, 5-20-1993)

Sec. 22-244. Exemptions.

There is exempted from the tax levied under this article any rental or services taxed under the provisions of the city sales tax ordinance already in force and effect. The tax shall not apply to rooms, lodgings or accommodations supplied for a period of 30 continuous days or more in any place.

(Ord. No. 5-93-1, § 2, 5-20-1993)

Secs. 22-245—22-261. Reserved.

ARTICLE VIII. BUSINESS LICENSING TAX

[Sec. 22-262. Power to license; levy in city; license fee schedule.](#)

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[Sec. 22-263. State tax where city tax illegal; license for unscheduled pursuit.](#)

[Sec. 22-264. Unlawful to engage in business without license.](#)

[Sec. 22-265. Food establishments; inspection required prior to issuance of license.](#)

[Sec. 22-266. Poolrooms, etc.; state requirements to be met, council to approve.](#)

[Sec. 22-267. Utility companies privilege tax.](#)

[Sec. 22-268. Junk dealers to keep junk stored under shelters.](#)

Sec. 22-262. Power to license; levy in city; license fee schedule.

Pursuant to the provisions of Code of Ala. 1975, § 11-51-90, the city clerk shall have the power to license each successive year, until this provision is amended or repealed, any exhibition, trade, business, vocation, occupation or profession not prohibited by the constitution or laws of the state which may be engaged in or carried on in the city provided that this article shall not be applied so as to be repugnant to or violate any provision of the United States or state constitutions.

LICENSE FEE SCHEDULE

311611		ABATTOIRS	\$100.00
541191		ABSTRACT AND TITLE COMPANIES (See PROFESSIONS AND VOCATIONS)	
541211		ACCOUNTANTS OR AUDITORS (See PROFESSIONS AND VOCATIONS)	
711414		ADDING MACHINES (See AGENTS)	
524291		ADJUSTMENT OF INSURANCE CLAIMS (See INSURANCE)	
541811		ADVERTISING	
541811	1.	Advertising in theaters	\$100.00
541812	2.	Vehicles on street with banners, float or cartoons where no other license is paid	\$100.00
541813	3.	Advertising solicited for radio or television	\$200.00
		See also RADIO STATIONS, TELEVISION SHOWS	
541814	4.	Persons advertising or demonstrating on street or public places any article of merchandise which is sold by persons who pay license	\$100.00

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541850	5.	Outdoor advertising	\$125.00
541840	6.	Persons soliciting advertising for radio broadcasting, television stations or newspapers located outside of the city or police jurisdiction	\$200.00
541851	7.	Persons owning, maintaining, painting, selling or leasing to others outdoor painting signs or bulletin boards, painting walls or signboards other than at the business advertised	\$125.00
541852	8.	Owning or operating any advertising device, electrical or otherwise	\$100.00
71141	AGENTS		
711411	1.	Books (Bibles excepted)	\$100.00
812331	2.	For leasing of linen	\$100.00
711412	3.	For machinery, where merchandise license not paid	\$100.00
711413	4.	For musical instruments, traveling salesman	\$100.00
711414	5.	For adding machines, typewriters, cash registers, etc., each person soliciting not in connection with another business	\$100.00
711415	6.	Machinery, construction, industrial and industrial supplies, where general business is not paid by each company	\$100.00
711416	7.	Negotiating loans on real estate	\$100.00
425120	8.	Buyers for goods not otherwise specified	\$100.00
711417	9.	Agents soliciting, manufacturing or repair business within the city limits	\$100.00
711418	10.	For oil mills, each person who buys cotton seed, peanuts, or other products for shipment out of the city	\$100.00
711410	11.	General agents, all persons acting as agent for or taking orders for, whether delivery at the time of sale or otherwise, and whether selling on the installment plan or otherwise, any article of merchandise than that mentioned otherwise in this article	\$100.00

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		(This is not to affect merchants who may have taken out merchant license.)	
	AIR CONDITIONING AND HEATING CONTRACTING		
		(Units up to and including two-ton capacity may be sold under general merchandise license.)	
283224	1.	Local (in Henry County)	\$150.00
283225	2.	Itinerant (outside Henry County)	\$225.00
148119	AIRPORT OPERATIONS		
148119A	1.	Flight operations, student instructions, local passengers charter, or dusting	\$100.00
148119B	2.	Aircraft repair, parts and components, sale of gas and oil, grease and aircraft maintenance	\$100.00
612910	AMBULANCE SERVICES		
	1.	First ambulance	\$100.00
	2.	Each additional ambulance	\$50.00
	AMMUNITION		
452990	1	Retail dealer (See GENERAL BUSINESS)	
452990	2.	Wholesale dealer (See GENERAL BUSINESS)	
812911	ANIMAL GROOMING SERVICE		\$100.00
453310	ANTIQUES, ORIENTAL GOODS, WARES, OR MERCHANDISE		
	Where principal business only (including Turkish or Persian rugs) (See GENERAL BUSINESS)		

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713110	AMUSEMENT PARKS OR PERMANENT RECREATION AREAS (See GENERAL BUSINESS)	
561421	ANSWERING SERVICES AND/OR SECRETARIAL SERVICES	\$100.00
541310	ARCHITECTS (See PROFESSIONS AND VOCATIONS)	
	(This applies to all architects, whether located in the city or not, provided they do business in the city.)	
324121	ASPHALT DEALERS	\$100.00
713940	ATHLETIC CLUBS and other such establishments, including figure salons, reducing salons, steam baths, and weight training centers, as well as martial arts	\$100.00
541110	ATTORNEYS AT LAW (See PROFESSIONS AND VOCATIONS)	
	(This applies to all attorneys, whether located in the city or not, provided they do business in the city.)	
	AUCTIONEERS (Not required by state)	
453998	AUCTION SALES OF MERCHANDISE, each	\$125.00
	(This shall not apply to stocks of goods sold as an entirety, nor to sales under order of court, nor to other judicial process.)	
454210	AUTOMATIC VENDING MACHINES	
	Music, entertainment, food, cigarettes, video games, etc., each	\$25.00
454112	AUCTION, INTERNET — RETAIL (See GENERAL SALES)	
441110	AUTOMOBILE SALES, DEALERS IN, NEW OR USED	
	Each person dealing in or soliciting orders for the sale or purchase of automobiles, motor cars, or other self-propelled vehicles, except tractors and farm equipment, including sales of parts, accessories, tires and tubes	1/16 of 1% of gross sales + \$150.00

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611692		AUTOMOBILE DRIVING SCHOOLS	\$100.00
		AUTOMOBILES FOR HIRE	
485310	1.	Taxi, five passengers or less, each	\$50.00
532120	2.	Rental agency: auto, truck or trailer	\$100.00
811192		AUTOMOBILE LAUNDRIES	
811121		AUTOMOBILE PAINT SHOPS, when not in connection with general automobile sales or repair business	\$100.00
811111		AUTOMOBILE REPAIR SHOPS, when not in connection with automobile dealer	\$100.00
423120		AUTOMOBILE PARTS WHOLESALE DEALERS, dealers in new or used automobile parts where there is no automobile dealer license paid	\$100.00
		Also see schedule for business license for retail sales	
485113		AUTOMOBILE BUS LINES	
		Each person operating motor vehicles or buses carrying passengers as common carriers into or out of the city	\$100.00
484200		AUTOMOBILE OR MOTOR FREIGHT CARRIERS	
		(This applies to all motor carriers receiving freight in the city or police jurisdiction thereof for transportation to points out of the city.)	
423130		AUTOMOBILE TIRES AND TUBES (See GENERAL BUSINESS)	
811122		AUTOMOBILE SEAT COVERS AND UPHOLSTERING	
812930		AUTOMOBILE STORAGE OR PARKING LOTS	
		AWNINGS, unless sold in connection with other businesses on which license is paid	
238190	1.	Local (See GENERAL BUSINESS)	

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238191	2.	Itinerant	\$100.00
311812	BAKERIES (See GENERAL BUSINESS)		
311812A	1.	Dealers or representatives of bakery products, having no bakery or warehouse in the city	\$100.00
311812B	2.	Cakes, donuts, pie and sandwiches only, wholesale, subject to health regulations	\$100.00
522110	BANKS, where capital, surplus and undivided profits are:		
522110A	1.	\$50,000.00	\$10.00
522110B	2.	More than \$50,000.00 and not over \$100,000.00	\$20.00
522110C	3.	More than \$100,000.00 and not over \$150,000.00	\$30.00
522110D	4.	More than \$150,000.00 and not over \$250,000.00	\$50.00
522110E	5.	More than \$250,000.00 and not over \$300,000.00	\$60.00
522110F	6.	More than \$300,000.00 and not over \$350,000.00	\$70.00
522110G	7.	More than \$350,000.00 and not over \$400,000.00	\$80.00
522110H	8.	More than \$400,000.00 and not over \$450,000.00	\$90.00
522110I	9.	More than \$450,000.00 and not over \$500,000.00	\$100.00
522110J	10.	More than \$500,000.00 and not over \$600,000.00	\$110.00
522110K	11.	More than \$600,000.00	\$125.00
	The term "undivided profits" as herein used shall be construed to mean the undivided profits as shown by the books of the bank and all payments shall be based on the report made January 1 of the current year		
525920	BANKRUPT OR FIRE SALES (See SALVAGE)		
			\$100.00

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812111	BARBERS		\$100.00
812115	BARBER/SALE OF MERCHANDISE, whether in connection with business or not (See GENERAL BUSINESS)		
423850	BARBER SUPPLIES, dealers in		\$100.00
812112	BEAUTY SHOPS		\$100.00
812115	BEAUTY SHOPS/SALE OF MERCHANDISE, whether in connection with business or not (See GENERAL BUSINESS)		
811490	BICYCLE REPAIR SHOPS, where principal business only		\$100.00
713990	BILLIARD AND POOL TABLES, each table		\$50.00
561439	BLUEPRINT SERVICES, PRINTING HOUSE PLANS, ETC.		\$100.00
441222	BOATS, BOAT TRAILERS, OUTBOARD MOTORS		
	1.	Principal business (See GENERAL BUSINESS)	
	2.	In connection with other business (See GENERAL BUSINESS)	
812990	BONDS, making appeal or appearance bonds for which a charge is made		\$250.00
541219	BOOKKEEPING (See PROFESSIONS AND VOCATIONS)		
711411	BOOKS (See AGENTS)		\$100.00
312111	BOTTLING WORKS		
	(This also includes each person soliciting the sale of bottled drinks, and delivering the same to merchants in the city, and the police jurisdiction thereof, when such drinks are not made in the city, but made elsewhere and brought in on trucks or otherwise, and sold at wholesale. Where drinks are sold at retail also the general business license schedule applies and a license is due based upon the volume of retail business for the preceding year.)		\$100.00
312112	BOTTLED WATER MANUFACTURING		\$200.00

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713950		BOWLING ALLEYS, each alley	\$100.00
711200		BOXING OR WRESTLING w/o facility	\$100.00
423840		BOX, BASKET OR CRATE MANUFACTURER	\$100.00
		BROKERS	
522310A	1.	Commercial brokers having an office in the city	\$100.00
522310B	2.	Commission brokers, where no stock is carried	\$100.00
522310C	3.	Brokers selling from cars or merchants selling items shipped in	\$100.00
522310D	4.	Securities, stocks and bonds	\$100.00
		BUILDERS OR CONTRACTORS, defined as a person who takes contracts to build houses, stores, etc., at a stipulated price or on a cost plus basis or furnishes the labor on a contract	
236220	1.	Local (in Henry County)	\$150.00
236221	2.	Itinerant (outside Henry County)	\$225.00
328121		BRICK, only where no general business license paid by business to city	\$100.00
238140		BRICKMASONS	\$100.00
444190		BUILDING MATERIALS	
		Itinerant dealer in building materials, concrete block, brick, ready mix concrete or other building materials	\$150.00
488490		BUS STATIONS, per year	\$100.00
		BURIAL VAULTS, SEPTIC TANK AND DRAIN TILE	
327390	1.	Manufacture or sale	\$100.00
327391	2.	Itinerant	\$150.00

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611310	BUSINESS SCHOOLS OR COLLEGES	\$100.00
517510	CABLEVISION OR ANTENNA VISION	5% of gross receipts
337110	CABINETMAKERS OR WOODWORKING SHOPS, each, not including the right to do anything for which special license is herein provided	\$100.00
454210	CANDY MACHINES, each, per year	\$25.00
711414	CASH REGISTERS (See AGENTS)	
311821	CANDY, CAKES, CRACKERS OR CONFECTIONS distributor	\$100.00
238330	CARPET INSTALLATION	\$100.00
711190	CARNIVAL COMPANIES, each person operating what is known as a carnival company, or similar business by whatever name called, shall pay a license for each week of such operation	\$625.00
722320	CATERING, by mobile vendor (health permit required)	\$100.00
452990	CATALOGUE SALES STORES (See GENERAL BUSINESS)	
424520	CATTLE DEALERS	
	Each person buying, selling or offering for sale cattle, sheep, goats, or hogs	\$100.00
112111	CATTLE DEALERS, who operate at a barn or other fixed place of business	\$100.00
812220	CEMETERY COMPANIES	
	Each person engaged in the business of selling, soliciting the sale of or of furnishing lots	\$100.00
485320	CHAUFFEURS	\$100.00
561790	CHIMNEY SWEEPS	\$100.00

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621310	CHIROPRACTORS, CHIROPODISTS, OSTEOPATHS, NEUROPATHS, VAPOPATHS (See PROFESSIONS AND VOCATIONS)		
541330	CIVIL ENGINEERS (See PROFESSIONS AND VOCATIONS)		
	CLEANING AND PRESSING		
812320	1.	Local (in Henry County)	\$100.00
812321	2.	Itinerant (outside Henry County)	\$125.00
711191	CIRCUS or other shows, which parade the streets or exhibit within the city or police jurisdiction thereof each day		325.00
621498	CLINICS, OUTPATIENT CARE		\$100.00
454319	COAL YARDS		
	Dealers in coal, operating and delivering coal within the city or police jurisdiction thereof		\$100.00
493120	COLD STORAGE		\$100.00
561440	COLLECTION AGENCIES (This does not include attorneys who have attorney's license.)		\$100.00
518210	COMPUTER DATA PROCESSING (See DATA PROCESSING)		\$100.00
423320	CONCRETE BLOCK COMPANIES, making or selling concrete blocks, each per annum		\$100.00
238110	CONCRETE FINISHERS		\$100.00
327332	CONCRETE PIPE		\$100.00
327320	CONCRETE MANUFACTURERS		\$100.00
238320	CONTRACTORS FOR PAPER HANGING OR DECORATING OR PAINTING, not including sign painting		\$100.00

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311211	CORN MEAL		\$100.00
115111	COTTON MILLS, manufacturing cotton goods or yarn. (See MANUFACTURERS SCHEDULE)		
452990	COFFINS, CASKETS (See GENERAL BUSINESS)		
446120	COSMETICS, where general business license not purchased		\$100.00
311223	COTTONSEED OR PEANUT OIL MILLS (See MANUFACTURERS SCHEDULE)		
711130	CONCERT SHOWS, or performance of like kind. This includes all shows making one night stands at auditoriums, opera houses, picture shows or like places		\$100.00
424430	CREAMERIES, including manufacture of butter, ice cream, milk, cheese, etc., each year (See MANUFACTURERS SCHEDULE)		
493120	COLD STORAGE AND QUICK FREEZE PLANTS		
	Each person operating a cold storage (See GENERAL BUSINESS)		
551114	CORPORATIONS, where no other license is provided for in this schedule		\$100.00
624190	COUNSELING SERVICES		\$100.00
711120	DANCING SCHOOLS, DANCING TEACHERS OR MASTERS, per year		\$100.00
	DAIRIES		
	Each person, selling or delivering milk in the city and using the streets of the city to deliver the same annually:		
424431	1.	Wholesale	\$100.00
424432	2.	House delivery	\$100.00
518210	DATA PROCESSING (Computer)		\$100.00
624410	DAY CARE/NURSERY		\$100.00

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423820	DEALERS IN FARM MACHINERY OR OTHER AGRICULTURAL IMPLEMENTS, per year (See FARM EQUIPMENT)	
423820	DEALERS IN FARM TRACTORS (See FARM EQUIPMENT)	
722211	DELICATESSENS (See RESTAURANTS)	
492210	DELIVERY SERVICES, engaged in the delivery of packages of valuables, each vehicle	\$100.00
621210	DENTISTS (See PROFESSIONS AND VOCATIONS)	
339116	DENTAL LABORATORIES	\$100.00
561611	DETECTIVES	
	Private investigators, up to three employees.	\$250.00
	It shall be unlawful for any person to carry on or be engaged in or to advertise as engaging in the vocation, profession, or business as a private investigator or detective in the city or its police jurisdiction until a police clearance and a license have been issued	
238910	DEVELOPMENT OF PROPERTY	
	Each person engaged in the business of; developing, subdividing, and selling lots to builders or others shall pay an annual license tax of	1/16 of 1% + \$75.00
812332	DIAPER SUPPLIES, where principal business	\$100.00
812191	DIET AND WEIGHT REDUCING CENTERS (See PROFESSIONS AND VOCATIONS)	
511400	DIRECTORIES	
	Making, compiling, selling or offering for sale any directory (telephone companies making own directory exempt)	\$100.00
454390	DIRECT SALES via INTERNET/CATALOGS, in home, no on-premises inventory	\$100.00

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238911		DIRT MOVING AND GRADING	\$100.00
621111		DOCTORS (See PROFESSIONS AND VOCATIONS)	
541340		DRAFTING (See PROFESSIONS AND VOCATIONS)	
722211		DRIVE-IN RESTAURANTS, SANDWICH SHOPS, ICE CREAM PARLORS, OR SODA FOUNTAINS (See RESTAURANTS)	
		DRY CLEANING	
812320	1.	Local (in Henry County)	\$100.00
812321	2.	Itinerant (outside Henry County)	\$100.00
		ELECTRICIANS (Under \$50,000.00 per contract)	
238212	1.	Local (in Henry County)	\$100.00
238213	2.	Itinerant (outside Henry County)	\$100.00
		ELECTRICAL, CONTRACTORS (Over \$50,000.00 per contract, state certification required)	
238210	1.	Local (in Henry County)	\$150.00
238211	2.	Itinerant (outside Henry County)	\$225.00
812199		ELECTROLYSIS	\$100.00
		EMPLOYMENT SERVICES OR AGENCIES	
561310	1.	Local (in Henry County)	\$100.00
561311	2.	Itinerant (outside Henry County)	\$100.00
541330		ENGINEERS (See PROFESSIONS AND VOCATIONS)	
812210		EMBALMERS, each, per annum	\$100.00

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492211		EXPRESS COMPANIES	
		Each company doing business in carrying freight to and from the city and to and from other points	\$100.00
		EXTERMINATORS	
561710	1.	Each person engaged in the business of exterminating termites or insects of all kind	\$100.00
561711	2.	Itinerant (outside Henry County)	\$100.00
		EYEGLASSES	
452990		Sales and Service (See GENERAL BUSINESS)	
423460	1.	Manufacturing and grinding lenses	\$100.00
423461	2.	Itinerant (outside Henry County)	150.00
423820		FARM EQUIPMENT SALES	1/16 of 1% + \$100.00
311119		FEED MILLS, each per year	\$100.00
424910		FERTILIZER manufacturers or mixers or wholesale	\$100.00
423990		FIREWORKS SALES (Not permitted within city limits)	
423991		FIRE EXTINGUISHER SALES AND SERVICE (See GENERAL BUSINESS)	
238331		FLOOR SANDING	\$100.00
453110		FLORIST SHOPS (See GENERAL BUSINESS)	
		FRAMING CONTRACTOR, under homebuilder supervision	
238130	1.	Local (in Henry County)	\$100.00

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238131	2.	Itinerant (outside Henry County)	\$100.00
445230		FRUIT DEALERS, transient, peddlers to merchants only.	\$100.00
445231		FRUIT/VEGETABLE STANDS, temporary.	\$100.00
445232		FRUIT/VEGETABLE STANDS, permanent.	\$100.00
493120		FUR STORAGE	\$100.00
811420		FURNITURE UPHOLSTERING	\$100.00
221310		GAS, on all butane or propane gas, liquefied petroleum, or like similar gas sold or delivered within the city, such persons selling merchandise shall pay, in addition to the general business license	\$150.00
		GAS FITTERS AND WARM AIR HEATING AND COOLING CONTRACTORS	
238222	1.	Local (in Henry County)	\$100.00
238223	2.	Gas and other fittings, installing gas systems and other systems or appliances. Itinerants or persons who do not operate an established place of business in the city offering to do such installation and repair work for the general public	\$150.00
424720		GAS, NATURAL OR ARTIFICIAL, wholesale or retail	\$150.00
424723		GASOLINE, retail. (See GENERAL BUSINESS)	
424722		GASOLINE AND OILS, transient wholesale dealers. This license shall apply to persons soliciting or causing to be accepted orders for such motor fuels and delivering the same from any point from within or without the state	\$300.00
452990		GENERAL BUSINESS AND CATALOG SALES	1/16 of 1% + \$100.00
532310		GENERAL RENTAL, personal property and equipment not to include motor vehicles.	1/16 of 1%

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			+ \$100.00
713910	GOLF CLUBS		
	1.	Per year	\$200.00
	2.	Plus GENERAL BUSINESS schedule for pro shop.	
238911	GRADING AND EXCAVATING		\$100.00
445110	GROCERIES, wholesale, which maintain and operate a place of business in the city		\$500.00
611620	GYMNASTICS		\$100.00
112340	HATCHERIES, chicken, whether principal business or not		\$100.00
	RESIDENTIAL HOME BUILDERS (Over \$10,000.00, state certification required)		
236115	1.	Local, individual, corporation or partnership building for self (in Henry County)	\$150.00
236116	2.	Itinerant (outside Henry County)	\$225.00
316110	HIDES, FURS AND TALLOW, dealers in, per year		\$100.00
238992	HOUSE MOVERS, each		\$100.00
622110	HOSPITALS		\$300.00
721110	HOTELS OR MOTELS		
	(This license is in addition to the room tax.)		\$100.00
452990	HARDWARE AND/OR BUILDING MATERIAL, wholesale or retail (See GENERAL BUSINESS)		
312113	ICE MANUFACTURERS, with right to distribute at retail or wholesale		\$100.00

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454210		ICE SALES THROUGH VENDING MACHINES	\$100.00
722330		ICE CREAM TRUCKS/VENDORS, health certificate required	\$100.00
311520		ICE CREAM MANUFACTURERS	\$100.00
		INSULATION	
238310	1.	Installation and/or sales in the city	\$100.00
238311	2.	Itinerant	\$100.00
524291		INSURANCE CLAIMS ADJUSTER	
	1.	Local (in Henry County)	\$100.00
	2.	Itinerant (outside Henry County)	\$150.00
		INSURANCE AGENTS	
524128	1.	Fire and marine: Any fire insurance company or marine insurance company doing business in the city shall pay \$4.00 on each \$100.00 and major fractions thereof of the gross premiums on policies issued during the preceding calendar year on property located within the city, less return premiums, provided that each fire or marine insurance company which has done business in the city during the preceding calendar year shall pay a flat sum of \$100.00, and at the end of the first calendar year in which such new business is commenced, the license for such calendar year shall be calculated as above and the \$100.00 herein required to be paid shall be applied as a credit against the first year license. Any overpayment shall be refunded by the city	
524126	2.	Other: Each person or corporation doing any other kind of insurance other than those specified for fire and marine insurance shall pay \$20.00 and \$1.00 on each \$100.00 and major fractions thereof of gross premiums, less the premium returned by cancellation, on policies issued in the previous year to citizens of the city, provided that this shall not apply to Knights of Pythias, Odd Fellows, and other such incorporated fraternal orders	

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		Each person who has not done business during the preceding year in the city shall be adjusted at expiration of the year according to the amount due for other insurance required in this section	
	3.	Mutual aid associations: Same as fire and marine	
		Each person doing an insurance business shall furnish the city clerk in writing a duly certified statement showing the full and true amount of gross premiums received during the preceding calendar year	
		Nonprofit hospital plans exempt, Code of Ala. 1975, § 10-4-107.	
523930		INVESTMENT FIRMS OR CORPORATIONS, each location	\$100.00
		INTERIOR DECORATORS	
541410	1.	Local (in Henry County)	\$100.00
541411	2.	Itinerant (outside Henry County)	\$150.00
454393		ITINERANT DEALERS	
454393A	1.	Retail. All persons, including local residents, bringing merchandise and equipment into the city, selling or offering to sell same directly from trucks or automobiles or otherwise to consumers, except produce sold by farmers raising same. Location shall be subject to traffic and zoning regulations	
		Per item of merchandise or equipment sold (example: clothing)	\$100.00
		a. Each dealer must have a city sales tax number as issued by the state department of revenue	
		b. License will not be prorated	
		c. Health permit required as per state law	
454393	2.	Wholesale. Dealers selling and delivering supplies and equipment to licensed businesses, not for resale, such supplies and equipment being	

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		reasonably necessary for conduction of business or rendering a service for which a license has been paid	
		Per item of merchandise or equipment sold	\$100.00
		a. License will not be prorated	
		b. Health permit required as per state law	
		JANITORIAL, home care	
561720	1.	Local (in Henry County)	\$100.00
561721	2.	Itinerant (outside Henry County)	\$150.00
452990		JEWELRY	
	1.	Same as merchants (See GENERAL BUSINESS)	
	2.	Watch repairs	\$100.00
323119		JOB PRINTING	\$100.00
454210		JUKE BOXES, each	\$25.00
		See also AUTOMATIC VENDING MACHINES	
562111		JUNK DEALERS	
		(This applies to junk dealers who buy junk automobiles for salvage of parts, whether principal business or not.)	\$100.00
112930		KENNELS, BREEDING FOR SALE	\$100.00
812910		KENNELS, PET BOARDING (except veterinary)	\$100.00
611110		KINDERGARTEN	\$100.00
		LANDSCAPE GARDENERS	

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561730	1.	Local (in Henry County)	\$100.00
561731	2.	Itinerant (outside Henry County)	\$150.00
812310		LAUNDERETTES, WASHERS OR DRYERS	\$100.00
		LAWN CARE, all types, care and maintenance	
561732	1.	Local (in Henry County)	\$100.00
761733	2.	Itinerant (outside Henry County)	\$150.00
332919		LAWN SPRINKLER INSTALLATION	\$100.00
611699		LEARNING CENTERS, counseling, consulting and advising, etc.	\$100.00
812331		LINEN SUPPLY COMPANIES	\$100.00
522291		LOAN COMPANIES, small (secured)	\$200.00
522391		LOAN, CHECK CASHING/CASH ADVANCE SERVICE	\$500.00
561622		LOCKSMITHS	\$100.00
444191		LUMBER DEALERS, when not in connection with planer mill	\$125.00
444192		LUMBERYARDS	\$125.00
722331		LUNCH COUNTERS AND/OR HOT DOG STANDS with no permanent location (health department permit required)	\$100.00
238351		MACHINE SHOPS	\$100.00
454113		MAIL ORDER HOUSES, STORES AND/OR AGENTS TAKING MAIL ORDERS	\$100.00
339999		MANUFACTURERS (See MANUFACTURERS SCHEDULE)	
452990		MEAT MARKETS (See GENERAL BUSINESS)	
238220		MECHANICAL CONTRACTORS (See BUILDERS OR CONTRACTORS)	

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621112	MENTAL HEALTH SPECIALISTS, psychiatry/psychoanalysis (See PROFESSIONS AND VOCATIONS)		
452990	MERCHANTS, WHOLESALE, RETAIL AND/OR SECONDHAND (See GENERAL BUSINESS)		
454395	MERCHANTS, TRANSIENT		
	Any person, firm or corporation who engages in a temporary business of selling and delivering at wholesale and/or retail, goods, wares and merchandise or services, whether from truck, automobile or otherwise, and not having a permanent residence or place of business in the city or county. Transient merchants, per week		\$300.00
	1.	License will not be prorated	
	2.	Health permit required as per state law	
621111	MEDICAL DOCTORS (See PROFESSIONS AND VOCATIONS)		
452990	MILK, WHOLESALE AND/OR RETAIL (See GENERAL BUSINESS)		
531130	MINI-WAREHOUSE/STORAGE, rental or leasing		\$100.00
522311	MONEYLENDERS AND/OR SHORT LOAN COMPANIES		
	(This does not permit the operation of pawnshop business where articles of value are taken as security.)		\$200.00
	MONUMENTS, MARBLE OR STONE DEALERS (Permit to erect in cemeteries.)		
327991	1.	Local (in Henry County)	\$100.00
327992	2.	Itinerant (outside Henry County)	\$150.00
812211	MORTICIANS (See UNDERTAKERS)		
484121	MOTOR TRUCKS		

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	(This section includes all motor vehicles other than common and contract carriers, delivering merchandise from points outside the city to points inside the city regardless of whether the truck is privately owned or independent carriers.)	\$100.00
484122	MOTOR PROPELLED COMMON CARRIERS OR CONTRACT CARRIERS	
	(This section is intended to cover common or contract carriers of freight doing business in the city or the police jurisdiction thereof, by maintaining depots, stations or terminal facilities therein, or by receiving passengers or freight for transportation for hire from the city or police jurisdiction thereof, or from other points to the city or the police jurisdiction thereof.)	\$100.00
441221	MOTOR SCOOTERS, ALL-TERRAIN VEHICLES, ETC. (See AUTOMOBILE SALES)	
811411	MOTOR REWINDING	\$100.00
484210	MOVING VANS OR TRANSFER TRUCKS, each	\$100.00
454210	MUSIC MACHINES, each	\$25.00
	(See AUTOMATIC VENDING MACHINES)	
452990	MUSICAL INSTRUMENTS (See GENERAL BUSINESS)	
812113	NAIL SALON (state license required for each employee providing service)	\$100.00
511110	NEWSPAPER PUBLISHERS	\$100.00
511120	NEWSPAPER AGENTS AND DISTRIBUTORS	\$100.00
452990	NOVELTIES (See GENERAL BUSINESS)	
444220	NURSERIES, flowers, shrubs or other plants (See GENERAL BUSINESS)	
623110	NURSING HOMES AND ASSISTED LIVING FACILITIES	\$150.00
453210	OFFICE SUPPLIES	
	This license applies to firms doing business in the city without any established place of business in the city. (All sales taxes are to be collected on all sales and	\$150.00

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		reported and paid to the city in accordance with the provisions of the sales tax ordinance of the city.) Local office supply firms are to be licensed under GENERAL BUSINESS license schedule	
621320		OPTICIANS, OPTOMETRISTS, OCULISTS AND REFRACTIONISTS	
	1.	Local (See PROFESSIONS AND VOCATIONS)	
	2.	Itinerant (See PROFESSIONS AND VOCATIONS)	
	3.	Manufacturing and grinding lenses in addition to above	
333298		a. Local (in Henry County)	\$100.00
333299		b. Itinerant (outside Henry County)	\$150.00
453210		OFFICE SUPPLIES	
		This license applies to firms doing business in the city without any established place of business in the city. (All sales taxes are to be collected on all sales and reported and paid to the city in accordance with the provisions of the sales tax ordinance of the city.) (Local office supply firms are to be licensed under General Business license schedule.)	\$150.00
311611		PACKING HOUSE PRODUCTS, wholesale, where principal business located within the city	\$100.00
		See ABATTOIRS	
		PARTY PLANNING SERVICES	
812991	1.	Local (in Henry County)	\$100.00
812992	2.	Itinerant (outside Henry County)	\$150.00
		PARTY SUPPLIES, RENTAL	
532299A	1.	Local (in Henry County)	\$100.00
532299B	2.	Itinerant (outside Henry County)	\$150.00

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522298		PAWNSHOPS, PAWNBROKERS, each place of business	\$200.00
		PHOTOGRAPHERS, services and studios	
541921	1.	Local, maintaining a regular place of business in city	\$100.00
541922	2.	Itinerant	\$150.00
621111		PHYSICIANS (See PROFESSIONS AND VOCATIONS)	
451140		PIANO TUNERS OR REPAIRERS (See REPAIR JOBS)	
321919		PICTURES, FRAMING, where principal business	
		For engaging in the business of soliciting or taking orders for enlargements of pictures or the sale of pictures, paintings, charts and the like, or transient photographers (See PHOTOGRAPHERS)	
452990		PISTOLS, REVOLVERS AND/OR SHOTGUNS (See GENERAL BUSINESS)	
321912		PLANING MILLS (See MANUFACTURERS SCHEDULE)	
		PLUMBERS AND/OR ELECTRICIANS OR GAS PIPE FITTERS	
238220	1.	Local (in Henry County)	\$150.00
238221	2.	Itinerant (outside Henry County)	\$225.00
115114		PEANUT SHELLERS OR PEANUT SHELLING PLANTS	\$100.00
713990		POOL ROOM OR BILLIARD HALLS, each table	\$50.00
812911		POODLE PARLORS, animal grooming service, each	\$100.00
621391		PODIATRIST'S OFFICE (See PROFESSIONS AND VOCATIONS)	
		PROFESSIONS AND VOCATIONS, including, among others, accountants, aeronautical engineers, architects, auditors, chiropodists, chiropractors, engineers (civil, mechanical, electrical, and other), dentists, doctors, lawyers,	

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	neuropaths, osteopaths, physicians, surgeons, optometrists, veterinarians, where annual gross receipts are:		
	1.	Less than \$20,000.00	\$100.00
	2.	\$20,000.00 and less than \$30,000.00	\$125.00
	3.	\$30,000.00 and less than \$40,000.00	\$175.00
	4.	\$40,000.00 and less than \$50,000.00	\$225.00
	5.	\$50,000.00 and less than \$60,000.00	\$275.00
	6.	\$60,000.00 and less than \$70,000.00	\$325.00
	7.	\$70,000.00 and over	\$375.00
	Where business is carried on as a partnership or company this license shall apply to each member of the partnership or company and shall be based upon the pro rata share of each member of the partnership or company in gross receipts of partnership		
	Amounts received as retainers, whether paid on an annual or any other basis, even though designated as salary shall be included as a part of the gross receipts		
	Declaration of gross receipts not required for those who elect to pay the maximum fee under this category		
561791	PRESSURE WASHING		\$100.00
541990	PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES, appraisal service (non-real estate), credit counseling, etc. (See PROFESSIONS AND VOCATIONS)		
811118	RADIATOR REPAIR SHOPS		\$100.00
515112	RADIO STATIONS		\$200.00
482111	RAILROADS, each railroad in the city in the business of transporting passengers and/or freight by rail to and from all points in the state		\$250.00

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452990		RADIO AND TV DEALERS (See GENERAL BUSINESS)	
		REAL ESTATE AGENTS, whether or not in connection with other business	
531210	1.	Local (in Henry County)	\$100.00
531211	2.	Itinerant (outside Henry County)	\$200.00
		REAL ESTATE APPRAISAL SERVICES	
531320	1.	Local (in Henry County)	\$100.00
531321	2.	Itinerant (outside Henry County)	\$200.00
531110		RENTAL, APARTMENTS/TOWNHOMES for residential use, per unit	\$15.00
		REPAIR JOBS (See AGENTS)	
811490	1.	Firearms	\$100.00
811490	2.	Clocks and watches	\$100.00
811430	3.	Shoes	\$100.00
811420	4.	Furniture	\$100.00
811211	5.	Typewriters, where no dealer's license is paid	\$100.00
811310	6.	Electric motors	\$100.00
811311	7.	Electric motors and dynamos, and transformers	\$100.00
811211	8.	Radio, television and electronics	\$100.00
811412	9.	Sewing machines	\$100.00
811412	10.	Electric appliances, including radio, television, stoves, washing machines, refrigerators, microwaves, small air conditioners, dryers and small motors one horsepower and less	\$100.00

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451140	11.	Piano tuners and repairers	\$100.00
811412	12.	Not otherwise specified	\$100.00
722110		RESTAURANTS (See GENERAL BUSINESS)	
237310		ROAD BUILDING CONTRACTORS (See CONTRACTORS SCHEDULE)	
		ROOFING CONTRACTORS. This covers nonresident roofing companies doing business in the city	
238160	1.	Local (in Henry County)	\$150.00
238161	2.	Itinerant (outside Henry County)	\$225.00
611621		RIDING ACADEMIES	\$100.00
721211		RV PARKS AND CAMPGROUNDS, nonresidential	\$100.00
525920		SALES, estate, fire and bankrupt	\$100.00
525920		SALVAGE, each person dealing in or handling on commission or otherwise, goods or articles damaged by fire, or water or bankrupt stock. (Merchandise previously licensed damaged by fire and water exempted when special permit secured from the governing body.)	\$100.00
238290		SANDBLASTING	\$100.00
423321		SAND OR GRAVEL DEALERS	\$100.00
722212		SANDWICHES, DONUTS AND PIES (See GENERAL BUSINESS)	
321113		SAWMILLS (See MANUFACTURERS SCHEDULE)	
488491		SCALES, charging for weighing commodities	\$100.00
452990		SECONDHAND MERCHANDISE (See GENERAL BUSINESS)	
561421		SECRETARIAL SERVICES	\$100.00

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561612		SECURITY PATROL OR GUARD SERVICES (clearance by police required)	\$125.00
454391		SELLING AND DELIVERING FROM VEHICLES	
		This includes dealers, salesmen, etc., having no fixed place of business in the city who bring goods, wares, merchandise or other commodities into the city in vehicles of any kind for the purpose of offering for sale and delivering or selling the same from vehicle only to merchants in the city dealing in that particular line. (This does not include farmers selling products raised by them.)	\$100.00
		SEPTIC TANKS, cleaning and repair, where principal business only	
238912	1.	Local (in Henry County)	\$100.00
238913	2.	Itinerant (outside Henry County)	\$125.00
		Permit required from health department	
452990		SERVICE STATIONS, which applies on all sales other than gas and oil (See GENERAL BUSINESS)	
		SHEET METAL SHOPS (See TIN SHOPS)	
713992		SHOOTING GALLERIES	\$100.00
		SITE PREP CONTRACTORS	
238914	1.	Local (in Henry County)	\$150.00
238915	2.	Itinerant (outside Henry County)	\$225.00
713941		SKATING RINKS	\$100.00
488999		STOCKYARDS	\$100.00
493110		STORAGE WAREHOUSES, for furniture, etc., for hire	\$100.00
541370		SURVEYOR (This includes all persons doing surveying whether residents or otherwise.) (See PROFESSIONS AND VOCATIONS)	

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	SWIMMING POOL CONSTRUCTION, OUTDOOR, state certification required		
283993	1.	Local (in Henry County)	\$150.00
238994	2.	Itinerant (outside Henry County)	\$225.00
812190-	TANNING SALON, each bed (See AUTOMATIC VENDING MACHINES)		
8121991	TATTOO PARLORS, health certificate required		\$500.00
517110	TELEPHONE COMPANIES (License as fixed in state code)		
515120	TELEVISION		
	1.	Stations	\$300.00
	2.	Cable television company	5% of gross revenue
811219	TESTING LABORATORIES AND INSTRUMENT REPAIR		\$100.00
313112	TEXTILE MANUFACTURERS (See MANUFACTURERS SCHEDULE)		
512131	THEATERS OR MOVIE HOUSES, each		\$200.00
621340	THERAPISTS — PHYSICAL, OCCUPATIONAL, SPEECH AND AUDIOLOGISTS (See PROFESSIONS AND VOCATIONS)		
238340	TILE SETTERS		\$100.00
	TIN SHOPS		
332322	1.	Local (in Henry County)	\$100.00
332323	2.	Itinerant (outside Henry County)	\$150.00
423130	TIRES AND TUBES, wholesale only.		\$100.00

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531190	TRAILERS, CAMPS, COURTS AND/OR MOBILE HOMES (excluding RV parks and campgrounds), each space		\$15.00
441110	TRAILERS, SELLING OR DEALING IN (See AUTOMOBILE SALES)		
484110	TRANSFER AND STORAGE COMPANIES		\$100.00
561510	TRAVEL OR TOURIST AGENCIES		\$100.00
	TREE SURGEONS, each person engaged in trimming trees		
561735	1.	Local (in Henry County)	\$100.00
561736	2.	Itinerant (outside Henry County)	\$150.00
532120	TRUCK AND TRAILER RENTAL AGENCIES (See AUTOMOBILES FOR HIRE)		
721310	TOURIST HOMES, ROOMINGHOUSES, per room		\$15.00
	TIRE RECAPPING AND RETREADING		
326212	1.	Local (in Henry County)	\$100.00
326213	2.	Itinerant (outside Henry County)	\$150.00
512132	THEATERS, DRIVE-IN		\$200.00
711414	TYPEWRITERS (See AGENTS)		
812211	UNDERTAKERS		1/16 of 1% + \$150.00
337121	UPHOLSTERER		\$100.00
541940	VETERINARIANS (See PROFESSIONS AND VOCATIONS)		
214999	WEATHER STRIPPING		\$100.00

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811310		WELDING	\$100.00
		WELL DRILLING AND PUMP INSTALLATION	
213111	1.	Local (in Henry County)	\$150.00
213112	2.	Itinerant (outside Henry County)	\$225.00
445310		LIQUOR, retail.	\$200.00
424810		BEER	
	1.	Wholesale, local (in Henry County)	\$100.00
	2.	Wholesale, itinerant (outside Henry County)	\$125.00
445311	3.	Retail, off-premises consumption	\$100.00
722411	4.	Retail, on-premises consumption	\$125.00
424820		TABLE WINE	
	1.	Wholesale, local (in Henry County)	\$100.00
	2.	Wholesale, itinerant (outside Henry County)	\$125.00
445312	3.	Retail, off-premises consumption	\$100.00
445313	4.	Retail, on premises	\$125.00
424990		WHOLESALERS AND RETAILERS IN GROCERIES AND/OR OTHER MERCHANDISE	
		Every person engaged in the wholesale business of any kind whose place of business is outside the city or police jurisdiction thereof who delivers such groceries or other merchandise within the city or the police jurisdiction thereof	\$100.00
423992		WOOD DEALERS, with or without yard	\$100.00
488410		WRECKER SERVICES	\$100.00

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MANUFACTURERS SCHEDULE		
Sales:	\$0.00 to less than \$100,000.00	\$150.00
	\$100,000.00 to less than \$200,000.00	\$200.00
	\$200,000.00 to less than \$300,000.00	\$250.00
	\$300,000.00 to less than \$400,000.00	\$300.00
	\$400,000.00 and above	\$350.00

(Ord. No. 12-07-1, § 11-1, 12-17-2007)

Sec. 22-263. State tax where city tax illegal; license for unscheduled pursuit.

- (a) In the event any part of this article, or any of the licenses set out in this article, shall be held or construed to be illegal or void, the license to be charged in such event shall be based upon and is hereby fixed at the rate fixed and prescribed by laws of the state, and the amount of license so prescribed by the state with the penalties therein provided for nonpayment of such license shall be collected.
- (b) Provided that where the laws of the state do not fix and prescribe a privilege license, the mayor is hereby clothed with the power and authority and is hereby directed to fix the amount of such privilege based on the licenses prescribed for similar business of the nature, volume, character and amount invested in the business upon which the mayor is authorized to fix the amount of the license to be paid.
- (c) Provided, further, in the event the schedule in section 22-262 fails to provide a license for the business, trade, exhibition, vocation or profession in which any person is engaged, then the mayor is hereby vested with the authority to fix the amount of such privilege license such person should be required to pay, and such action in the premises is binding.

(Ord. No. 12-07-1, § 11-5, 12-17-2007)

Sec. 22-264. Unlawful to engage in business without license.

It shall be unlawful to engage in any business, trade or profession, or keeping any establishment or in any business or act for which a license is required by the ordinance of such city now in force or hereafter to be passed, or by any section of this article without first having obtained such license shall, upon conviction for each day such business, trade or profession or such establishment is kept or carried on and for each act so done without such license, to be fined not less than \$50.00 nor more than \$500.00 for each offense and be imprisoned not exceeding six months, either or both, at the discretion of the court trying the same, and each day shall constitute a separate offense.

(Ord. No. 12-07-1, § 11-11, 12-17-2007)

Sec. 22-265. Food establishments; inspection required prior to issuance of license.

No license shall be issued by the city clerk for the operation of a cafe, lunch stand or eating establishment until and unless the application therefor is accompanied by a certificate from the county health officer that such establishment has been inspected and that the same meets all the requirements of the public health laws.

(Ord. No. 12-07-1, § 11-13, 12-17-2007)

Sec. 22-266. Poolrooms, etc.; state requirements to be met, council to approve.

It shall be unlawful for any person to establish, open up or operate any public pool hall, poolroom, billiard hall or billiard parlor, and no license will be issued for the privilege of operating such a business until all laws of the state pertaining thereto have been complied with and the proposed location is first approved by the city council, such approval being made at a regular meeting thereof and evidence of such approval shown in the minutes of the city council.

(Ord. No. 12-07-1, § 11-14, 12-17-2007)

Sec. 22-267. Utility companies privilege tax.

The privilege or license tax on all persons operating electric light and power plants and waterworks plants is hereby levied at three percent of the gross income of such plants or companies. The privilege or license tax for the current year shall be based on the gross receipts for the preceding year, but shall in no event be less than \$100.00.

(Ord. No. 12-07-1, § 11-16, 12-17-2007)

Sec. 22-268. Junk dealers to keep junk stored under shelters.

- (a) It shall be unlawful for any person operating as a junk dealer to store, keep, place, leave or permit to be stored, kept, placed or left any junk purchased or used in such business inside the corporate limits of the city or the police jurisdiction, in or on any vacant lot where the same is exposed to rain, seepage water or other liquid.
- (b) All of such junk shall be stored or kept under a roof or shelter so that it will not be exposed to the weather and become a breeding place for mosquitoes.

(Ord. No. 12-07-1, § 11-20, 12-17-2007)

Chapter 23 RESERVED

Chapter 24 FIRE PREVENTION AND PROTECTION [u](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - OPEN BURNING

FOOTNOTE(S):

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State Law reference— Authority of council to do all things necessary to prevent conflagration and give security to the inhabitants of the city from fires, Code of Ala. 1975, § 11-43-59; authority to maintain and operate a fire department, Code of Ala. 1975, § 11-43-140 et seq.; personnel standards and education, Code of Ala. 1975, § 36-32-7 et seq.; authority of municipalities with regard to installation of fire sprinkler systems, Code of Ala. 1975, § 34-33-9; refusal to assist in fire control, Code of Ala. 1975, § 13A-10-6; fireworks, Code of Ala. 1975, § 8-17-210; state law does not affect local ordinance restricting sale or use of fireworks, Code of Ala. 1975, § 8-17-226. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 24-1. Fire code adopted.](#)

[Sec. 24-2. Life Safety Code adopted.](#)

[Sec. 24-3. Codes—Enforcement.](#)

[Sec. 24-4. Same—Modification.](#)

[Sec. 24-5. Same—Penalties.](#)

[Sec. 24-6. Same—Appeals.](#)

[Sec. 24-7. Districts in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks and bulk storage of liquefied petroleum gases is restricted.](#)

[Sec. 24-8. Routes for vehicles transporting explosives and blasting agents.](#)

[Sec. 24-9. Routes for vehicles transporting hazardous chemicals or other dangerous articles.](#)

[Sec. 24-10. Fire lanes on private property, devoted to public use.](#)

[Sec. 24-11. Pyrotechnics—Definition.](#)

[Sec. 24-12. Same—Prohibited.](#)

[Sec. 24-13. Same—Exceptions.](#)

[Sec. 24-14. Same—Permit for displays.](#)

[Secs. 24-15—24-31. Reserved.](#)

Sec. 24-1. Fire code adopted.

There is hereby adopted by the city council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2012 International Fire Code, excluding appendices and provisions concerning water requirements and fire lanes, save and except such portions as are hereafter deleted, modified or amended, of which not less than one copy has been and now is filed in the office of the city clerk, and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which the ordinance from which this section is derived shall take effect, the provisions thereof shall be controlling within the limits of the city.

(Code 1968, § 12-11; Code 1987, § 12-1; Ord. No. 1-73, § 1, 1-8-1973)

Sec. 24-2. Life Safety Code adopted.

The 2012 edition of the Life Safety Code (NFPA 101) is adopted by reference.

Sec. 24-3. Codes—Enforcement.

The codes hereby adopted shall be enforced by the chief of the fire department.

(Code 1968, § 12-12; Code 1987, § 12-2; Ord. No. 1-73, § 2, 1-8-1973)

Sec. 24-4. Same—Modification.

The chief of the fire department shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or the duly authorized agent of the owner or lessee, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

(Code 1987, § 12-3; Ord. No. 1-73, § 8, 1-8-1973)

Sec. 24-5. Same—Penalties.

- (a) Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction within the time fixed herein, shall severally, for each violation and noncompliance respectively, be guilty of a misdemeanor punishable as provided in section 1-8. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- (b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1987, § 12-4; Ord. No. 1-73, § 10, 1-8-1973)

Sec. 24-6. Same—Appeals.

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have misconstrued or wrongfully interpreted, the applicant may appeal from the decision of the chief of the fire department to the city council within 30 days from the date of the decision appealed.

(Code 1987, § 12-5; Ord. No. 1-73, § 9, 1-8-1973)

Sec. 24-7. Districts in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks and bulk storage of liquefied petroleum gases is restricted.

The limits referred to in the fire prevention code in which storage of explosives and blasting agents is prohibited, storage of Class I liquids in outside aboveground tanks is prohibited, and bulk storage of liquefied petroleum gas is restricted, or those which are established by ordinance and marked clearly designate such limits by the chief of the fire department. These districts may be altered or changed only by authority of the city council.

(Code 1987, § 12-6; Ord. No. 1-73, § 4, 1-8-1973)

Sec. 24-8. Routes for vehicles transporting explosives and blasting agents.

The routes referred to in the fire prevention code for vehicles transporting explosives and blasting agents are hereby established as marked state and federal highways through the city and such other routes as may be hereafter established by ordinance.

(Code 1987, § 12-7; Ord. No. 1-73, § 5, 1-8-1973)

Sec. 24-9. Routes for vehicles transporting hazardous chemicals or other dangerous articles.

The routes referred to in the fire prevention code for vehicles transporting hazardous chemicals and other dangerous articles are hereby established as marked federal and state highways through the city.

(Code 1987, § 12-8; Ord. No. 1-73, § 6, 1-8-1973)

Sec. 24-10. Fire lanes on private property, devoted to public use.

The fire lanes referred to in the fire prevention code or those that are hereafter marked by the chief of the fire department the curb of which lanes shall be painted in orange or yellow to clearly distinguish them as a fire lane.

(Code 1987, § 12-9; Ord. No. 1-73, § 7, 1-8-1973)

Sec. 24-11. Pyrotechnics—Definition.

As used in this chapter, the term "pyrotechnics" means any sparkler, squib, rocket, Roman candle, fire balloon, signal light, railroad track torpedo, flashlight composition, fireworks or other devices or composition to obtain visible or audible pyrotechnic display.

(Code 1968, §§ 12-18, 18-15; Code 1987, § 12-11)

Sec. 24-12. Same—Prohibited.

No person shall have, keep, store, use, manufacture, sell, or handle within the city, or the police jurisdiction thereof, any pyrotechnics, except as otherwise provided herein.

(Code 1968, § 12-19; Code 1987, § 12-12)

Sec. 24-13. Same—Exceptions.

- (a) Nothing in this chapter shall be held to apply to the possession, sale or use of normal stock of flashlight compositions by photographers or dealers in photographic supplies.
- (b) Nothing in this chapter shall be held to prohibit the possession or use of signaling devices for current daily use by railroads or others requiring them.

(Code 1968, §§ 12-19, 12-21; Code 1987, § 12-13)

Sec. 24-14. Same—Permit for displays.

The mayor may, upon due application, issue a permit to a properly qualified person for giving a pyrotechnic display of fireworks in the city or the police jurisdiction thereof. Such permits shall impose such restrictions as in the opinion of the mayor may be necessary to properly safeguard life and property in each case.

(Code 1968, § 12-20; Code 1987, § 12-14)

Secs. 24-15—24-31. Reserved.

ARTICLE II. OPEN BURNING

[Sec. 24-32. Maintenance standards and requirements.](#)

[Sec. 24-33. Revocation of burning permits.](#)

[Sec. 24-34. Punishment.](#)

Sec. 24-32. Maintenance standards and requirements.

- (a) No person shall kindle or maintain any open fire without a permit from the city, except for the following purposes:
 - (1) Open fires for the cooking of food for human consumption.
 - (2) Fires set in salamanders or other devices used by construction of other workers for heating purposes.
- (b) Fires for any other purpose must be permitted by the city. Permits may only be issued if the proposed open burning meets the following criteria:
 - (1) The burning must be controlled so as to avoid creating a traffic hazard on any public road, street or highway.

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- (2) Only untreated wood and vegetation may be open burned. Some of the materials that will not be burned include paper, cardboard, heavy oils, paint, asphaltic materials, rubber, plastics, refuse and garbage.
- (3) No fire may be started or combustible material added to the fire except during the period from 9:00 a.m. to 3:00 p.m.
- (4) The fire shall be attended at all times. There shall be a hose connected to a water supply or other extinguishing equipment readily available for use.
- (5) No burning shall be conducted under a current air stagnation advisory issued by the National Weather Service or during a drought emergency declared by the governor.

(Ord. No. 10-91-1, § 2, 10-21-1991)

Sec. 24-33. Revocation of burning permits.

The mayor or fire chief or the state may revoke a burning permit issued by the city any time after it is issued if the open burning creates a danger or serious nuisance for individuals or property.

(Ord. No. 10-91-1, § 3, 10-21-1991)

Sec. 24-34. Punishment.

Any person violating any provision of this article within the corporate limits of the city, or within the police jurisdiction thereof, shall, upon conviction, be punished by a fine of not more than \$500.00, and/or may be imprisoned or sentenced to labor for the city for a period not exceeding six months, at the discretion of the court trying the case; provided, however, no penalty shall consist of a fine or sentence if imprisonment exceeding the maximum fine or sentence of imprisonment established under state law for the commission of substantially similar offenses.

(Ord. No. 10-91-1, § 4, 10-21-1991)

Chapter 25 RESERVED

Chapter 26 FLOOD DAMAGE PREVENTION

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION

ARTICLE III. - PROVISIONS FOR FLOOD HAZARD REDUCTION

ARTICLE IV. - VARIANCES

ARTICLE I. IN GENERAL

[Sec. 26-1. Statutory authorization.](#)

[Sec. 26-2. Findings of fact.](#)

[Sec. 26-3. Statement of purpose.](#)

[Sec. 26-4. Objectives.](#)

[Sec. 26-5. Lands to which this chapter applies.](#)

[Sec. 26-6. Definitions.](#)

[Sec. 26-7. Basis for area of special flood hazard.](#)

[Sec. 26-8. Establishment of development permit.](#)

[Sec. 26-9. Compliance.](#)

[Sec. 26-10. Abrogation and greater restrictions.](#)

[Sec. 26-11. Interpretation.](#)

[Sec. 26-12. Warning and disclaimer of liability.](#)

[Sec. 26-13. Penalties for violation.](#)

[Sec. 26-14. Savings clause.](#)

[Secs. 26-15—26-31. Reserved.](#)

Sec. 26-1. Statutory authorization.

The state legislature has, in Code of Ala. 1975, §§ 11-19-1—11-19-24, 11-45-1—11-45-11, 11-52-1—11-52-84, and 41-9-166, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(Ord. No. 8-07-1, art. 1, § A, 8-6-2007)

Sec. 26-2. Findings of fact.

- (a) The flood hazard areas of the city are subject to periodic inundation that results in a loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Ord. No. 8-07-1, art. 1, § B, 8-6-2007)

Sec. 26-3. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion;

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- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of floodwaters.

(Ord. No. 8-07-1, art. 1, § C, 8-6-2007)

Sec. 26-4. Objectives.

The objectives of this chapter are to:

- (1) Protect human life and health;
- (2) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize flood blight areas;
- (4) Minimize expenditure of public money for costly flood control projects;
- (5) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions; and
- (7) Ensure that potential homebuyers are notified that property is in a flood area.

(Ord. No. 8-07-1, art. 1, § D, 8-6-2007)

Sec. 26-5. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ord. No. 8-07-1, art. 2, § A, 8-6-2007)

Sec. 26-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered new construction.

Appeal means a request for a review of the building inspector's interpretation of any provision of this chapter.

Area of shallow flooding means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the

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Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in section 26-7.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of equipment or materials.

Elevated building means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing construction means any structure for which the start of construction commenced before September 4, 1985.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before September 4, 1985.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been designated as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood insurance study means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

Floodplain means any land area susceptible to flooding.

Floodway (regulatory floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term "functionally dependent facility" does not include long-term storage, manufacture, sales, or service facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

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Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this chapter.

Manufactured home means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or other datum.

National Geodetic Vertical Datum (NGVD), as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the start of construction commenced after September 4, 1985, and includes any subsequent improvements to the structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 4, 1985.

Recreational vehicle means a vehicle that is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

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- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Section 1316. No new flood insurance shall be provided for any property which the administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body, to be in violation of state or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas.

Start of construction means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (Note: accessory structures are not exempt from any chapter requirements.) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The market value of the building should be either the appraised value of the structure prior to the start of the initial repair or improvement, or, in the case of damage, the value of the structure prior to the damage occurring. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual amount of repair work performed. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term "substantial improvement" does not, however, include either any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions, or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this chapter that permits construction in a manner otherwise prohibited by this chapter.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this chapter is presumed to be in violation until such time as that documentation is provided.

(Ord. No. 8-07-1, art. 6, 8-6-2007)

Sec. 26-7. Basis for area of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in its flood insurance study (FIS), dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this chapter. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Henry County, Alabama, are hereby adopted by reference. Areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

(Ord. No. 8-07-1, art. 2, § B, 8-6-2007)

Sec. 26-8. Establishment of development permit.

A development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

(Ord. No. 8-07-1, art. 2, § C, 8-6-2007)

Sec. 26-9. Compliance.

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. No. 8-07-1, art. 2, § D, 8-6-2007)

Sec. 26-10. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 8-07-1, art. 2, § E, 8-6-2007)

Sec. 26-11. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the city council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 8-07-1, art. 2, § F, 8-6-2007)

Sec. 26-12. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 8-07-1, art. 2, § G, 8-6-2007)

Sec. 26-13. Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Ord. No. 8-07-1, art. 2, § H, 8-6-2007)

Sec. 26-14. Savings clause.

If any section, subsection, sentence, clause, phrase, or word of this chapter is for any reason held to be noncompliant with 44 CFR 59—78, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 8-07-1, art. 2, § I, 8-6-2007)

Secs. 26-15—26-31. Reserved.

ARTICLE II. ADMINISTRATION

[Sec. 26-32. Designation of floodplain administrator.](#)

[Sec. 26-33. Permit procedures.](#)

[Sec. 26-34. Duties and responsibilities of the administrator.](#)

[Secs. 26-35—26-56. Reserved.](#)

Sec. 26-32. Designation of floodplain administrator.

The building inspector for the city is hereby appointed to administer and implement the provisions of this chapter.

(Ord. No. 8-07-1, art. 3, § A, 8-6-2007)

Sec. 26-33. Permit procedures.

- (a) Application for a development permit shall be made to the building inspector on forms furnished by the city prior to any development activities, and may include, but not be limited to, plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities.
- (b) Specifically, the following information is required:
 - (1) Application stage.
 - a. Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - c. Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of sections 26-58(2) and 26-61(2);
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.
 - (2) Construction stage.
 - a. For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level using appropriate FEMA elevation or floodproofing certificate immediately after the lowest floor or floodproofing is completed. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
 - b. Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The building inspector shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.

(Ord. No. 8-07-1, art. 3, § B, 8-6-2007)

Sec. 26-34. Duties and responsibilities of the administrator.

- (a) Duties of the floodplain administrator shall include, but not be limited to:

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- (1) Review all development permits to ensure that the permit requirements of this chapter have been satisfied, and that sites are reasonably safe from flooding.
 - (2) Review proposed development to ensure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344. The building inspector shall require that copies of such permits be provided and maintained on file.
 - (3) When base flood elevation data or floodway data have not been provided in accordance with section 26-7, obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of article III of this chapter.
 - (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with section 26-33(b).
 - (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with sections 26-58(2) and 26-61(2).
 - (6) When floodproofing is utilized for a structure, obtain certification of design criteria from a registered professional engineer or architect in accordance with section 26-33(b)(1)c and 26-58(2) or 26-61(2).
 - (7) Notify adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA, and the state department of economic and community affairs/office of water resources/NFIP state coordinator's office.
 - (8) For any altered or relocated watercourse, submit engineering data/analysis within six months to FEMA and the state to ensure accuracy of community flood maps through the letter of map revision process. Ensure flood carrying capacity of any altered or relocated watercourse is maintained.
 - (9) Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.
- (b) All records pertaining to the provisions of this chapter shall be maintained in the office of the building inspector and shall be open for public inspection.

(Ord. No. 8-07-1, art. 3, § C, 8-6-2007)

Secs. 26-35—26-56. Reserved.

ARTICLE III. PROVISIONS FOR FLOOD HAZARD REDUCTION

[Sec. 26-57. General standards.](#)

[Sec. 26-58. Specific standards.](#)

[Sec. 26-59. Floodways.](#)

[Sec. 26-60. Building standards for streams without established base flood elevations \(approximate A zones\).](#)

[Sec. 26-61. Standards for areas of shallow flooding \(AO zones\).](#)

[Sec. 26-62. Standards for subdivisions.](#)

[Secs. 26-63—26-82. Reserved.](#)

Sec. 26-57. General standards.

In all areas of special flood hazard, the following provisions are required:

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.
- (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.
- (4) Elevated buildings. All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood-resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 2. The bottom of all openings shall be no higher than one foot above grade; and
 3. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of floodwater in both directions;
 - b. So as not to violate the lowest floor criteria of this chapter, the unfinished or flood-resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and
 - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (10) Any alteration, repair, reconstruction or improvement to a structure that is not compliant with the provisions of this chapter, shall be undertaken only if the nonconformity is not furthered, extended or replaced.

(Ord. No. 8-07-1, art. 4, § A, 8-6-2007)

Sec. 26-58. Specific standards.

In all areas of special flood hazard designated as A1-30, AE, AH, A (with estimated BFE), the following provisions are required:

- (1) *New construction and substantial improvements.* Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 26-57(4).
- (2) *Nonresidential construction.* New construction or the substantial improvement of any nonresidential structure located in A1-30, AE, or AH zones may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in section 26-34(a)(6).
- (3) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:
 - a. All manufactured homes placed or substantially improved on individual lots or parcels, in new or substantially improved manufactured home parks or subdivisions, in expansions to existing manufactured home parks or subdivisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred substantial damage as the result of a flood must have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.
 - b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 1. The lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation; or
 2. Where no base flood elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and is elevated to a maximum of 60 inches (five feet).
 - c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Refer to section 26-57(6).)
 - d. All recreational vehicles placed on sites must either:
 1. Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or additions; or
 2. Must meet all the requirements for new construction, including the anchoring and elevation requirements of subsections (3)(a) to (c) of this section.

(Ord. No. 8-07-1, art. 4, § B, 8-6-2007)

Sec. 26-59. Floodways.

Located within areas of special flood hazard established in section 26-7 are areas designated as floodways. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- (1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point.
- (2) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted, however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
- (3) It shall be required, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (4) Only if subsections (2) or (3) of this section are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of this article.

(Ord. No. 8-07-1, art. 4, § C, 8-6-2007)

Sec. 26-60. Building standards for streams without established base flood elevations (approximate A zones).

Located within the areas of special flood hazard established in section 26-7, where streams exist but no base flood data have been provided (approximate A zones), the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with section 26-7, then the building inspector shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this article. Only if data are not available from these sources, then the provisions of subsections (2) and (3) of this section shall apply:
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 25 feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (3) All development in Zone A must meet the requirements of section 26-57 and section 26-58.
- (4) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. Also, in the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of section 26-58(3)b.2 in that the structure must be elevated to a maximum of 60 inches (five feet). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 26-57(4).

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The building inspector shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Ord. No. 8-07-1, art. 4, § D, 8-6-2007)

Sec. 26-61. Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 26-7 may include designated AO shallow flooding areas. These areas have base flood depths of one to three feet (above ground), with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the flood insurance rate map (FIRM) above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of section 26-57(4). The building inspector shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (2) New construction or the substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level or two feet (if no map elevation is listed), above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in section 26-33(b)(1)c. and (2).
- (3) Drainage paths shall be provided to guide floodwaters around and away from any proposed structure.

(Ord. No. 8-07-1, art. 4, § E, 8-6-2007)

Sec. 26-62. Standards for subdivisions.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions greater than 50 lots or five acres, whichever is the lesser.

(Ord. No. 8-07-1, art. 4, § F, 8-6-2007)

Secs. 26-63—26-82. Reserved.

ARTICLE IV. VARIANCES

[Sec. 26-83. Appeals procedure.](#)

Sec. 26-83. Appeals procedure.

- (a) The zoning board of adjustment as established by the city shall hear and decide requests for appeals or variance from the requirements of this chapter.
- (b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the building inspector in the enforcement or administration of this chapter.
- (c) Any person aggrieved by the decision of the zoning board of adjustment may appeal such decision to the district court of the county, as provided in the Code of Alabama, as amended.
- (d) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the zoning board of adjustment shall consider all technical evaluations, relevant factors, and all standards specified in this section and other sections of this chapter.
- (h) Conditions for variances.
 - (1) A variance shall be issued only when there is:
 - a. A finding of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (2) The provisions of this chapter are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of an historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 - (3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
 - (4) The building inspector shall maintain the records of all appeal actions and report any variances to FEMA and the state department of economic and community affairs/office of water resources, upon request.
- (i) Upon consideration of the factors listed in subsections (a) through (h) of this section and the purposes of this chapter, the zoning board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. No. 8-07-1, art. 5, 8-6-2007)

Chapter 27 RESERVED

Chapter 28 GARBAGE, TRASH AND WEEDS [u](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - WEEDS

FOOTNOTE(S):

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State Law reference— State solid waste management plan, Code of Ala. 1975, § 22-27-40 et seq.; Solid Wastes and Recyclable Materials Management Act, Code of Ala. 1975, § 22-27-1 et seq.; local government solid waste disposal authorities, Code of Ala. 1975, § 11-89A-1 et seq.; authority of municipality to regulate method of waste collection and disposal, Code of Ala. 1975, § 22-27-3; municipal authority to establish fees for waste collection and disposal, Code of Ala. 1975, § 22-27-5; municipal authority to regulate hauling and disposal of garbage and establish incinerators, Code of Ala. 1975, § 11-47-135. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 28-1. Definitions.](#)

[Sec. 28-2. Territory of applicability.](#)

[Sec. 28-3. Containers—Required for garbage; use thereof.](#)

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[Sec. 28-11. Designation of places for placement.](#)

[Sec. 28-12. Permit for removal from factories.](#)

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[Sec. 28-17. Sweeping, etc., of refuse into streets and other places.](#)

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[Sec. 28-19. Dumping of refuse in landfill required.](#)

[Sec. 28-20. Violations.](#)

[Sec. 28-21. Setting of fees.](#)

[Secs. 28-22—28-45. Reserved.](#)

Sec. 28-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the city sanitation department.

Fenced trash bin means a trash containment area which is a minimum height of six feet and constructed of chainlink or wooden fencing which will prevent small paper trash or styrofoam packing material from blowing out of the area. The area will have one gate opening at least 48 inches in width. Such a trash bin which is in the direct view of the general public and customers of adjoining businesses shall be constructed in a manner to prevent the viewing of the contents of said container. If the trash bin is located behind the business and not next to a customer entrance of adjoining businesses, the contents may be open to view.

Garbage includes all waste accumulations of animal, fruit or vegetable matter that attend the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruits, or vegetables; tin cans or other containers originally used for foodstuffs.

Garbage can means a watertight receptacle or container of substantial metal or plastic construction, having a capacity of not less than ten nor more than 30 gallons, with a tight-fitting lid or cover, with not less than one handle on the lid or cover, and two handles on the receptacle or container by which same may be conveniently lifted or moved.

Premises means any dwelling, flat, roominghouse, apartment house, hospital, school, hotel, club, restaurant, boardinghouse, eating place, shop, place of business, manufacturing establishment, courthouse, jail, city hall, post office, or other public building.

Refuse includes garbage and rubbish and any other solid waste.

Rubbish includes all nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, glass, yard clippings, crockery, excelsior, cloth and similar materials.

Sanitary landfill means a place for dumping or disposing of refuse, operated by the county or such place designated by the county health officer, where the site is prepared by digging trenches into which refuse is placed and covered with a layer of earth.

Trash bag means any dark-colored plastic bag container that is of a suitable quality to remain intact when lifted and have a capacity of not more than 30 gallons.

(Code 1968, § 14-1; Code 1987, § 13-1; Ord. No. 12-86-1, § 3, 12-1-1986)

Sec. 28-2. Territory of applicability.

All provisions of this chapter shall apply to all places within the corporate limits of the city, but the same shall not apply to all places within the police jurisdiction of the city unless so stated.

(Code 1968, § 14-2; Code 1987, § 13-2; Ord. No. 12-86-1, § 22, 12-1-1986)

Sec. 28-3. Containers—Required for garbage; use thereof.

It shall be the duty of every person in possession, charge or control of any premises where garbage is created or accumulates, at all times to keep or cause to be kept a sufficient number of garbage cans or garbage bags for the deposit therein of said garbage and to deposit or cause to be deposited the same therein, and the lids or covers of such garbage cans shall be kept tightly closed thereon at all times other than when garbage is being deposited therein or removed therefrom.

(Code 1968, § 14-19; Code 1987, § 13-3; Ord. No. 12-86-1, § 4, 12-1-1986)

Sec. 28-4. Same—Required for other waste.

It shall be the duty of every person in possession, charge or control of any premises where rubbish or other nonputrescible waste is created or accumulates at all times to keep or cause to be kept a sufficient number of garbage cans or other containers for deposit therein of refuse to prevent the spreading or scattering of such refuse upon said premises.

(Code 1968, § 14-20; Code 1987, § 13-4; Ord. No. 12-86-1, § 5, 12-1-1986)

Sec. 28-5. Same—Use required; exceptions.

No garbage will be collected by the department unless the same is deposited in a garbage can or garbage bag. No rubbish or other refuse will be collected by the department unless in a separate container, except as follows: Trees or parts of trees not more than six inches in diameter and cut to less than four feet in length will be collected if piled alongside the garbage can or rubbish container. Citizens who contract for such services are responsible for having the contractor remove all debris. Citizens who perform this operation themselves shall have the first load removed at no additional charge, and subsequent loads at a rate established from time to time.

(Code 1968, § 14-36; Code 1987, § 13-5; Ord. No. 12-86-1, § 13, 12-1-1986)

Sec. 28-6. Same—Condemnation when defective.

Leaking and defective garbage cans with sharp or ragged edges likely to injure employees of the city engaged in removing refuse will not be serviced, and the department shall cause to be placed on such cans a tag marked "Condemned."

(Code 1968, § 14-23; Code 1987, § 13-6; Ord. No. 12-86-1, § 17, 12-1-1986)

Sec. 28-7. Same—Deposit of dangerous materials therein.

It shall be unlawful to place in any garbage or rubbish container dangerous liquids or substances which could cause injury to employees of the city engaged in removing refuse.

(Code 1968, § 14-22; Code 1987, § 13-7; Ord. No. 12-86-1, § 17, 12-1-1986)

Sec. 28-8. Same—Unauthorized removal of refuse therefrom.

It shall be unlawful for any person to remove any garbage, rubbish, refuse or other like materials from any garbage can or other container within the corporate limits of the city after it has been placed therein except under the orders of an officer, agent, or employee of the department or by some other person removing same for disposal.

(Code 1968, § 14-21; Code 1987, § 13-8; Ord. No. 12-86-1, § 9, 12-1-1986)

Sec. 28-9. Covering of refuse in transport.

It shall be unlawful for any person to transport, haul, or carry garbage, rubbish or other refuse through the streets, alleys, or public places within the corporate limits of the city without having the vehicle or container in which the same is to be carried or hauled adequately secured and covered in a manner approved by the department.

(Code 1968, § 14-8; Code 1987, § 13-9; Ord. No. 12-86-1, § 21, 12-1-1986)

Sec. 28-10. Refuse collection service.

- (a) *Established; frequency.* There is hereby established in the city a garbage, rubbish and refuse collection, hauling and disposal service operated by the city. The collection, hauling and disposal of garbage, rubbish and other refuse shall be made by the department once per week for residential customers, except Sundays and holidays. Commercial dumpster service has been discontinued; all commercial services are provided by outside contractors. The charges prescribed by the city from time to time are based on such periodic collection and disposal. In cases requiring collection and disposal at more frequent intervals, charges for such additional service shall be computed on a base charge prescribed by the city from time to time.
- (b) *Charges.* The charges shall be collected by the city for the collecting, hauling and disposal of garbage, rubbish and other refuse, as established from time to time.
- (c) *Application for hauling and disposal service.* All persons desiring garbage, rubbish and refuse collection, hauling and disposal service from the city shall make application therefor to the city clerk, specifying the service required and agreeing to pay when due the proper charge for said service until the city has been notified to discontinue service. The application for service shall be in such form as may be prescribed by the city clerk.
- (d) *Billing.* All bills for service hereunder shall be due and payable in advance monthly, quarterly, semiannually or annually, at the option of the applicant for service; provided, however, that payment shall not be accepted for a period of less than one month; and provided, further, that at the beginning of service, a person desiring such service shall pay at a pro rata rate for the month in which service is begun.
- (e) *Payment.* All payments for garbage, rubbish and refuse collection, hauling and disposal service shall be made to the city clerk, or such assistants as the clerk may designate for this purpose.
- (f) *Delinquency results in service cancellation.* No garbage, rubbish and refuse collection, hauling and disposal service shall be rendered by the city to any person whose account for said service is delinquent.
- (g) *Placement by commercial customers at front entrance.* All commercial customers having only a front entrance will be required to obtain a special permit from the city clerk to place garbage and rubbish in front of said business between the hours of 12:00 noon and 1:00 p.m. Cardboard boxes placed for collection at this time are required to be nested when more than one box is to be collected. All other garbage and trash will be placed into plastic garbage bags with said bag then closed with a twist strip.

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Garbage, rubbish, and cardboard which does not comply with the conditions prescribed in this section will not be collected by the department.

- (h) *Placement by commercial customers at rear entrance.* All commercial customers having a rear and front entrance will be required to place all garbage, rubbish, and other waste in proper containers (e.g., bags or cans), and place said waste outside the rear entrance in a location designated by the department. All cardboard boxes must be nested with at least three boxes being nested together. The use of fenced trash bins is allowed as provided in section 28-1. If the fenced trash bin is full, garbage and other waste shall be kept inside the building until the area has been cleared.
- (i) *Separation of types of refuse.* All garbage will be placed by itself in proper containers as defined; all limbs and wood products are to be separated from other rubbish or refuse, and all grass clippings, straw, or leaves will be boxed or bagged, except for the period of October 15 through April 15, when the leaf truck will be in operation for collection of these items. If these items are not separated as so prescribed, the department personnel will not remove those items in noncompliance and the owner will be considered in violation of this chapter.

(Code 1968, §§ 14-29—14-34; Code 1987, § 13-10; Ord. No. 12-86-1, §§ 10, 16, 12-1-1986)

Sec. 28-11. Designation of places for placement.

- (a) All garbage cans, rubbish containers and other refuse for collection by the department from commercial establishments shall be placed at places to be designated by the department on the days and between and hours designated by the department.
- (b) Residential customers will be required to place trash containers for collection only on the day of service. All garbage containers, rubbish containers and other refuse for collection by the department from residences shall be placed at a point not more than ten feet from any public alley or street right-of-way line at a point conveniently accessible to the collection crews prior to being collected by the department; provided, however, that the department may at any time designate the point from which such collection will be made from each residence.

(Code 1968, §§ 14-34, 14-35; Code 1987, § 13-11; Ord. No. 12-86-1, §§ 11, 12, 12-1-1986)

Sec. 28-12. Permit for removal from factories.

No garbage, rubbish or other refuse will be removed from any industrial or manufacturing establishment by the department, except by special permit. It shall be the responsibility of every person in possession, charge or control of such establishment to make provision for the proper removal and disposal of such garbage, rubbish or other refuse. Industrial waste collection is subject to commercial collection fees.

(Code 1987, § 13-12; Ord. No. 12-86-1, § 18, 12-1-1986)

Sec. 28-13. Building debris; tires.

Building debris, such as scrap lumber, plaster, roofing, concrete, brickbats, or similar materials resulting from the construction, repair or demolition of any building or structure on private property, and dirt and rocks will not be collected by the department. The property owner is responsible for removal and disposal of such debris. No tires or casings, or parts thereof, will be collected by the department. These are to be disposed of by the owner adhering to health regulations as prescribed by this chapter.

(Code 1968, § 14-37; Code 1987, § 13-13; Ord. No. 12-86-1, §§ 14, 15, 12-1-1986)

Sec. 28-14. Placement of commercial refuse in pedestrian containers.

It shall be unlawful to place commercial garbage and rubbish in the "stone" chamber of commerce pedestrian trash containers.

(Code 1987, § 13-14; Ord. No. 12-86-1, § 24, 12-1-1986)

Sec. 28-15. Removal of dead animals.

Dead animals in the corporate limits of the city not in excess of 50 pounds in weight will be picked up by the department other than from places of business making a business of treating, handling, or disposing of animals, but in no event shall any person having a dead animal on the premises occupied by or under control of said person allow it to remain undisposed of for a period of longer than 12 hours. In the event dead animals must be disposed of on a day other than the regularly designated collection day, the department shall be notified. All dead animals over 50 pounds in weight must be removed within 12 hours by the owner.

(Code 1987, § 13-15; Ord. No. 12-86-1, § 19, 12-1-1986)

Sec. 28-16. Allowing creation of nuisance conditions.

It shall be unlawful for any person in possession, charge or control of any premises to keep, cause to be kept, or allow the keeping on any premises within the corporate limits of the city of garbage, rubbish or other refuse in such manner that it will become offensive or deleterious to health or likely to cause disease and the same is hereby declared a public nuisance. The health officer or his authorized representative, or other such duly authorized inspector as may be designated by the city council, is hereby authorized to inspect any premises in the city for the purpose of seeing that the requirements of this chapter are being complied with and it shall be unlawful for any person whomsoever to resist or interfere with such representative by word, deed, or act in performance of such inspection.

(Code 1968, §§ 14-3—14-5; Code 1987, § 13-16; Ord. No. 12-86-1, § 6, 12-1-1986)

Sec. 28-17. Sweeping, etc., of refuse into streets and other places.

It shall be unlawful for any person to sweep, throw or otherwise deposit or cause to be swept, thrown or otherwise deposited any garbage, rubbish, or other refuse (except leaves) into or on any public street, alley, sidewalk or park or property of another person or property which is in the possession of another person within the corporate limits of the city or permit any garbage, rubbish or other refuse to accumulate in such a manner that it may be carried and deposited into or on any of the above places by action of the rain, wind or snow.

(Code 1968, § 14-6; Code 1987, § 13-17; Ord. No. 12-86-1, § 7, 12-1-1986)

Sec. 28-18. Sweeping, etc., of refuse into waterways.

It shall be unlawful for any person to sweep, throw, or otherwise deposit or cause to be swept, thrown or otherwise deposited into or on any canal, stream, public water drain, sewer or receiving basin within the corporate limits of the city any garbage, rubbish, or other refuse or permit same to accumulate in such manner that it may be carried and deposited into or on any of the above places by action of the rain, wind or snow.

(Code 1987, § 13-18; Ord. No. 12-86-1, § 8, 12-1-1986)

Sec. 28-19. Dumping of refuse in landfill required.

It shall be unlawful for any person to dump, or cause to be dumped, any garbage, rubbish, or other refuse upon any property within the corporate limits other than in a sanitary landfill.

(Code 1968, § 14-7; Code 1987, § 13-19; Ord. No. 12-86-1, § 20, 12-1-1986)

Sec. 28-20. Violations.

Any person violating any provision of this chapter by doing any act or thing declared to be unlawful shall be guilty of an offense against the city and, upon conviction, shall be punished by a fine of not less than \$10.00 within the limits of section 1-8 or imprisonment as provided in section 1-8, or both. No garbage, rubbish or other refuse will be removed from the premises of any person failing to comply with the provisions of sections 28-8, 28-10, and 28-11.

(Code 1987, § 13-20; Ord. No. 12-86-1, § 23, 12-1-1986)

Sec. 28-21. Setting of fees.

- (a) The city council shall from time to time set fees for the collection of and disposal of solid waste from residences, businesses and governmental agencies within the corporate limits of the city.
- (b) Fees shall be established from time to time upon the resolution of the city council duly passed at a regular meeting or at a special meeting conducted for the purpose of setting such fees and shall be assessed on the billhead of and collected through the water and sewer board.

(Ord. No. 12-91-1, § I, 12-2-1991)

Secs. 28-22—28-45. Reserved.

ARTICLE II. WEEDS

DIVISION 1. - GENERALLY

DIVISION 2. - ABATEMENT

DIVISION 1. GENERALLY

[Sec. 28-46. Harboring of mosquitoes or other insects prohibited.](#)

[Secs. 28-47—28-60. Reserved.](#)

Sec. 28-46. Harboring of mosquitoes or other insects prohibited.

- (a) Any person owning or having in charge any premises in the city or its police jurisdiction shall keep the same free of any growth of weeds favorable to the harboring of mosquitoes or other insects of like kind.

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- (b) Every such growth of weeds is hereby declared to be a nuisance.
- (c) Any growth of weeds more than one foot in height shall be deemed favorable to the harboring of mosquitoes or insects of like kind, within the meaning of this section.

(Code 1968, § 32-11; Code 1987, § 13-30)

Secs. 28-47—28-60. Reserved.

DIVISION 2. ABATEMENT

[Sec. 28-61. Form of notice to remove.](#)

[Sec. 28-62. Service of notice.](#)

[Sec. 28-63. Hearing; order to remove.](#)

[Sec. 28-64. Removal by city.](#)

[Sec. 28-65. Hearings; collection of charges.](#)

Sec. 28-61. Form of notice to remove.

- (a) Whenever any police officer shall discover on any premises in the city any growth of weeds in violation of this article, such officer shall give written notice to the owner or person having said premises in charge to appear before the mayor at a time and place to be fixed in said notice, and then and there show cause why the growth of weeds should not be declared a nuisance, and an order issued requiring same to be cut and removed.
- (b) The notice shall be substantially the following form:

"Notice

"To the owner or owners of (here describing the property) in the City of Abbeville:

"You are hereby notified that there exists on the above-mentioned property a growth of weeds or grass in violation of the Abbeville Code of Ordinances, and you are further notified that a hearing will be conducted by the Mayor of the City of Abbeville, at the Mayor's office in the City Hall of Abbeville, Alabama, at ____ a.m. on the ____ day of _____, 20____, at which time and place you are directed to appear and show cause, if any you can, why the existence of said growth or weeds should not be declared a nuisance and an order issued requiring the same to be cut and removed.

"You are hereby further notified that if said growth is not removed within five days after same has been ordered cut and removed, the Chief of Police will enter upon said premises and will have the same cut and removed at your cost and expense, and will certify the cost and expense, and will assess the said cost against you and the above-described property, and that the said expense will constitute a lien on said property.

Dated this ____ day of _____, 20____.

Chief of Police of the City of Abbeville, by

<p>_____</p> <p>Police Officer"</p>	
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- (c) If said premises are in charge of a person other than the owner, then the notice in subsection (b) of this section shall be addressed to such person.

(Code 1968, § 32-12; Code 1987, § 13-31)

Sec. 28-62. Service of notice.

- (a) The notice provided for in section 28-61 shall be served upon the owner of said property (or the person having same in charge, as the case may be) if such person is known and can be found within the city or its police jurisdiction.
- (b) If such person is not known or cannot be found within the city or its police jurisdiction, service of said notice shall be effected by posting one copy thereof on the premises where said growth of weeds is found to exist.
- (c) The notice provided for in section 28-61, shall be served or posted, as the case may be, at least five days before the date fixed for hearing before the mayor.

(Code 1968, § 32-13; Code 1987, § 13-32)

Sec. 28-63. Hearing; order to remove.

- (a) At the time and place appointed in the notice provided for in section 28-61, the mayor shall conduct a hearing for the purpose of determining whether the growth of weeds complained of exists in violation of this article.
- (b) If the mayor finds that same constitutes a violation of this article, such official shall so declare the same and shall make an order requiring the cutting and removal of the growth of weeds within five days from the making of the order.

(Code 1968, § 32-14; Code 1987, § 13-33)

Sec. 28-64. Removal by city.

- (a) If the owner or person having charge of any premises whereon there exists any growth of weeds in violation of this article shall fail to cut and remove the same within five days after the cutting and removal thereof has been ordered by the mayor, the chief of police shall cause to be entered the premises, and at the expense of such person shall proceed to have the weeds cut and removed.
- (b) The chief of police is hereby directed to keep an account of the expense of cutting and removing such weeds, and to certify the same monthly to the city council.
- (c) The chief of police shall keep separate accounts showing the total expense of cutting and removing the weeds from each separate lot or premises, and in certifying the same to the city council, the chief shall report separately as to each piece of property wherefrom the weeds have been cut and removed, together with a description of the premises and the name of the owner or person having same in charge thereof (if known) and the total expense incurred in abating each such nuisance.
- (d) If prisoners are employed in cutting and removing such weeds, a reasonable charge for their labor shall be included in the expense to be charged against the property owner or occupant of said premises.

(Code 1968, § 32-15; Code 1987, § 13-34)

Sec. 28-65. Hearings; collection of charges.

- (a) At intervals to be determined by the city council, the council shall cause to be made a list showing the names of the owners or persons who had charge of the premises from which weeds have been removed at the expense of such persons as hereinbefore provided, together with a description of the property from which the weeds have been removed, and a statement of the amount of the expense (as reported by the chief of police) of cutting and removing the weeds from each such piece of property.
- (b) If the names of the owners of said property are not known, the same may be stated as unknown.
- (c) The city council shall set a time and place when such persons may appear and show cause, if any they can, why the expense should not be assessed against them and their respective premises.
- (d) The city council shall cause said notice to be published one time in some newspaper published in the city, the publication to be made at least ten days in advance of the date fixed for the hearing.
- (e) At the time and place fixed for the hearing, the city council shall proceed to hear and determine any objections that may be interposed to such assessments, unless good cause shall be shown against the right of the city to assess the same, shall proceed to levy an assessment against the persons and their respective premises from which weeds have been cut and removed for the expense of cutting and removing such weeds.
- (f) The assessment so made shall be final.
- (g) The city shall have a charge and claim against such persons and a lien on the property so assessed, for the amount of the respective assessments, which lien and charge it shall proceed to enforce and collect as any other debts are collected or liens enforced.

(Code 1968, § 32-16; Code 1987, § 13-35)

Chapter 29 RESERVED

Chapter 30 HEALTH AND SANITATION [\[1\]](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - NOISE

ARTICLE III. - WATER WELLS

FOOTNOTE(S):

--- (1) ---

State Law reference— Authority and powers of city generally, Code of Ala. 1975, §§ 11-45-1, 11-45-8(c)(6), 11-47-130—11-47-140, 11-53-2, 22-1-2; jurisdiction of county health officer, Code of Ala. 1975, §§ 22-3-2, 22-3-5. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 30-1. Sewage disposal—Water closets required.](#)

[Sec. 30-2. Same—Adequate sanitary facilities in buildings.](#)

[Sec. 30-3. Same—Enforcement.](#)

[Secs. 30-4—30-24. Reserved.](#)

Sec. 30-1. Sewage disposal—Water closets required.

No person owning or controlling property, or tenants or occupants of such property or premises, in the city or its police jurisdiction shall dispose of or permit the disposal of human excreta on or about such property or premises in any manner other than in properly connected water closets.

(Code 1968, § 15-11; Code 1987, § 14-1)

State Law reference— Sewer facilities menacing to health, Code of Ala. 1975, § 22-26-1.

Sec. 30-2. Same—Adequate sanitary facilities in buildings.

No person shall construct or occupy, rent, lease, let or permit the use of a dwelling or building for dwelling purposes, or as a place of employment for human beings or where people congregate, which is not provided with adequate sanitary facilities.

(Code 1968, § 15-17; Code 1987, § 14-2)

Sec. 30-3. Same—Enforcement.

- (a) Whenever it shall be determined by appropriate inspection or investigation that any dwelling or building does not comply with the provisions of section 30-2, it shall be the duty of the county health officer to post warning or notice of such fact conspicuously at or near the entrance thereto.
- (b) No person shall rent, lease, let, occupy or permit the use or occupancy of such dwelling, or building, for dwelling purposes, or as a place of employment for human beings, while such notice or warning is in effect, or to remove or damage such notice or warning.
- (c) The owner of, or agent for, such property posted shall be notified in writing of the action taken.

(Code 1968, § 15-18; Code 1987, § 14-3)

Secs. 30-4—30-24. Reserved.

ARTICLE II. NOISE

[Sec. 30-25. General prohibition.](#)

[Sec. 30-26. Specific prohibitions; exemptions.](#)

[Sec. 30-27. Tests and standards.](#)

[Secs. 30-28—30-57. Reserved.](#)

Sec. 30-25. General prohibition.

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessarily or unusually loud noise or any noise which either disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

(Code 1987, § 14-20)

Sec. 30-26. Specific prohibitions; exemptions.

- (a) *Certain acts, conditions declared loud and disturbing.* The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but said enumeration shall not be deemed to be exclusive:
- (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place in the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
 - (2) *Loudspeakers, amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio or television set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is on the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
 - (3) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or any other type of residence, or of any persons in the vicinity.
 - (4) *Exhaust.* The discharge into the open air of the exhaust of any internal-combustion engine, motorboat or any other motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 - (5) *Vehicles out of repair, etc.* The use of any automobile, motorcycle, motor scooter, go-cart, or any other vehicle so out of repair, or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling, or other noise, including excessive noise coming through exhaust thereof.
- (b) *Exemptions.* The following uses and activities shall be exempt from the noise level regulations of this article:
- (1) Noises of safety signals, warning devices and emergency pressure relief valves.
 - (2) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in the time of an emergency.
 - (3) Any other noise resulting from activities of temporary duration permitted by law and for which a license or permit has been granted by the city in accordance with its ordinances and laws.

(Code 1987, § 14-21)

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Sec. 30-27. Tests and standards.

- (a) *Factors to consider.* The standards which shall be considered in determining whether a violation of sections 30-25 and 30-26 exist shall include, but shall not be limited to, the following:
- (1) The volume of the noise.
 - (2) The intensity of the noise.
 - (3) Whether the nature of the noise is usual or unusual.
 - (4) Whether the origin of the noise is natural or unnatural.
 - (5) The volume and intensity of the background noise, if any.
 - (6) The proximity of the noise to residential sleeping facilities.
 - (7) The nature and zoning of the area within which the noise emanates.
 - (8) The density of inhabitation of the area within which the noise emanates.
 - (9) The time of the day or night the noise occurs.
 - (10) The duration of the noise.
 - (11) Whether the noise is recurrent, intermittent or constant.
 - (12) Whether the noise is produced by a commercial or noncommercial activity.
- (b) *Tables.*
- (1) *Table I.*

Table I. Limiting noise levels for use districts

	Maximum Permissible Sound Pressure (Levels in Decibels re 0.0002 Microbars)		
	Use District		
Octave band Center frequency Cycles Per Second	Residential	Commercial	Manufacturing
Below 75	65	79	80
75—150	60	74	75
150—300	55	66	70
300—600	55	59	64
600—1,200	45	53	58

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1,200—2,400	45	47	53
2,400—4,800	40	41	49
Above 4,800	40	49	46

If the noise is not smooth and continuous, one or more of the corrections in table II shall be added to or subtracted from each of the decibel levels given in table I.

(2) *Table II.*

Table II. Type of operation in character of noise

Type of Noise	Correction (in decibels)
Noise source operated less than 20% of any one-hour period	+5*
Noise source operated less than 5% of any one-hour period	+10*
Noise source operated less than 1% of any one-hour period	+15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech, etc.)	-5

*Apply one of these corrections only.

If the noise occurs between the hours of 10:00 p.m. and 7:00 a.m. on Monday through Saturday or at any time on Sunday or holidays, seven shall be subtracted from each of the decibel levels given in table I.

(3) *Table III.*

Table III. Limiting noise levels from vehicles

Trucks and buses:

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Over 10,000 pounds:	
	97 dB(A) measured at 50 feet—Maximum allowable limit
	93 dB(A) measured at 25 feet—Maximum allowable limit
Under 10,000 pounds:	
	80 dB(A) measured at 50 feet—Maximum allowable limit
	86 dB(A) measured at 25 feet—Maximum allowable limit
Passenger cars:	
	78 dB(A) measured at 50 feet—Maximum allowable limit
	84 dB(A) measured at 25 feet—Maximum allowable limit
Motorcycles, including other vehicles:	
	87 dB(A) measured at 50 feet—Maximum allowable limit
	93 dB(A) measured at 25 feet—Maximum allowable limit

Motorized vehicles. It shall be unlawful to operate a motorized vehicle within the city limits which creates a noise or sound which exceeds the noise level limits set out in table III.

(Code 1987, § 14-22)

Secs. 30-28—30-57. Reserved.

ARTICLE III. WATER WELLS [\[2\]](#)

[Sec. 30-58. Definitions.](#)

[Sec. 30-59. Regulations.](#)

[Sec. 30-60. Permit application process.](#)

[Sec. 30-61. Permit issuance.](#)

[Sec. 30-62. Permit fee.](#)

[Sec. 30-63. Conditions for permit issuance.](#)

[Sec. 30-64. Penalty.](#)

Sec. 30-58. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Repair or repairing means and includes, in addition to the acts and things usually embraced in such term, the replacement of old parts, and the cleaning, extending or enlarging of any well.

(Ord. No. 5-95-1, § 1, 5-4-1995)

Sec. 30-59. Regulations.

- (a) It shall be unlawful for any person to dig, drill, bore, construct, or enlarge any well for the withdrawal of water within the corporate limits of the city until a permit therefor has been obtained as provided in this article.
- (b) It shall be unlawful for any person to operate any equipment or machinery in the drilling or repairing of a water well unless the overall operation is, at all times, under the supervision and management of a licensed water well driller, as provided in Code of Ala. 1975, § 22-24-4.
- (c) It shall be unlawful to dig or construct any new well within the corporate limits or police jurisdiction of the city for the withdrawal of water for human consumption if there is a public water supply available. The water shall be considered available where the property can be served by the waterworks board, or where a water supply main is within 750 feet of any portion or corner of the property.
- (d) It shall be unlawful to do major repairs or enlarge existing private water supply wells for domestic, potable use after such time as a public water supply becomes available, as set forth in subsection (c) of this section.
- (e) At such time that connection is made to a public water supply (subject to tapping fees and monthly use rates established by the waterworks board) by a property owner having a private water supply well, the private water supply shall be made completely separate from any lines connected to the public water supply system, whether the private water supply well is to be abandoned or retained. It shall be unlawful for any person, owner, tenant or one having charge of property upon which a well is located, to make or cause to be made, or permit to continue to exist, any physical connection between a well and its pumping system, and the water distribution system of the city. Valving, check, manual or automatic, placed between the private supply and the distribution system of the city shall not constitute satisfactory compliance with the provisions of this section.

(Ord. No. 5-95-1, § 2, 5-4-1995)

Sec. 30-60. Permit application process.

- (a) Any person desiring to dig or construct any well for the withdrawal of water within the corporate limits of the city shall, before commencing such work, make application for the permit required by section 30-59 to the city clerk. The application shall be made in writing and subscribed and sworn to by the person owning the premises on which the well is or is to be located, or proposed to be located, and also by the person having charge of the actual work of digging or constructing any such well.
- (b) Application shall be made on such form as may be prescribed and furnished by the city clerk, and shall contain complete and accurate information with respect to the size, depth, location, approximate capacity, ownership and use of such well, and any other pertinent information, including a statement

of the purpose for which the supply from such well is to be used and where the surplus or overflow water is to be discharged.

- (c) It shall be unlawful for any person to make any false or misleading statement in any such application.

(Ord. No. 5-95-1, § 3, 5-4-1995)

Sec. 30-61. Permit issuance.

- (a) Each permit issued under this article shall specify clearly the work which is authorized to be done, and it shall be unlawful for any person to dig or construct any well for the withdrawal of water contrary to or not authorized by the terms of the permit issued for such work.
- (b) A permit shall not be issued under this article until such time as the application has been reviewed and approved jointly by the waterworks board and the city.

(Ord. No. 5-95-1, § 4, 5-4-1995)

Sec. 30-62. Permit fee.

A fee as established from time to time shall be collected by the city clerk for issuing each permit under the provisions of this article.

(Ord. No. 5-95-1, § 5, 5-4-1995)

Sec. 30-63. Conditions for permit issuance.

No permit shall be issued to dig, construct, enlarge or extend any well for the withdrawal of water which has a depth of more than 350 feet nor for the enlargement or extension of any well where the proposed enlargement or extension would carry or extend such well to a depth of more than 350 feet. In computing the depth of any such well, such depth shall be measured from the ground line level adjoining such well.

(Ord. No. 5-95-1, § 6, 5-4-1995)

Sec. 30-64. Penalty.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$50.00 nor more than \$500.00.

(Ord. No. 5-95-1, § 7, 5-4-1995)

FOOTNOTE(S):

--- (2) ---

State Law reference— Water well standards, Code of Ala. 1975, § 22-24-1 et seq.; water well regulations, Ala. Admin. Code R 335-9-1-.01 et seq. ([Back](#))

Chapter 31 RESERVED

Chapter 32 HISTORIC PRESERVATION

[Sec. 32-1. Purpose.](#)

[Sec. 32-2. Definitions.](#)

[Sec. 32-3. Historic preservation commission.](#)

[Sec. 32-4. Recommendation and designation of historic districts and properties.](#)

[Sec. 32-5. Application to historic preservation commission for certificate of appropriateness.](#)

[Sec. 32-6. Maintenance of historic properties.](#)

[Sec. 32-7. Architectural review board.](#)

[Sec. 32-8. Building and zoning code provisions.](#)

Sec. 32-1. Purpose.

The city council hereby declares it to be the purpose and intent of this chapter to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, landscape features and works of art having a special historical, cultural or aesthetic interest or value, in accordance with the provisions of this chapter:

- (1) In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the city is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people;
- (2) In order to stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historical and aesthetic attractions to tourists and thereby promote and stimulate business;
- (3) In order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and
- (4) In order to provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same.

(Ord. No. 05-11-01, § 1, 6-6-2011)

Sec. 32-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of appropriateness means a document evidencing approval by the historic preservation commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

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Certificate of economic hardship means a document evidencing approval of an owner's application for relief from the application of this chapter as provided in section 32-5(p).

Exterior architectural features means the architectural style, general design and general arrangement of the exterior of a building or other structure, including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Exterior environmental features means all those aspects of the landscape or the development of a site which affect the historical character of the property.

Historic district means a geographically definable area designated by the city council as a historic district.

Historic property means an individual building, structure, site, object or work of art, including the adjacent area necessary for the proper appreciation thereof designated by the city council as a historic property.

Material change in appearance means a change that will affect either the exterior architectural or environmental features of a historic property or any building, structure, site, object, landscape feature or work of art within a historic district, such as:

- (1) A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation for construction purposes;
- (4) A change in the location or advertising visible from the public right-of-way; or
- (5) The erection, alteration, restoration or removal of any building or other structure within a historic property or district, including walls, fences, steps and pavements or other appurtenant features.

(Ord. No. 05-11-01, § II, 6-6-2011)

Sec. 32-3. Historic preservation commission.

- (a) *Creation.* There is hereby created a commission whose title shall be "City of Abbeville Historic Preservation Commission" (hereinafter "commission").
- (b) *Members; number, appointment, terms, compensation and rules and standards.*
 - (1) The commission shall consist of seven members appointed by the mayor and ratified by the city council. To the extent possible, all members shall be residents of the city and shall be persons who have demonstrated training or experience in history, architecture, architectural history, American studies, cultural geography, cultural anthropology, planning, archaeology, law, or other related historic preservation field or who shall be residents of a historic district.
 - (2) Members shall serve three-year terms. Members may be reappointed. In order to achieve staggered terms, initial appointments shall be: two members for one year; two members for two years; and three members for three years. Members shall not receive compensation, although they may be reimbursed for expenses incurred on behalf of the commission.
 - (3) Members of the commission may be removed for cause by the city council.
 - (4) Vacancies on the commission shall be filled by persons nominated by the mayor and appointed by the city council. Such appointments shall be for the unexpired term of the member replaced.
 - (5) Members of the commission shall elect a chairperson and a vice-chairperson and such other officer as the members deem necessary. The commission shall adopt rules of procedure and

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bylaws to govern its operations and shall communicate those rules of procedure and bylaws to the city council. The rules of procedure and bylaws of the commission shall specify what number of members of the commission constitutes a quorum.

- (6) The commission shall have the flexibility to adopt rules and standards without amendment to this chapter.
- (c) *Meetings, minutes and public participation.*
- (1) All meetings of the commission must be publicly announced and be open to the public. Commission meetings must occur at regular intervals. Public notice must be provided prior to any special meetings.
 - (2) Minutes of all decisions and actions of the commission, including the reasons for making these decisions, must be kept on file and available for public inspection.
 - (3) All decisions of the commission shall be made in a public forum and applicants must be given written notification of the commission's decision.
 - (4) The rules of procedure adopted by the commission must be available for public inspection.
 - (5) During the process of reviewing properties for nomination to the National Register, the commission must provide opportunity for public comments.
- (d) *Statement of power.* The commission shall be authorized to:
- (1) Prepare and maintain an inventory of all property within the city having the potential for designation as a historic property;
 - (2) Recommend to the city council specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts;
 - (3) Review applications for certificates of appropriateness and grant or deny same in accordance with the provisions of this chapter;
 - (4) Recommend to the city council that the designation of any place, district, site, building, structure, objects or work of art as a historic property or as a historic district be revoked or removed;
 - (5) Restore and preserve any historic properties acquired by the city or acquired by the commission;
 - (6) Promote the acquisition by the city of facade easements and conservation easements;
 - (7) Develop and conduct educational programs on historic properties located within the city and on general historic preservation activities;
 - (8) Make such investigations and studies of matters relating to historic preservation and employment of historic preservation experts the city council or the commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources.
 - (9) Seek out local, state, federal and private funds for historic preservation, and make recommendations to the city council concerning the most appropriate uses of any funds acquired;
 - (10) Perform historic preservation activities as the official agency of the city's historic preservation program;
 - (11) Employ persons, if necessary, to carry out the responsibilities of the commission;
 - (12) Receive donations, grants, funds or gifts of historic property;
 - (13) Purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage and insure real and personal property in carrying out the purposes and responsibilities of the commission. The commission shall not obligate the city without prior consent;
 - (14) Review and make comments to the state historical commission concerning the nomination of properties within its jurisdiction to the National Register of Historic places;

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- (15) Investigate, survey and process nominations of properties to the National Register of Historic Places;
 - (16) Investigate, survey and process applications for certification of historic properties for tax credits for preservation expenditures;
 - (17) Participate in private, state and federal historic preservation programs and with the consent of the city council, enter into agreements with the same to perform historic preservation related functions.
- (e) *Annual reports of activities.* The commission shall prepare and file with the city council and with the state historical commission an annual report of its activities as required by the city council and the state historical commission. The annual report shall cover the period from October 1 to September 30 and shall be submitted in October of each year. The report shall include such items as the number of cases reviewed, historic district and property designations made, revised resumes of commission members/staff, appointments to the commission, attendance records and all minutes relating to the review of National Register nominations. The report shall document attendance at the orientation/training session as specified in subsections (h) and (i) of this section.
 - (f) *Conflict of interest.* At any time the commission reviews a project in which a member of the commission has ownership or other vested interest, that member will be forbidden from presenting, voting or discussing the project, other than answering a direct question.
 - (g) *Records of meetings.* A public record shall be kept of the commission's resolutions, proceedings and actions.
 - (h) *Responsibilities of members.* Each commission member and anyone serving the commission in a technical/professional staff capacity is required to attend at least two informational or educational meetings per year pertaining to historic preservation. Such meetings may include those sponsored by the state historical commission, board of advisors, the National Trust for Historic Preservation or a local preservation organization. One of the two should be a regional or statewide meeting.
 - (i) *Liaison between the commission and the state historical commission.* Should the city council elect to become a certified local government, the city council shall designate a paid member to the city's staff or a person working under contract as a source of technical/administrative/professional assistance to be responsible for the operations of the commission in keeping with the requirements of certification for participation in the certified local government program. At least one member of the commission and/or the person serving as the commission's technical staff, and/or a representative appointed by the mayor who has an ongoing relationship with the commission, will attend the state certified local government orientation/training session sponsored by the state historical commission each year.

(Ord. No. 05-11-01, § III, 6-6-2011)

State Law reference— Powers and duties of commission, Code of Ala. 1975, § 11-68-5.

Sec. 32-4. Recommendation and designation of historic districts and properties.

- (a) *Preliminary research by commission.*
 - (1) *Commission's mandate to conduct a survey of local historical resources.* The commission shall compile and collect information and conduct surveys of historic resources within the city.
 - (2) *Commission's power to recommend districts and buildings to the city council for designation.* The commission shall present to the city council recommendations for historic districts and properties.
 - (3) *Commission's documentation of proposed designation.* Prior to the commission's recommendation of a historic district or historic property to the city council for designation, the commission shall prepare a report consisting of:
 - a. A physical description;

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- b. A statement of the historical, cultural, architectural and/or aesthetic significance;
 - c. A map showing district boundaries and classification (e.g., historic, non-historic) of individual properties therein, or showing boundaries of individual historic properties;
 - d. A statement justifying district or individual property boundaries;
 - e. Design standards for development in the historic district; and
 - f. Representative photographs.
- (b) *Designation of a historic district.*
- (1) *Criteria for selection of historic districts.* A historic district is a geographically definable area, which contains buildings, structures, sites, objects, landscape features and works of art or a combination thereof, which:
 - a. Represents one or more periods, styles or types of architecture typical of one or more eras in the history of the city, county, state or region;
 - b. Represents a significant aspect of the cultural, political, economic, military or social history of the locality, region, state or nation;
 - c. Has had a significant relationship with the life of a historic person or event, representing a major aspect of the history of the locality, region, state or nation;
 - d. Is a part of the historic, architectural, archaeological or aesthetic heritage of the locality, region, state or nation; and
 - e. Contains vernacular structures which contribute to an overall character and sense of place which is representative of the city.
 - (2) *Boundaries of a historic district.* Boundaries of a historic district shall be shown on the official zoning map or, in the absence of such a map, on an official map designated as a public record.
 - (3) *Evaluation of properties with historic districts.* Individual properties within historic districts shall be classified as either:
 - a. Contributing (contributes to the district); or
 - b. Non-contributing (does not contribute to the district).
- (c) *Designation of a historic property.*
- (1) *Criteria for selection of historic properties.* A historic property is a building, structure, site, object, or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the city for one of the following reasons:
 - a. It is an outstanding example of a structure representative of its era;
 - b. It is one of the few remaining examples of past architectural style;
 - c. It is a place or structure associated with an event of persons of historic or cultural significance to the city, the state, or the region;
 - d. It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state or region; or
 - e. The building or structure is an example of an architectural style, or combination of architectural styles, which is representative of the city or which is unique to the city.
 - (2) *Boundary description.* Boundaries shall be shown on the official zoning map or, in the absence of such a map, on an official map designated as a public record.
- (d) *Requirements for adopting an ordinance for the designation of historic districts and historic properties.*
- (1) *Application for designation of historic districts or property.* Designations may be proposed by the city council, the commission, or:

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- a. *For historic districts.* A historical society, neighborhood association or group of property owners may apply to the commission for designation; or
 - b. *For historic properties.* A historical society, neighborhood association or property owner may apply to the commission for designation.
- (2) *Required components of a designation ordinance.* Any ordinance designating any property or district as historic shall:
- a. List each property in a proposed historic district or describe the proposed individual historic property;
 - b. Set forth the names of the owners of the designated property or properties;
 - c. Require that a certificate of appropriateness be obtained from the commission prior to any material change in appearance of the designated property; and
 - d. Require that the property or district be shown on the official zoning map, or other designated map in the absence of such a map, and kept as a public record to provide notice of such designation.
- (3) *Required public hearings.* The commission shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three consecutive issues in the principal newspaper of the local circulation, and written notice of the hearing shall be mailed by the commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten or more than 20 days prior to the date set for the public hearing. A notice sent via United States mail to the last known owner of the property shown on the city tax roll and a notice sent via United States mail to the address of the property to the attention of the occupant under this chapter.
- (4) *Recommendations on proposed designations.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the commission within 15 days following the public hearing and shall be in the form of a resolution to the city council.
- (5) *City council action on commission recommendation.* Following receipt of the commission's recommendation, the city council may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.
- (6) *Notification of adoption of ordinance for designation.* Within 30 days following the adoption of the ordinance for designation by the city council, the owners and occupants of each designated historic property, and the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district shall be given written notification of such designation by the city council, which notice shall apprise said owners and occupants of the necessity of obtaining a certificate of appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last known owner of the property shown on the city tax roll and a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this chapter.
- (7) *Notification of other agencies regarding designation.* The commission shall notify all municipal agencies within the city of the ordinance for designation.
- (8) *Moratorium on applications for alteration or demolition while ordinance for designation is pending.* If an ordinance for designation is being considered, the commission shall have the power to freeze the status of the involved property.

(Ord. No. 05-11-01, § IV, 6-6-2011)

Sec. 32-5. Application to historic preservation commission for certificate of appropriateness.

- (a) *Approval of alterations, demolitions or new construction in historic districts or involving historic properties.* After the designation by ordinance of a historic property or of a historic district, no historic property may be demolished, no building or structure in a historic district may be erected or demolished and no material change in the exterior appearance of such historic property, or of a structure, site, object or work of art within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the historic preservation commission.
- (b) *Approval of new construction within designated districts.* The commission shall issue certificates of appropriateness to new structures constructed within designated historic districts if these structures conform in design, scale, building materials, setback and landscaping to the character of the district specified in the design criteria developed by the commission.
- (c) *Approval of signs within designated districts.* Signs shall be considered as structures and no sign on a historic property or in a historic district shall be changed, erected or demolished unless and until a certificate of appropriateness is approved by the commission.
- (d) *Demolitions within designated districts.*
 - (1) *Required findings; demolition/relocation.* The commission shall not grant certificates of appropriateness for the demolition or relocation of any property within a historic district unless the commission finds that the removal or relocation of such building will not be detrimental to the historical or architectural character of the district. In making this determination, the commission shall consider:
 - a. The historic or architectural significance of the structure;
 - b. The importance of the structure to the integrity of the historic district, the immediate vicinity, an area, or relationships to other structures;
 - c. The difficulty or the impossibility of reproducing the structure because of its design, texture, material, detail or unique location;
 - d. Whether the structure is one of the last remaining examples of its kind in the neighborhood, the county, or the region or is a good example of its type, or is part of an ensemble of historic buildings creating a neighborhood; and
 - e. Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, or environmental character of the surrounding area.
 - (2) *Content of applications.* All applications to demolish or remove a structure in a historic district shall contain the following minimum information:
 - a. The date the owner acquired the property, purchase price, and condition on date of acquisition;
 - b. The number and types of adaptive uses of the property considered by the owner;
 - c. Whether the property has been listed for sale, prices asked and offers received, if any;
 - d. A description of the options currently held for the purchase of such property, including the price received for such option, the conditions placed upon such option and the date of expirations of such option;
 - e. Replacement construction plans for the property in question and amounts expended upon such plans, and the dates of such expenditures;

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- f. Financial proof of the ability to complete the replacement project, which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
 - g. Such other information as may reasonably be required by the commission.
- (3) *Post-demolition or relocation plans required.* In no event shall the commission entertain any application for the demolition or relocation of any historic property unless the applicant also presents at the same time the post-demolition or post-relocation plans for the site.
- (e) *Approval of alterations or demolitions of public property within historic districts or public property which has been designated as a historic property.* The requirement of a certificate of appropriateness shall apply to public property which has been designated as a historic property or which is contained in a historic district, and shall apply to all actions by public authorities which involve historic properties and properties within historic districts.
 - (f) *Approval of painting originally unpainted surfaces.* The painting of originally unpainted surfaces shall require a certificate of appropriateness.
 - (g) *Interior alterations.* In its review of applications for certificates of appropriateness, the commission shall not consider interior arrangement or use having no effect on exterior architectural features.
 - (h) *Failure to maintain a historic property.* Demolition by neglect and the failure to maintain a historic property or a structure in a historic district shall constitute a change for which a certificate of appropriateness is necessary.
 - (i) *Guidelines and criteria for certificates of appropriateness.* The commission shall adopt rules and regulations setting forth the procedure for submission and consideration of applications for certificates of appropriateness. The commission shall also adopt general design standards which shall apply in considering the granting and denial of certificates of appropriateness. Design standards shall be in compliance with the Secretary of the Interior's "Standards for Historic Preservation Projects," including the Secretary's "Standards for Rehabilitation."
 - (j) *Submission of plans to commission.* An application for certificate of appropriateness shall be accompanied by such drawings, photographs, plans or other documentation as may be required by the commission. Applications involving demolition or relocation shall be accompanied by post-demolition or post-relocation plans for the site.
 - (k) *Acceptable commission reaction to applications for certificate of appropriateness.*
 - (1) The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material changes in the appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design arrangement, texture and material of the architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of the other structures in the immediate neighborhood.
 - (2) The commission shall deny a certificate of appropriateness if it finds that the proposed material changes in appearance would have substantial adverse effects on the aesthetic, historic or architectural significance and value of the historic property or the historic district. The commission shall not grant certificates of appropriateness for demolition or relocation without reviewing at the same time the post-demolition or post-relocation plans for the site.
 - (l) *Public meetings and hearings on applications for certificates of appropriateness, notices and right to be heard.* Applications for certificates of appropriateness shall be considered by the commission at public meetings, held at least once each month, at the time and place set by the commission. At least seven days prior to review of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any property likely to be affected by reason of the application, and shall give applicant and such owners an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application.

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- (m) *Deadline for approval or rejection of application for certificate of appropriateness.*
- (1) The commission shall approve or reject an application for a certificate of appropriateness within 45 days after the filing thereof by the owner or occupant of a historic property, or of a historic structure, site, object or work of art located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the commission. Notice of the issuance or denial or a certificate of appropriateness shall be sent by United States mail to the applicant and all other persons who have requested such notice in writing filed with the commission.
 - (2) Failure of the commission to act within said 45 days shall constitute approval and no other evidence of approval shall be needed.
- (n) *Necessary actions to be taken by commission upon rejection of application for certificate of appropriateness.*
- (1) In the event the commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
 - (2) In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a certificate of appropriateness by the commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such cases, no building permit shall be issued.
- (o) *Appeals.* Any person having a request for a certificate of appropriateness denied by the commission, or architectural review board as hereinafter provided, may appeal such denial to the circuit court within 45 days of the commission's decision.
- (p) *Certificate of economic hardship.*
- (1) *Substantial economic hardship.* If the commission denies an application for a certificate of appropriateness, a property owner may apply for a certificate of economic hardship. The purpose of the certificate of economic hardship is to provide relief where the application of this chapter would otherwise impose a substantial economic hardship.
 - (2) *Burden of proof.* The burden of proof rests on the applicant to show that the denial of the certificate of appropriateness will result in a substantial economic hardship.
 - (3) *Applications.* The applicant shall provide such information as may reasonably be required by the commission to establish the owner's claim of substantial economic hardship. The data provided by the applicant must be substantiated by either professionals in an applicable field or by thorough documentation of how the information was obtained. The commission may request additional information from the applicant as necessary to make informed decisions. Certificates of economic hardship are granted only to the applicant and are not transferable.
 - (4) *Standards for consideration.* In making its determination, the commission may consider, but is not limited to, the following described factors, evidence, and testimony:
 - a. Date property was acquired and status of the property under this chapter at the time of acquisition (e.g., whether property was protected by this chapter, condition, etc.).
 - b. The structural soundness of the building, or any structures on the property and their suitability for rehabilitation.
 - c. The current level of economic return on the property.
 - d. The economic feasibility of rehabilitation or reuse of the existing property.
 - e. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and the price asked and offers received, if any, within the previous two years. This determination can include testimony and relevant documents regarding:

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1. Any real estate broker or firm engaged to sell or lease the property;
 2. Reasonableness of the price or rent sought by the applicant; and
 3. Any advertisements placed for the sale or rent of the property by the owner or applicant.
- f. Comments and/or reports from any community organizations, preservation groups, other associations and private citizens that wish to comment on a submission made under the financial hardware provision.
- g. The extent to which the owner is responsible for his own economic hardship, if any, such as the owner's failure to:
1. Perform normal maintenance and repairs;
 2. The failure to diligently solicit and retain tenants;
 3. The failure to prescribe a rental amount which is reasonable;
 4. The failure to provide normal tenant improvements; and
 5. The owner's purchase of the subject property after the enactment of the relevant provisions of the ordinance from which this chapter is derived without making said purchase contingent upon the owner's first obtaining the approvals required by this chapter.
- (5) *Hearing.*
- a. The commission shall hold a public hearing as soon as practical but not later than 45 days of receipt of a completed application for a certificate of economic hardship. Notice shall be provided in the same manner the commission uses for hearings on certificates of appropriateness. At the hearing, the commission shall take testimony presented by the owner and any other interested parties on the standards set forth in subsection (4) of this section. The commission shall issue its decision within 45 days of the hearing.
 - b. If the commission fails to timely hold a public hearing, or, having conducted a hearing, fails to render a decision within 45 days, the application for a certificate of economic hardship shall be deemed granted.
- (6) *Denial.* If the commission determines to deny the application for a certificate of economic hardship, the applicant shall be notified in writing and shall be provided a copy of the commission's final order.
- (7) *Initial determination.* If the commission makes an initial determination that the applicant has presented a case which may establish substantial economic hardship, but finds that reasonable alternatives may exist which should be addressed by the applicant, the commission may delay its final order for a period of no more than six months. The applicant shall be notified of the initial determination and shall be provided a copy of the commission's findings and reasons for the postponement.
- (8) *Postponement.* Within the period of postponement, the commission, in cooperation with the city and the owner, may explore alternatives that will ensure reasonable use of the property, including, but not limited to, loans or grants from public or private sources, acquisition by purchase or eminent domain, building and safety code modifications to reduce cost of maintenance, restoration, rehabilitation or renovation, changes in applicable zoning regulations, or relaxation of the provisions of this chapter sufficient to allow reasonable use of the property.
- (9) *Issuance of certificate.* Upon the expiration of the period of postponement, the commission shall issue the certificate of economic hardship. The certificate may be subject to conditions including design guidelines for subsequent construction not inconsistent with the standards set forth in this chapter and the commission's design guidelines. The certificate of economic hardship shall be valid for a period of 120 days from approval by the commission.

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- (q) *Recording of applications for certificate of appropriateness.* The commission shall keep a public record of all applications for certificates of appropriateness and of all the commission's proceedings in connection with said application.
- (r) *Certificate of appropriateness void if construction not commenced.* A certificate of appropriateness shall become void unless construction is commenced within six months of the date of issuance. Certificates of appropriateness shall be issued for a period of 18 months and are renewable.
- (s) *Requirements of conformance with certificate of appropriateness.*
 - (1) All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the commission shall issue a cease and desist order and all work shall cease.
 - (2) The city council or the commission shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the provisions of this chapter or to prevent any illegal act or conduct with respect to such historic property or historic district.
- (t) *Technical advice.* The commission shall have the power to seek technical advice from outside its members on any application.

(Ord. No. 05-11-01, § V, 6-6-2011)

Sec. 32-6. Maintenance of historic properties.

- (a) *Expedited review procedures for approval of routine maintenance.* The historic preservation commission may adopt expedited review procedures for approval of routine maintenance to historic properties or to buildings or structures in historic districts. Routine maintenance to historic properties includes ordinary maintenance or repair of any exterior architectural or environmental feature in or on a historic property to correct deterioration, decay or damage, or to sustain the existing form that does not involve a material change in design, material or outer appearance. Expedited review procedures shall waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public meeting.
- (b) *Failure to provide ordinary maintenance or repair.* Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The commission shall be charged with the following responsibilities regarding deterioration by neglect:
 - (1) The commission shall monitor the condition of historic properties and existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Such conditions as broken windows, doors and openings which allow the elements and vermin to enter, the deterioration of exterior architectural features, or the deterioration of a building's structural system shall constitute failure to provide ordinary maintenance or repair.
 - (2) In the event the commission determines a failure to provide ordinary maintenance or repair, the commission will notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property will have 30 days in which to do this.
 - (3) In the event that the condition is not remedied in 30 days, the owners shall be punished as provided in section 1-8 and, at the direction of the city council, the commission may perform such maintenance or repair as is necessary to prevent deterioration by neglect. The owner of the property shall be liable for the cost of such maintenance and repair performed by the commission. Said costs shall be taxed as a lien on the property and/or restitution may be sought through all other available means.

(Ord. No. 05-11-01, § VI, 6-6-2011)

Sec. 32-7. Architectural review board.

- (a) *Creation.* The city council may elect to create an architectural review board, hereinafter called the board, to perform the duties and responsibilities of the commission in accepting, considering and approving or rejecting applications for certificates of appropriateness, as set out in sections 32-5 and 32-6.
- (b) *Number of members, appointment, terms, compensation, officers, rules, and regulation.*
- (1) If such board is created, it shall be composed of not less than five members who shall have demonstrated training or experience in the fields of history, architecture, architectural history, urban planning, archaeology or law. Members of the board need not be residents of the city. No member of the city council or the mayor shall serve as members of the board. Members of the board shall be nominated by the mayor and appointed by the city council. Except for the original members of the board, members of the board shall serve three-year terms and shall be appointed in such manner as to serve overlapping terms. Two of the original members of the board shall be appointed to serve one-year terms and the remainder of the original members of the board shall be appointed to serve three-year terms. Members of the board may be reappointed.
 - (2) Members of the board may be removed for cause by the city council.
 - (3) Vacancies on the board shall be filled by persons nominated by the mayor and appointed by the city council. Such appointments shall be for the unexpired term of the member replaced.
 - (4) Members of the board shall elect a chairperson and vice-chairperson and such other officers as the members deem necessary. The board shall adopt rules of procedure and shall communicate those rules of procedure to the city council and mayor. The rules of procedure of the board shall specify what number of members of the board shall constitute a quorum.
 - (5) Members of the board shall serve without compensation, but may be reimbursed for reasonable expenses incurred on behalf of the board, in accordance with the rules and regulations for the reimbursement of expenses adopted by the board.
 - (6) The board may employ such professional, technical, office and other personnel as may be necessary to carry out the purposes and responsibilities of the board.
 - (7) Meetings of the board shall be public meetings and shall be held at designated times and places as are specified in the commission's resolution creating the board.
 - (8) If, in the opinion of the city council, the work load of the board is, or is contemplated to be, excessive, the city council may create more than one board, and designate the historic properties and historic districts with which each board will be concerned. Each historic property and each historic district designated by the city council shall be subject to the control of only one board. Each such board created shall have all of the powers and authority set forth in this chapter with respect to the historic properties and historic districts with which it is concerned.

(Ord. No. 05-11-01, § VII, 6-6-2011)

Sec. 32-8. Building and zoning code provisions.

Nothing in this chapter shall be construed as to exempt property owners from complying with existing city building and zoning codes, nor to prevent any property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.

(Ord. No. 05-11-01, § VIII, 6-6-2011)

Chapter 33 RESERVED

Chapter 34 HUMAN RELATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - FAIR HOUSING

ARTICLE I. IN GENERAL

[Secs. 34-1—34-18. Reserved.](#)

Secs. 34-1—34-18. Reserved.

ARTICLE II. FAIR HOUSING ⁽¹⁾

[Sec. 34-19. Unfair practices.](#)

[Sec. 34-20. Definition of "real estate broker."](#)

[Sec. 34-21. Compliance by brokers from out of the city.](#)

[Sec. 34-22. Complaints.](#)

[Sec. 34-23. Violation.](#)

Sec. 34-19. Unfair practices.

It shall be unfair housing practice and unlawful for any real estate broker licensed as such by the city to:

- (1) Make any distinction, discrimination or restriction against any person in price, terms, conditions or privileges of any kind relating to the sale, rental, lease, or occupancy of any real estate used for residential or commercial purposes in the city, or in the furnishing of any facilities or services in connection therewith predicated upon race, color, religion, national origin or ancestry of the prospective or actual buyer or tenant thereof.
- (2) Publish, circulate, issue or display, or cause to be published, circulated, issued, or displayed, any communication notice, advertisement, sign, or writing of any kind relating to the sale, rental, or leasing of any residential or commercial real property within the city which would indicate or express any limitation or discrimination in the sale, rental, or leasing of such residential or commercial real estate predicated upon the race, color, religion, national origin, sex, or ancestry of any such prospective buyer, lessee, or renter of such property.
- (3) Refuse to sell, lease, or rent real estate for residential or commercial purposes within the city because of the race, color, religion, national origin, sex, or ancestry of the proposed buyer or renter.
- (4) Discriminate or participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance or any residential or commercial housing unit or housing accommodation of the city because of the race, color, religion, national origin, sex, or ancestry of such person.

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- (5) Cheat, exploit, or overcharge any person for residential or commercial housing accommodations in the city because of the race, color, religion, national origin, sex, or ancestry of such person.
- (6) Solicit for sale, lease, or listing for sale or lease any residential or commercial real estate within the city on the grounds of loss of value due to the present or prospective entry into any neighborhood of any person of any particular race, color, religion, national origin, sex, or ancestry.
- (7) Distribute or cause to be distributed written material or statements designed to induce any owner of residential or commercial real estate in the city to sell or lease such person's property because of any present or prospective change in the race, color, religion, national origin, sex, or ancestry of persons in the neighborhood.
- (8) Deliberately and knowingly refuse examination of any leasing of residential or commercial real estate within the city to any person because of race, color, religion, national origin, sex, or ancestry.

(Code 1987, § 17-3; Ord. No. 1-79-A, § 1, 1-2-1979)

Sec. 34-20. Definition of "real estate broker."

The term "real estate broker" means any person who sells, rents, or leases real estate in the city for residential or commercial purposes.

(Code 1987, § 17-4; Ord. No. 1-79-A, § 3, 1-2-1979)

Sec. 34-21. Compliance by brokers from out of the city.

Any real estate broker not licensed by the city who shall exercise any function of a real estate broker within the city shall be deemed a broker hereunder, and subject to all applicable provisions of this article.

(Code 1987, § 17-5; Ord. No. 1-79-A, § 2, 1-2-1979)

Sec. 34-22. Complaints.

- (a) Any person aggrieved in any manner by any violation of any provision of this article may file a written complaint setting forth such person's grievance with the city clerk. Said complaint shall state the name and address of the complainant and of the person against whom the complaint is brought, and shall also state the alleged facts surrounding the violation.
- (b) The clerk is hereby fully authorized immediately to investigate every such complaint thus filed. If the clerk determines that the respondent has not engaged in an unlawful practice, the clerk shall state such officer's finding of fact in writing. If the clerk determines after such investigation that probable cause exists for allegation made in the complaint, the clerk will notify the proper city official for further legal or conciliatory action.

(Code 1987, § 17-6; Ord. No. 1-79-A, § 5, 1-2-1979)

Sec. 34-23. Violation.

The violation of any provision of this article shall be punishable as provided in section 1-8. Each day that any violation shall continue shall constitute a separate offense.

(Code 1987, § 17-7; Ord. No. 1-79-A, § 4, 1-2-1979)

FOOTNOTE(S):

--- (1) ---

State Law reference— Alabama Fair Housing Law, Code of Ala. 1975, § 24-8-5 et seq. ([Back](#))

Chapter 35 LAW ENFORCEMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - POLICE RESERVE FORCE

ARTICLE I. IN GENERAL

[Secs. 35-1—35-19. Reserved.](#)

Secs. 35-1—35-19. Reserved.

ARTICLE II. POLICE RESERVE FORCE

[Sec. 35-20. Established; membership; appointment; terms; discharge.](#)

[Sec. 35-21. Direction by chief of police.](#)

[Sec. 35-22. Oath of office.](#)

[Sec. 35-23. Call to active duty.](#)

[Sec. 35-24. Duties, privileges and authority of members.](#)

[Sec. 35-25. Compensation of members.](#)

[Sec. 35-26. Identification card, badge, uniform; misrepresentation; penalty for violation of section.](#)

Sec. 35-20. Established; membership; appointment; terms; discharge.

A police reserve force, hereinafter called reserve, is hereby established within the police department of the city. The reserve shall consist of not more than 12 members, each of whom shall be a resident of Henry County, and who shall be in good physical condition, of good character and not less than 19 years of age. Reserve law enforcement officers appointed pursuant to this section shall serve at the pleasure of the municipal appointing authority. Such appointments shall be made for a two-year term, except that any member of the reserve may be discharged without cause and without hearing by the chief of police.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Sec. 35-21. Direction by chief of police.

The reserve shall function under the immediate direction of the chief of police, who shall provide for its organization and training. The chief is hereby authorized and directed to establish such rules and regulations as may be necessary for the efficient operation of the reserve.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Sec. 35-22. Oath of office.

All members of the reserve shall take and subscribe to the same oath required of regular police officers of the city, immediately upon accepting their appointment.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Sec. 35-23. Call to active duty.

Members of the reserve shall be called to active duty by the chief of police as he/she deems necessary for the safety and protection of the citizens.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Sec. 35-24. Duties, privileges and authority of members.

The general duties, rights, privileges and authority of each member of the reserve shall be to assist certified officers (fulltime) as needed. Reserve duties are as follows but not limited to: patrol, calls for service, crime scene, building searches, traffic control, civic functions, security, motorist assistance, report writing, community policing, and other duties as assigned by the chief of police. Each member during such member's time on active duty shall have the right to carry a firearm, assist certified officers in making arrests, and otherwise perform the duties of a regular police officer under the supervised authority of a certified officer.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Sec. 35-25. Compensation of members.

No member of the reserve shall receive compensation for time required by reserve rules and regulations. Members of the reserve may be compensated for any reasonable expenses incurred in the performance of official duties while on active duty on approval of an expense voucher by the chief of police. Each member of the reserve may be compensated for official use of such member's privately-owned automobile at the rate prescribed by the council, which use while on active duty shall be approved by the chief of police and mayor/city clerk. All vouchers for compensation for expenses shall be sworn to by the member of the reserve seeking reimbursement before they shall be considered for payment.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Sec. 35-26. Identification card, badge, uniform; misrepresentation; penalty for violation of section.

- (a) Each member of the reserve shall be issued an identification card signed by the chief of police. Whenever a member of the reserve shall be called to active duty or sworn in such member shall be issued a badge and uniform which such member shall wear in the manner prescribed by the chief of police.
- (b) It shall be a misdemeanor for any person not a member of the reserve to wear, carry, or display a reserve identification card, badge, or uniform, or in any way to represent such person to be connected with the reserve.
- (c) Any person found guilty of violating the provisions of subsection (b) of this section shall upon conviction be punished in accordance with state law.

(Ord. No. 02-14-01, § 1, 2-17-2014)

Chapter 36 MOBILE HOMES [11](#)

[Sec. 36-1. Permit to locate—Required; compliance with zoning.](#)

[Sec. 36-2. Same—Fee; issuance.](#)

[Sec. 36-3. Exemption.](#)

Sec. 36-1. Permit to locate—Required; compliance with zoning.

- (a) It shall be unlawful for any person to locate, place, park, install, or keep for the purpose of habitation a mobile home or house trailer on any lot or property within the city limits for a period of more than 24 consecutive hours without first obtaining therefor a permit from the city clerk and paying a fee for such permit.
- (b) No permit shall be issued nor shall any mobile home or house trailer be located within any area in the city not zoned for such purpose.

(Code 1987, § 15-1; Ord. No. 314, § 1, 5-19-1969)

Sec. 36-2. Same—Fee; issuance.

Upon application to the city clerk and the payment of an issuance fee as established from time to time, and upon proof that the area upon which it is proposed to locate such mobile home or house trailer is zoned for such purpose, a permit shall be issued by the city clerk for the location of such mobile home or house trailer.

(Code 1987, § 15-2; Ord. No. 314, § 2, 5-19-1969)

Sec. 36-3. Exemption.

Mobile homes and house trailers parked or situated within any licensed trailer park in the city are exempt from the provisions of sections 36-1 and 36-2.

(Code 1987, § 15-3; Ord. No. 314, § 3, 5-19-1969)

FOOTNOTE(S):

--- (1) ---

State Law reference— Uniform Standards Code for Mobile Homes Act, Code of Ala. 1975, § 24-5-1 et seq.; local ordinances not to conflict with state law or power and authority of state manufactured housing commission, Code of Ala. 1975, § 24-5-13(c); regulations for manufactured buildings, Ala. Admin. Code 535-X-11-.01 et seq. ([Back](#))

Chapter 37 RESERVED

Chapter 38 MUNICIPAL UTILITIES [u](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - WATERWORKS AND SEWER BOARD

FOOTNOTE(S):

--- (1) ---

Editor's note— By Ordinance No. 303, appearing as § 31-14.1 of the 1968 Code, the mayor was authorized to convey to the waterworks and sewer board the city sewer system, which was thereafter done. ([Back](#))

State Law reference— Alabama Safe Drinking Water Act of 1977, Code of Ala. 1975, § 22-23-30 et seq.; financing of municipal public works; Code of Ala. 1975, § 11-47-3 et seq.; general powers of municipalities regarding public improvements, Code of Ala. 1975, § 11-48-4 et seq.; municipal construction and maintenance of sewers authorized, Code of Ala. 1975, § 11-50-50 et seq.; permits for installation of plumbing within police jurisdiction of municipalities, Code of Ala. 1975, § 22-26-4; municipal water, sewer, solid waste disposal and fire protection districts, Code of Ala. 1975, § 11-89-1 et seq. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 38-1. Fire hydrant rental agreement.](#)

[Sec. 38-2. Fluoridation.](#)

[Secs. 38-3—38-19. Reserved.](#)

Sec. 38-1. Fire hydrant rental agreement.

- (a) The city shall pay to the waterworks and sewer board of the city for the rental of fire hydrants and other services to the city the sum of at least \$12,000.00 per year for a period of 40 years.
- (b) This section shall be a binding obligation of the city and to the Farmers Home Administration of the United States Department of Agriculture for the life of a loan made to the waterworks and sewer board by the Farmers Home Administration for funds to extend and improve the water system.

(Code 1987, § 16-4; Ord. No. 1-75, § 1, 1-6-1975)

Sec. 38-2. Fluoridation.

The introduction of fluorides into the water supply is endorsed by the medical societies, the dental societies, all state health departments, by the U.S. Public Health Service, the American Dental Association, the American Medical Association, the National Research Council, the American Water Works Association, and by many reputable organizations. As a matter of public health, approval is hereby given to install the necessary facilities for the introduction of fluorides into the water supply of the city in accordance with the regulations of the state department of public health.

(Code 1987, § 16-5; Ord. No. 3-74, 3-11-1974)

Secs. 38-3—38-19. Reserved.

ARTICLE II. WATERWORKS AND SEWER BOARD

[Sec. 38-20. Authority to acquire, operate and improve water and sewer systems.](#)

[Sec. 38-21. Authority to own, operate and repair water and sewer systems.](#)

[Sec. 38-22. Restoration of street surfaces.](#)

Sec. 38-20. Authority to acquire, operate and improve water and sewer systems.

The city hereby grants to the waterworks and sewer board of the city, its successors and assigns (in this chapter called the "board"), the right, privilege, authority and franchises to acquire, construct, own, maintain, enlarge, extend, improve and operate a water system and a sanitary sewer system for the purpose of supplying water and sanitary sewer services to the city and the surrounding territory and the inhabitants thereof and to use the streets, avenues, alleys and public ways and places in the city for such purposes.

(Code 1968, §§ 31-12, 31-14; Code 1987, § 16-1; Ord. No. 7-75, § 1, 7-21-1975)

Sec. 38-21. Authority to own, operate and repair water and sewer systems.

The city hereby grants to the board the right, privilege, authority and franchises at any time and from time to time during the period covered by this franchise, and without any requirement as to license, permit or fee therefor, to own and operate said systems, to construct, extend, operate, renew, enlarge, repair, and maintain its mains, pipes, conduits, laterals and facilities in, over, under, across or along any street, avenue, alley or public way or place in the city and to make all excavations necessary therefor for the purpose of constructing, repairing, improving, enlarging, extending, adding to, maintaining or operating said systems or either of thereof.

(Code 1968, § 31-12; Code 1987, § 16-2; Ord. No. 7-75, § 2, 7-21-1975)

Sec. 38-22. Restoration of street surfaces.

The board shall, and by accepting these franchises agrees that it will, upon making any excavation in the streets, avenues, alleys, public ways and places of the city in the exercise of these franchises, restore the surface and paving at the point of such excavation in substantially the same condition as before the work was done, within a reasonable time thereafter, and will save the city harmless from any liability arising out of any change in the condition of any street, avenue, alley, public way or place by the board.

(Code 1968, § 31-14; Code 1987, § 16-3; Ord. No. 7-75, § 3, 7-21-1975)

Chapter 39 RESERVED

Chapter 40 OFFENSES AND MISCELLANEOUS PROVISIONS [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - ABANDONED AND STOLEN PERSONAL PROPERTY

ARTICLE III. - JUVENILE CURFEW

FOOTNOTE(S):

--- (1) ---

State Law reference— State criminal code generally, Code of Ala. 1975, § 13A-1-1 et seq.; limitation on authority of municipalities to regulate handguns, Code of Ala. 1975, § 11-45-1.1; authority of municipality to regulate discharge of firearms, Code of Ala. 1975, § 11-80-11; municipal authority to adopt and enforce ordinances consistent with state law, Code of Ala. 1975, § 11-45-1; penalties for ordinance violations, Code of Ala. 1975, § 11-45-9; issuance of summons and complaint in lieu of arrest for violation of certain ordinances, Code of Ala. 1975, § 11-45-9.1. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 40-1. Violations of state law.](#)

[Sec. 40-2. Appearance bonds; approval.](#)

[Sec. 40-3. Unreasonably loud noise prohibited.](#)

[Secs. 40-4—40-26. Reserved.](#)

Sec. 40-1. Violations of state law.

- (a) Any person committing an offense within the corporate limits of the city or within the police jurisdiction thereof, which is declared by a law of the state, now existing or hereafter enacted, to be a misdemeanor, shall be guilty of an offense against the city.
- (b) Any person committing an offense within the corporate limits of the city or within the police jurisdiction thereof, which is declared by a law of the state now existing or hereafter enacted to be a violation, shall be guilty of an offense against the city.
- (c) Any person committing within the corporate limits of the city or within the police jurisdiction thereof, an offense defined by Code of Ala. 1975, § 13A-1-2, as amended, which offense is not declared by a law of the state now existing or hereafter enacted to be a felony, misdemeanor or violation, shall be guilty of an offense against the city.

(Code 1968, § 18-24; Code 1987, § 17-1; Ord. No. 2, 11-19-1977; Ord. No. 8-83, § 3, 8-15-1983)

Sec. 40-2. Appearance bonds; approval.

The chief of police may approve appearance bonds within the city and within its police jurisdiction, as defined by Code of Ala. 1975, § 11-43-5, as amended.

(Code 1968, § 25-16; Code 1987, § 17-2)

Sec. 40-3. Unreasonably loud noise prohibited.

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud or excessive noise which unreasonably interferes with the comfort, health, or safety of others within the jurisdiction of the city.
- (b) In addition to the general prohibition set out in subsection (a) of this section, the following specific acts are declared to be in violation of this section:
 - (1) It is hereby declared a nuisance and shall be unlawful to operate or play any radio, musical instrument, or similar device, whether from a motor vehicle or by a pedestrian, in such a manner as to be plainly audible to any person other than the player or operator of the device at a distance of five feet in the case of a motor vehicle or ten feet in the case of a pedestrian.
 - (2) It is hereby declared a nuisance and shall be unlawful to operate or play any radio, television, phonograph, musical instrument, or similar device which produces or reproduces sound, whether from a business or a residence, in such a manner as to be plainly audible at a distance of 50 feet to any person in a commercial, residential, multi-family dwelling, or public place.
- (c) Violation of this section shall be a violation and punishable by a fine not to exceed \$200.00.
- (d) (1) Nothing in this section shall be construed to prohibit special performances by a band or orchestra, civic meetings or religious meetings, in a hall, building, or in the open air after proper

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permits have been obtained from the chief of police; however, no such event shall be held between the hours of 10:00 p.m. and 7:00 a.m.

- (2) Nothing in this section shall be construed to prohibit the ringing of bells or chimes by churches within the city.
 - (3) Nothing in this section shall be construed to prohibit any noises or sounds produced by radios, sirens, or other equipment attached to, or being operated by, any police, fire, rescue, or other emergency vehicles or personnel.
 - (4) Nothing in this section shall be construed to prohibit the conducting of live, remote broadcasts by duly licensed radio stations upon business premises, at the request of the owner of the business. Said live remote broadcasts shall be limited to daylight hours only.
- (e) Each violation shall be a separate offense.

(Ord. No. 7-94-1, 7-7-1994)

Secs. 40-4—40-26. Reserved.

ARTICLE II. ABANDONED AND STOLEN PERSONAL PROPERTY

[Sec. 40-27. Storage.](#)

[Sec. 40-28. Sale—Generally.](#)

[Sec. 40-29. Same—Disposition of proceeds.](#)

[Sec. 40-30. Redemption by owner.](#)

[Sec. 40-31. Records.](#)

[Sec. 40-32. Compliance with state law.](#)

[Secs. 40-33—40-52. Reserved.](#)

Sec. 40-27. Storage.

- (a) All abandoned personal property found within the corporate limits or the police jurisdiction of the city shall be taken up and stored in a safe and suitable place to protect it from deterioration.
- (b) All stolen property coming into the hands of the city shall be similarly stored.

(Code 1968, § 23-22; Code 1987, § 17-20)

Sec. 40-28. Sale—Generally.

- (a) Once every six months the police department shall sell at public auction to the highest bidder for cash all property which has been so abandoned or stolen and which has been taken up and stored for a period of three months or more.
- (b) The sale shall be had at public outcry for cash after having first given notice by publication for two successive weeks in some newspaper of general circulation published in the city.
- (c) At any such sale held, each article shall be sold separately.

- (d) The person making the sale shall have the right to reject any or all bids if the amount bid for such article is unreasonably low and shall have the right to continue the sale from time to time if no bidders are present.

(Code 1968, § 23-23; Code 1987, § 17-21)

Sec. 40-29. Same—Disposition of proceeds.

The proceeds received from the sale of any property under this article shall, after deducting all expenses incurred in the taking up, storing, maintaining, advertising and selling such property, be paid into the general fund of the city.

(Code 1968, § 23-24; Code 1987, § 17-22)

Sec. 40-30. Redemption by owner.

The owner of any property so in possession of the city or its police department thereof shall have the right to redeem the same at any time prior to the sale by paying the reasonable expenses of taking the property in charge and paying for its maintenance and storage and pro rata part of any publication cost connected therewith.

(Code 1968, § 23-25; Code 1987, § 17-23)

Sec. 40-31. Records.

- (a) A complete record of all abandoned or stolen property shall be kept by the city or its police department, giving the date of the taking of each piece of property, the place where taken and a full description of the property.
- (b) At the time of the sale of any pieces of such property, a record shall be made thereof showing the property sold, the person to whom sold and the price paid therefor.

(Code 1968, § 23-26; Code 1987, § 17-24)

Sec. 40-32. Compliance with state law.

- (a) All things done in pursuance of this article shall be in accordance with Code of Ala. 1975, § 11-47-116, as amended.
- (b) All notices given shall be for the length of time and in the manner specified in the Alabama Code.

(Code 1968, § 23-27; Code 1987, § 17-25)

Secs. 40-33—40-52. Reserved.

ARTICLE III. JUVENILE CURFEW

[Sec. 40-53. Definitions.](#)

[Sec. 40-54. Offenses.](#)

[Sec. 40-55. Defenses.](#)

[Sec. 40-56. Enforcement.](#)

[Sec. 40-57. Penalty.](#)

Sec. 40-53. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Curfew hours means:

- (1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day and 12:01 a.m. until 6:00 a.m. on any Friday or Saturday from August 16 through May 31.
- (2) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day and 12:01 a.m. until 6:00 a.m. on any Friday or Saturday from June 1 through August 15.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian means:

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term "operator" includes the members or partners of an association or partnership and the officers of a corporation.

Parent means:

- (1) A person who is a natural parent, adoptive parent or stepparent of another person; or
- (2) An individual at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access, and includes, but is not limited to, public streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Remain means to:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

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(Ord. No. 6-09-1, § 1, 7-6-2009)

Sec. 40-54. Offenses.

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (b) A parent or guardian of a minor commits an offense if he knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(Ord. No. 6-09-1, § 2, 7-6-2009)

Sec. 40-55. Defenses.

- (a) It is a defense to prosecution under this article that the minor was:
 - (1) Accompanied by the minor's parent or guardian;
 - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;
 - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (5) Involved in an emergency;
 - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
 - (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (9) Married or had been married or had disabilities of minority removed in accordance with law.
- (b) It is a defense to prosecution under this section that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(Ord. No. 6-09-1, § 3, 7-6-2009)

Sec. 40-56. Enforcement.

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this article unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense available under section 40-55 is present.

(Ord. No. 6-09-1, § 4, 7-6-2009)

Sec. 40-57. Penalty.

A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00, plus court costs.

(Ord. No. 6-09-1, § 5, 7-6-2009)

Chapter 41 RESERVED

Chapter 42 PERSONNEL

ARTICLE I. - IN GENERAL

ARTICLE II. - RETIREMENT

ARTICLE I. IN GENERAL

[Secs. 42-1—42-18. Reserved.](#)

Secs. 42-1—42-18. Reserved.

ARTICLE II. RETIREMENT [m](#)

DIVISION 1. - GENERALLY

DIVISION 2. - STATE EMPLOYEES' RETIREMENT SYSTEM

DIVISION 3. - SOCIAL SECURITY

FOOTNOTE(S):

--- (1) ---

State Law reference— Participation in state employees' retirement system, Code of Ala. 1975, § 36-27-6; social security for city employees, Code of Ala. 1975, § 36-28-1 et seq. ([Back](#))

DIVISION 1. GENERALLY

[Secs. 42-19—42-34. Reserved.](#)

Secs. 42-19—42-34. Reserved.

DIVISION 2. STATE EMPLOYEES' RETIREMENT SYSTEM

[Sec. 42-35. Adopted.](#)

[Sec. 42-36. Coverage.](#)

[Secs. 42-37—42-50. Reserved.](#)

Sec. 42-35. Adopted.

The Employees' Retirement System of Alabama is hereby adopted as the official retirement plan for all regular, full-time and certain part-time employees of the city, who are otherwise eligible to participate in said system.

(Code 1987, § 18-20; Res. No. 8-78-A, 8-21-1978)

Note— In accordance with the May 17, 1978 ruling by the Employees' Retirement System Board of Control, all part-time employees who work at least 20 hours per week and earn no less than the prevailing minimum wage are eligible for participation.

State Law reference— Authority to participate, Code of Ala. 1975, § 36-27-6.

Sec. 42-36. Coverage.

Upon the approval of the Employees' Retirement System of Alabama, to be effective October 1, 1978, the following provisions are included:

- (1) All positions on a full normal working time basis as well as part-time employees who work at least 20 hours per week and earn no less than the prevailing minimum wage shall be eligible for participation. Temporary employees are not eligible.
- (2) The city agrees to make all prior service contributions at the rate as determined by the actuary of the employees' retirement system with state prior service rate to be applicable until such determination of prior service rate is made.
- (3) The city agrees to make contributions at the normal rate for current service, which is the same as the state normal rate.
- (4) The city agrees to pay for the initial cost of a preliminary valuation by the actuary to determine the accrued liability on account of prior service and to pay the cost of the valuation after one full year of coverage and any other cost for special services of the actuary plus the regular administrative cost of operation of the system.
- (5) The city agrees to submit all information as required by the Employees' Retirement System of Alabama relative to its employees.

(Code 1987, § 18-21; Res. No. 8-78-A, 8-21-1978)

Secs. 42-37—42-50. Reserved.

DIVISION 3. SOCIAL SECURITY

[Sec. 42-51. Declaration of policy.](#)

[Sec. 42-52. Agreements with state agency.](#)

[Sec. 42-53. Withholdings and contributions.](#)

[Sec. 42-54. Records and reports.](#)

[Sec. 42-55. Act adopted.](#)

Sec. 42-51. Declaration of policy.

- (a) It is hereby declared to be the policy and purpose of the city to extend, effective as of January 1951, to the employees and officials thereof, not excluded by law or by this article, and whether employed in connection with a governmental or proprietary function, the benefits of the system of old age and survivors' insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734 of 81st Congress.
- (b) In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations.

(Code 1968, § 20-11; Code 1987, § 18-22)

State Law reference— Social security for public employees, Code of Ala. 1975, § 36-28-1 et seq.

Sec. 42-52. Agreements with state agency.

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state agency authorized to act to secure social security coverage of employees and officials as provided herein.

(Code 1968, § 20-13; Code 1987, § 18-23)

Sec. 42-53. Withholdings and contributions.

- (a) Withholdings from salaries or wages of employees and officials for the purpose of social security coverage are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by such laws or regulations to receive such amounts.
- (b) There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, which shall be paid over to the state agency designated by such laws or regulations to receive same.

(Code 1968, §§ 20-14, 20-15; Code 1987, § 18-24)

Sec. 42-54. Records and reports.

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

(Code 1968, § 20-16; Code 1987, § 18-25)

Sec. 42-55. Act adopted.

The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of Title II of the Social Security Act as amended by Public Law No. 734, 81st Congress, for and on behalf of all the officers and employees thereof, save and except any official or employee who occupies any position, office, or employment not authorized to be covered by applicable state or federal laws or regulations; and further excluding elected officials, emergency employees, and officials or employees whose compensation is on a fee basis.

(Code 1968, § 20-17; Code 1987, § 18-26)

Chapter 43 RESERVED

Chapter 44 PLANNING AND DEVELOPMENT

ARTICLE I. - IN GENERAL

ARTICLE II. - PLANNING COMMISSION

ARTICLE I. IN GENERAL

[Sec. 44-1. Industrial development board.](#)

[Secs. 44-2—44-19. Reserved.](#)

Sec. 44-1. Industrial development board.

- (a) *Findings.* The council has ascertained and hereby finds and determines as follows: that N. Mitchell Dowling, Donald F. Oakley and James W. Rane have filed with the council an application in writing for permission to apply for the incorporation, under the provisions of Code of Ala. 1975, § 11-54-80 et seq. of a public corporation to be known as the Industrial Development Board of the City of Abbeville; that there was attached to said application a proposed form of certificate of incorporation for said public corporation; that said application and attached certificate of incorporation is in words and figures as follows: that each of said applicants is a duly qualified elector of and taxpayer in the city; that said application is regular in all respects and complies with all requirements of the laws of the state under which said public corporation is proposed to be organized; that said certificate of incorporation proposed to be used in organizing said public corporation is in proper form; and that it is wise, expedient, necessary and advisable that such public corporation be formed.
- (b) *Authorization for incorporation.* The aforesaid application is hereby allowed and permission is hereby granted to the persons signing said application to file and record a certificate of incorporation for the industrial development board of the city in the manner provided by the laws of the state under which said corporation is proposed to be organized. The form of certificate of incorporation attached to said application is hereby approved.

- (c) *Initial election of members.* The industrial development board directors shall be elected for a term of six years.

(Code 1987, § 19-5; Ord. No. 3-79, §§ 1, 2, 3-19-1979; Res. No. 4-79, 4-2-1979)

Secs. 44-2—44-19. Reserved.

ARTICLE II. PLANNING COMMISSION [¶1](#)

[Sec. 44-20. Created.](#)

[Sec. 44-21. Composition.](#)

[Sec. 44-22. Appointment; term of office; authority of council.](#)

[Sec. 44-23. Adoption of master plan; powers.](#)

Sec. 44-20. Created.

There is hereby created a planning commission for the city.

(Code 1968, § 21-11; Code 1987, § 19-1)

Sec. 44-21. Composition.

The planning commission shall consist of nine members as set out in the Code of Ala. 1975, § 11-52-3, as amended.

(Code 1968, § 21-12; Code 1987, § 19-2)

Sec. 44-22. Appointment; term of office; authority of council.

- (a) The appointment of the members of the planning commission shall be for the terms and in the manner set forth in the Code of Ala. 1975, § 11-52-3, as amended.
- (b) The city council is authorized to make all appointments and exercise all authority as authorized by the Code of Ala. 1975, § 11-52-1 et seq.

(Code 1968, § 21-21; Code 1987, § 19-3)

Sec. 44-23. Adoption of master plan; powers.

- (a) The planning commission is authorized and empowered to make and adopt a master plan for the physical development of the city, including any areas outside its boundaries which, in the commission's judgment, bear relation to the planning of the city.
- (b) Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of said territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces, the general location of public buildings and other public property,

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and the general and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals as well as a zoning plan for the control of the height, area, bulk, location and use of the buildings and premises.

- (c) As the work of making the whole master plan progresses, the planning commission may from time to time adopt and publish parts thereof, any such part to cover one or more major sections or divisions of the city, or one or more of the foresaid or other functional matters to be included in the plan.
- (d) The commission is authorized and empowered to exercise all powers and do all things authorized to such commission by state law as it may deem necessary for its work.
- (e) The commission is also authorized and empowered to exercise all powers and to do all things authorized to such commission by state law and to exercise such control as it is authorized under state law with reference to subdivision of unimproved property within five miles of the corporate limits of the city.

(Code 1968, §§ 21-19, 21-20; Code 1987, § 19-4)

FOOTNOTE(S):

--- (1) ---

State Law reference— Creation, composition, and powers of municipal planning commission, Code of Ala. 1975, §§ 11-52-2—11-52-7; zoning commission generally, Code of Ala. 1975, § 11-52-79. [\(Back\)](#)

Chapter 45 RESERVED

Chapter 46 STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTIES [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - DISPLAYS ON PUBLIC SIDEWALKS

ARTICLE III. - USE OR POSSESSION OF TOBACCO PRODUCTS IN RECREATIONAL FACILITIES

ARTICLE IV. - PARADES AND PROCESSIONS

FOOTNOTE(S):

--- (1) ---

State Law reference— Authority of city with regard to public improvements, including streets, Code of Ala. 1975, § 11-48-1 et seq.; authority of city with regard to use of public streets for construction or operation of public utility or private enterprise, Code of Ala. 1975, § 11-49-1. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 46-1. Adoption of state standards for accommodating utilities.](#)

[Sec. 46-2. Obstructing streets—Animals, vehicles, boxes, etc.](#)

[Sec. 46-3. Same—Use for storage or display.](#)

[Sec. 46-4. Obstructing gutters.](#)

[Sec. 46-5. Skateboarding on municipal property prohibited.](#)

[Secs. 46-6—46-28. Reserved.](#)

Sec. 46-1. Adoption of state standards for accommodating utilities.

The city council hereby formally adopts the State of Alabama Department of Transportation Utilities Manual as standards (as written and future amendments thereto) for use by the city for accommodating utilities on roads and streets under the jurisdiction of the city on those roads and streets which have or will involve the expenditure of state or federal highway funds.

(Code 1987, § 20-1; Ord. No. 11-71, 11-1-1971)

Sec. 46-2. Obstructing streets—Animals, vehicles, boxes, etc.

No person shall obstruct any street with any animal or vehicle or with boxes or barrels or other like commodity, or by standing thereon so as to obstruct free passage of persons on such streets.

(Code 1968, § 27-3; Code 1987, § 20-2)

Sec. 46-3. Same—Use for storage or display.

No person shall use any part of any public street in the city for the storage of goods, wares, merchandise or articles of personal property or for the purpose of displaying goods, wares, merchandise or articles of personal property for sale or barter.

(Code 1968, § 27-2; Code 1987, § 20-3)

Sec. 46-4. Obstructing gutters.

No person shall obstruct any gutter within the city with dirt, trash, wood, lumber, brick or other material or matter.

(Code 1968, § 27-25; Code 1987, § 20-4)

Sec. 46-5. Skateboarding on municipal property prohibited.

- (a) For the purpose of this section, the term "skateboard" means a single platform mounted on wheels which is propelled solely by human power and which has no mechanism or other device with which to steer or to control the movement or direction of the platform.
- (b) It shall be unlawful for any person to operate a skateboard on any city street, city sidewalk and any city-owned real estate in the city. City-owned real estate includes, but is not necessarily limited to, the city hall, all city-owned recreational parks and the municipal library.
- (c) Every person convicted of violating the provisions of this section shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(Ord. No. 6-90-1, §§ I—III, 6-18-1990)

Secs. 46-6—46-28. Reserved.

ARTICLE II. DISPLAYS ON PUBLIC SIDEWALKS

[Sec. 46-29. Definitions.](#)

[Sec. 46-30. Activity prohibited.](#)

[Sec. 46-31. Display of items during certain business hours.](#)

[Sec. 46-32. Activity excluded from article.](#)

[Sec. 46-33. Penalty.](#)

[Secs. 46-34—46-54. Reserved.](#)

Sec. 46-29. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sidewalk means any portion of the street between the curb lines or the lateral lines of a roadway and the adjacent private property lines intended for use by pedestrians.

(Ord. No. 4-97-1, § I, 4-21-1997)

Sec. 46-30. Activity prohibited.

It shall be unlawful for any person to permanently place any item of personal property upon the sidewalks of the city. This prohibition shall include, but is not limited to, vending machines, drop boxes, merchandise, wares and display racks and/or shelves.

(Ord. No. 4-97-1, § II, 4-21-1997)

Sec. 46-31. Display of items during certain business hours.

It shall be permissible under this article for a merchant to display merchandise and other wares on the public sidewalks of the city during the hours from 7:00 a.m. to 6:00 p.m., provided that the merchant complies with the following requirements:

- (1) No items of personal property shall be placed on the public sidewalk before 7:00 a.m. and all items of personal property shall be removed from the sidewalk before 6:00 p.m. Items of personal property shall include any and all display racks and/or shelves as well as the merchandise and wares displayed by the merchant.
- (2) No items of personal property, including any display rack and/or shelf, shall be placed on the public sidewalk so as to extend three feet (36 inches) from the adjacent private property line and/or wall.

(Ord. No. 4-97-1, § III, 4-21-1997)

Sec. 46-32. Activity excluded from article.

This article will not apply to the annual Christmas Parade project sponsored by the chamber of commerce. This article shall not prohibit the city from placing garbage receptacles and/or other items on the sidewalk.

(Ord. No. 4-97-1, § IV, 4-21-1997)

Sec. 46-33. Penalty.

Any person violating the provisions of this article shall be subject to a fine of not less than \$10.00, plus court costs.

(Ord. No. 4-97-1, § V, 4-21-1997)

Secs. 46-34—46-54. Reserved.

ARTICLE III. USE OR POSSESSION OF TOBACCO PRODUCTS IN RECREATIONAL FACILITIES

[Sec. 46-55. Definitions.](#)

[Sec. 46-56. Offenses.](#)

[Sec. 46-57. Exceptions.](#)

[Sec. 46-58. Designation of smoking and non-smoking areas.](#)

[Sec. 46-59. Penalty.](#)

[Secs. 46-60—46-85. Reserved.](#)

Sec. 46-55. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Recreational facility means and includes any enclosed or unenclosed area, used either permanently or temporarily for recreation of all types in connection with and under the control of the city.

Representative means and includes any individual authorized to act on the behalf of the city.

Tobacco product means and includes tobacco in any form, including smoking tobacco used in cigarettes, cigars, pipes, etc., and non-smoking tobacco used for sniffing, dipping, chewing, etc.

Use means and includes the carrying, holding or possession of lighted smoking materials in any form, including, but not limited to, the possession of lighted cigarettes, cigars, pipes and the active consumption of smokeless tobacco.

(Ord. No. 07-11-1, § 1, 7-18-2011)

Sec. 46-56. Offenses.

Hereafter and upon the adoption of the ordinance from which this article is derived, the use of all tobacco products is prohibited in all recreational facilities under the control of the city, except as hereinafter provided.

(Ord. No. 07-11-1, § 2, 7-18-2011)

Sec. 46-57. Exceptions.

The provisions of this article do not apply to areas designated as smoking areas.

(Ord. No. 07-11-1, § 3, 7-18-2011)

Sec. 46-58. Designation of smoking and non-smoking areas.

A representative of the city shall designate by signs, notices, or other appropriate means posted in conspicuous places the areas where the use of tobacco products is permitted.

(Ord. No. 07-11-1, § 4, 7-18-2011)

Sec. 46-59. Penalty.

Any person in willful violation of this article or any person who willfully uses tobacco products in an area where the use is prohibited shall be guilty of a violation and punishable by a fine not to exceed \$100.00.

(Ord. No. 07-11-1, § 5, 7-18-2011)

Secs. 46-60—46-85. Reserved.

ARTICLE IV. PARADES AND PROCESSIONS

[Sec. 46-86. Definitions.](#)

[Sec. 46-87. Purposes; special permit required.](#)

[Sec. 46-88. Investigation by council; issuance of permit.](#)

[Sec. 46-89. Contents of permit; fee as fixed.](#)

Sec. 46-86. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Parade or *procession* means a march in formation, proceeding in an ordered and close file as a collective body of persons on the city streets or ways.

(Code 1968, § 18-10; Code 1987, § 17-9(a))

Sec. 46-87. Purposes; special permit required.

For the purpose of giving the public authorities of the city notice in advance of any parade or procession upon any public street or way in the city or its police jurisdiction so as to afford opportunity for proper policing, to ensure the convenience or comfort of the public in the use of the public streets and ways of the city, to prevent confusion by overlapping parades or processions, and to minimize the risk of disorder, no parade or procession upon any public street or way in the city or its police jurisdiction shall be permitted unless a special permit therefor shall first be obtained from the city council. Funeral processions are not covered by this article.

(Code 1968, § 18-10; Code 1987, § 17-9(a))

Sec. 46-88. Investigation by council; issuance of permit.

Upon application being made to the city council for such permit, the city council shall consider the application and hold an investigation thereon at its next meeting; and if, after such consideration and investigation, the city council finds that the convenience of the public in the use of the city streets and ways would not thereby be unduly impaired or disturbed, upon such condition or changes in time, place and manner as would avoid disturbance, the city council shall issue such special permit for the parade or procession applied for, subject to the payment of the fee specified in section 46-89.

(Code 1968, § 18-10; Code 1987, § 17-9(b))

Sec. 46-89. Contents of permit; fee as fixed.

Every such special permit shall be in writing and shall specify the day and hour of the parade or procession. Every permittee shall pay in advance for such permit, for the use of the city, a sum of money that the city council deems necessary for the services rendered for each day that such parade or procession shall take place. Said fee is not revenue tax, but one to meet the expense incidental to the administration of this article and to the maintenance of public order in the matter permitted. In exercising its discretion in fixing said fee, the city council shall be guided by the expense incidental to the administration of this article and to the maintenance of public order in the kind, size and type of parade or procession permitted.

(Code 1968, § 18-10; Code 1987, § 17-9(c))

Chapter 47 RESERVED

Chapter 48 TELECOMMUNICATIONS

ARTICLE I. - IN GENERAL

ARTICLE II. - TELECOMMUNICATIONS TOWERS

ARTICLE I. IN GENERAL

[Secs. 48-1—48-18. Reserved.](#)

Secs. 48-1—48-18. Reserved.

ARTICLE II. TELECOMMUNICATIONS TOWERS

[Sec. 48-19. Purpose and legislative intent.](#)

[Sec. 48-20. Applicability.](#)

[Sec. 48-21. Objectives.](#)

[Sec. 48-22. Development standards.](#)

[Sec. 48-23. Application.](#)

[Sec. 48-24. Exceptions.](#)

Sec. 48-19. Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the city's authority concerning the placement, construction and modification of telecommunications facilities. The city finds that such telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the city and its inhabitants. The city also recognizes that facilitating development of telecommunication service technology can be an economic development asset to the city and of significant benefit to the city and its residents. In order to ensure that placement, construction or modification of telecommunications facilities is consistent with the city's land use and development policies and regulations, the city is adopting a single, comprehensive, telecommunications facilities application and permit process. The intent of this article is to minimize the impact of telecommunications facilities, establish a fair and efficient process for review and approval of applications, ensure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the city. Further, this article is designed and intended to ensure the compatibility of telecommunications facilities with and avoid adverse impacts upon nearby properties and the city at large, and to discourage the proliferation of telecommunications towers throughout the city.

(Ord. No. 01-11-1, § 1, 1-3-2011)

Sec. 48-20. Applicability.

All telecommunications towers used for the transmission of electronic communications signals to the general public or private receivers, other than amateur radio towers and towers used by a public facility, and any cables, wires, lines, wave guides, antennas, structures, and any other facilities or equipment associated with the transmission or reception of electronic communication that are or may be located near or installed upon a tower or antenna support structure, are subject to these regulations.

(Ord. No. 01-11-1, § 2, 1-3-2011)

Sec. 48-21. Objectives.

The proposed locations and design of all telecommunications towers and appurtenant facilities shall duly consider and satisfy the following public health, safety and general welfare objectives:

- (1) *Optimization of facilities.* It is the city's express intent that construction or installation of any new telecommunications towers be an option of last resort. To the greatest extent feasible, the location of new antennae on existing towers and other suitable structures shall first be sought in accordance with provisions of sections 48-22 and 48-23.
- (2) *Structural safety.* All proposed telecommunications towers and other facilities will comply with wind loading and other structural standards contained in applicable building and technical codes so as not to endanger the health and safety of residents, employees or travelers in the event of structural failure.
- (3) *View protection.* Proposed telecommunications facilities will be designed to minimize adverse visual impacts to surrounding properties and the public right-of-way, given the topography of the proposed site and surrounding area.
- (4) *Land use compatibility.* The proposed telecommunications facilities will be compatible with the surrounding land uses, given the character of the use and development of the location.
- (5) *Design harmony.* The proposed telecommunications facilities will be designed in harmony with the natural setting and the surrounding development pattern as well as to the highest industry standards.
- (6) *Existing communication services.* The proposed telecommunications facilities will comply with FCC and other applicable standards so as not to interfere with existing communication services in the area.
- (7) *Health effects.* The proposed telecommunications facilities will comply with all applicable federal, state, county and city health standards so as not to cause detrimental health effects to persons in the surrounding area.

(Ord. No. 01-11-1, § 3, 1-3-2011)

Sec. 48-22. Development standards.

The city clerk and/or designated agent shall review all telecommunications facilities permit requests for compliance with the applicable standards listed in this section. These standards are considered the minimum necessary to protect the public health, safety and general welfare. The planning commission may also impose higher standards if it deems them to be necessary to further the purposes and objectives of these regulations.

- (1) *Co-location.* No new telecommunications tower shall be established if space is structurally, technically and economically available on an existing telecommunications tower or other suitable structure that could generally provide service to the area that a new tower would serve.

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Documentation that reasonable efforts have been made by the applicant to achieve co-location shall be submitted in accordance with section 48-23(5). Telecommunications towers shall be designed to maximize shared use to the greatest extent possible, given the structural and technical limitations of the type of tower proposed. If feasible, each new tower shall, at a minimum, be designed for at least triple its intended use for all transmission and reception antennae other than microwave dish antennae, and shall be made available to others for such purposes.

(2) *Setbacks.*

- a. Where permitted, the distance between the base of the telecommunications tower, including guys, accessory facilities and property lines abutting residential districts, public parks and roads, must equal 20 percent of the tower height. Along property lines adjacent to other than residential districts a setback shall be required equal to the rear yard setback established for the underlying zone of the tower site.
- b. Notwithstanding subsection (2)a of this section, when located within or adjacent to a residential district or dwelling, the minimum standard setback from all adjoining residential property boundaries shall be 100 feet.
- c. Site plan review by the planning commission may result in reduction of the standard setbacks in exceptional cases where a hardship would result due to unusual conditions on the site or other impracticalities. However, the planning commission shall not reduce the setbacks to the detriment of affected residential properties.

(3) *Appearance.*

- a. Telecommunications towers shall be of a monopole type and shall maintain an exterior finish so as to reduce the visibility of the structure, unless other standards are required by the FAA.
- b. The design of the tower shall be of a type that has the least visual impact on the surrounding area as determined by the planning commission.
- c. The design of the telecommunications facilities compound shall, to the greatest extent possible, maximize use of building materials, colors, textures, screening and landscaping that effectively blend the facilities into the surrounding natural setting and built environment.

(4) *Lighting.* Telecommunications towers shall not be artificially lighted unless required by the FAA or other authority for safety purposes. Where required, the planning commission shall review the available lighting alternatives to ensure that lighting proposed would cause the least disturbance to the surrounding views. Dual lighting (red at night/strobe during the day) shall be preferred unless restricted by the FAA. Security lighting may be permitted in accordance with subsection (6) of this section.

(5) *Landscaping.*

- a. A landscaped buffer shall effectively screen the view of the telecommunications tower compound from adjacent public ways and residential properties.
- b. The standard buffer shall consist of a minimum eight-foot-wide landscaped strip outside the dark vinyl-coated steel security fencing of the perimeter of the compound. The buffer strip shall be planted with an attractive combination of trees, shrubs, vines and/or ground covers that can achieve the full height of the fence at maturity and enhances the outward appearance of the security fence. For sites within 1,000 feet of a residence, site review by the planning commission may impose increased buffer standards to include a decay-resistant, solid wood fence, earth berms and brick or masonry walls in addition to the security fencing. All fencing and landscaping shall be maintained by the lessor/owner.
- c. In isolated nonresidential areas, alternative landscaping methods may be accepted, such as the use of earth toned colored, vinyl-coated steel security fencing in combination with a four-foot buffer of evergreen trees, shrubs, vines and/or other plantings.

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- d. In certain locations where the visual impact of the telecommunications tower would be minimal, such as remote, agricultural or rural locations, or developed heavy industrial areas, the landscaping requirements may be reduced or waived by the planning commission.
 - e. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as telecommunications towers located on large, wooded lots, preservation of substantial natural growth around the property perimeter may be a sufficient buffer.
 - f. Facilities utilizing underground vaults in lieu of aboveground switching gear buildings shall be exempted from any buffer requirements.
- (6) *Security devices.* The facility shall be fully secured. A minimum eight-foot-high, dark vinyl-coated steel fence shall be installed around the entire perimeter of the compound (measured to the top of the fence or barbed wired, if applicable). Security fencing shall require screening in accordance with landscaping requirements, as defined above. Other security measures shall include locks and alarms. Approved barbed or razor wire and lighting of the compound shall be permitted, if deemed necessary to fully secure the telecommunications tower compound.
 - (7) *Access.* Driveways and on-site parking shall be provided to ensure the operator's access to the facility for maintenance or emergency services.
 - (8) *Removal of obsolete telecommunications towers.* Any telecommunications tower that is no longer in use for its original communications purpose shall be removed at the owner's expense. The owner shall provide the city clerk and/or designated agent with a copy of the notice of the FCC of intent to cease operations, which shall be given 90 days from the date of ceasing operations to remove the obsolete telecommunications tower and accessory facilities. In the case of multiple operators sharing use of a single tower, this provision shall not become effective until all users cease operations.

(Ord. No. 01-11-1, § 4, 1-3-2011)

Sec. 48-23. Application.

Any application submitted for approval shall submit the following, in addition to any other required information, to show compliance with this article:

- (1) *Statement of impact on health, safety and welfare.* A brief written statement shall address conformance with the health, safety and welfare objectives of this article.
- (2) *Site plan.* A scaled site plan shall show the location and dimensions of all improvements, including setbacks, drives, parking, fencing, landscaping, and other information necessary to determine compliance with the development standards of this article.
- (3) *Rendering.* A rendering of the telecommunications tower, accessory facilities and compound shall depict colors, materials and landscape treatment. If lighting or other FAA requirements for tower color are proposed, evidence of such requirements shall be submitted.
- (4) *Justification for a new telecommunications tower.* A proposal for a new telecommunications tower shall be documented by the applicant that the planned equipment for a proposed tower cannot be accommodated on an existing tower within the proposed service area. The applicant shall submit a written affidavit showing what attempts have been made to share an existing tower or that no such tower exists.
- (5) *Certification of shared use design.* A qualified engineer, registered in the state, shall certify that the proposed telecommunications tower's structural design can accommodate a minimum of two additional shared users, in accordance with section 48-22(1).

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- (6) *As-built survey.* A qualified professional engineer, registered in the state, shall certify that the proposed telecommunications tower is to be constructed and installed in accordance with the submitted site plan, including the installation of any required buffer yard.
- (7) *Capacity.* Total anticipated capacity of the structure, including the number and types of antennae that can be accommodated.
- (8) *Mitigation.* Mitigation measures for ice and other hazardous falling debris, including setbacks and de-icing equipment.

(Ord. No. 01-11-1, § 5, 1-3-2011)

Sec. 48-24. Exceptions.

Telecommunications towers camouflaged using any of various concealment techniques in order to blend in with the native landscape will be subject to administrative review by the city clerk or designated agent, as are other types of concealment techniques. Concealment techniques are design methods used to blend a telecommunications facility, including any antennas thereon, unobtrusively into the existing surroundings so as to not have the appearance of a telecommunications facility. Such structures shall be considered telecommunications facilities and not spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level 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 telecommunications facility and surrounding development. Concealed telecommunications towers on developed property must be disguised to appear as either a part of the structure housing or an accessory structure that is normally associated with the principal use occupying the property. Concealed telecommunications towers developed on unimproved property must be disguised to blend in with existing vegetation.

(Ord. No. 01-11-1, § 6, 1-3-2011)

Chapter 49 RESERVED

Chapter 50 TRAFFIC [11](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - SPEED

ARTICLE III. - PARKING

ARTICLE IV. - TRUCK TRACTORS AND TRAILERS

ARTICLE V. - TRUCK ROUTES

FOOTNOTE(S):

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CODE OF ORDINANCES

State Law reference— Motor vehicles and traffic generally, Code of Ala. 1975, § 32-1-1.1 et seq.; Highway and Traffic Safety Coordination Act, Code of Ala. 1975, § 32-4-1 et seq.; municipal regulation of trains and automobiles within corporation limits, Code of Ala. 1975, § 11-47-114; municipal authority with regard to off-street parking facilities, Code of Ala. 1975, § 11-47-240 et seq.; municipal authority to establish speed limits within city's corporate limits, Code of Ala. 1975, § 11-49-4; posting of signs regarding municipal speed limits, Code of Ala. 1975, § 11-49-5; municipal authority to prohibit and restrict use of certain highways, Code of Ala. 1975, § 32-1-3; liability for damage to highways, Code of Ala. 1975, § 32-5-9; local traffic control devices, Code of Ala. 1975, § 32-5-31; authority of municipalities with regard to abandoned vehicles, Code of Ala. 1975, § 32-13-8; municipal testing stations, Code of Ala. 1975, § 32-18-1. ([Back](#))

ARTICLE I. IN GENERAL

[Sec. 50-1. Adoption of state motor vehicle and traffic laws.](#)

[Sec. 50-2. Violations; punishment.](#)

[Sec. 50-3. U-turns prohibited at traffic lights.](#)

[Secs. 50-4—50-26. Reserved.](#)

Sec. 50-1. Adoption of state motor vehicle and traffic laws.

In addition to all provisions of law relating to the speed and operation of motor vehicles in the city, there is hereby adopted by the city all laws of the state and all rules and regulations of the state department of public safety pertaining to the control of traffic and motor vehicles on highways that are misdemeanors under the state laws, and a violation of such laws, rules, and regulations in the city or in the police jurisdiction thereof shall be a violation of this chapter.

(Code 1968, § 30-1; Code 1987, § 21-1; Ord. No. 10-84, § 7, 10-1-1984)

State Law reference— Authority to adopt, Code of Ala. 1975, § 11-45-8(c)(11).

Sec. 50-2. Violations; punishment.

Any person violating any provision of this chapter shall, except as otherwise provided by law, be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$100.00 or may be imprisoned in the municipal jail or sentenced to hard labor for the city for a period not exceeding ten days; for a second such conviction within one year thereafter, such person shall be punished by a fine not more than \$100.00 or may be imprisoned in the municipal jail or sentenced to hard labor for the city for a period not exceeding 20 days or by both fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction, such person shall be punished by a fine of not more than \$100.00 or may be imprisoned in the municipal jail or sentenced to hard labor for a period not exceeding six months or by both fine and imprisonment.

(Code 1987, § 21-2; Ord. No. 10-84, § 8, 10-1-1984)

Sec. 50-3. U-turns prohibited at traffic lights.

No driver of any vehicle shall make a U-turn at any traffic or signal light.

(Code 1968, § 30-18(2); Code 1987, § 21-4)

Secs. 50-4—50-26. Reserved.

ARTICLE II. SPEED

[Sec. 50-27. 55-mile-per-hour zones.](#)

[Sec. 50-28. 45-mile-per-hour zones.](#)

[Sec. 50-29. 35-mile-per-hour zones.](#)

[Sec. 50-30. 25-mile-per-hour zones.](#)

[Sec. 50-31. Speed limit 25 miles per hour where not posted.](#)

[Secs. 50-32—50-50. Reserved.](#)

Sec. 50-27. 55-mile-per-hour zones.

No person shall operate a motor vehicle at a greater speed than 55 miles per hour in the following listed zones of the city:

- (1) On Alabama Highway No. 1 (U.S. 431 Bypass) from south city limits, mile post 42.45 thence northerly to north city limits, mile post 45.55, a distance of 3.1 miles.
- (2) On Alabama Highway No. 10, mile post 227.30 from west city limits, thence easterly, a distance of 0.20 mile.
- (3) On Alabama Highway No. 10 from Sandra Drive to east city limits, mile post 232.1, a distance of 1.10 miles.
- (4) On Alabama Highway No. 95 from a point 0.6 mile north of Alabama Highway No. 10, thence northerly to the north city limits, mile post 38.35, a distance of 1.5 miles.

(Code 1987, § 21-20; Ord. No. 10-84, § 1, 10-1-1984)

Sec. 50-28. 45-mile-per-hour zones.

No person shall operate a motor vehicle at a greater speed than 45 miles per hour in the following listed zones of the city:

- (1) On Alabama Highway No. 10 from a point 0.20 mile east of west city limits, thence easterly to intersection of Alabama Highway No. 10 and U.S. 431, a distance of 0.35 mile.
- (2) On Alabama Highway No. 10 from County Road No. 45, thence easterly to Marianna Drive, a distance of 1.20 miles.
- (3) On Alabama Highway No. 10 from a point 0.35 mile east of Armory Drive, thence easterly to Sandra Drive for a distance of 0.35 mile.
- (4) On Alabama Highway No. 27 from south city limits, mile post 73.75, thence northerly to Julia Drive for a distance of 2.35 miles.
- (5) On Alabama Highway No. 95 from south city limits, mile post 32.80, thence northerly for a distance of 2.40 miles.

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- (6) On Alabama Highway No. 95 from a point 0.5 mile north of Alabama Highway No. 10, thence northerly for a distance of 0.1 mile.
- (7) On Singletary Road:
 - a. From the north end, south a distance of 1.6 miles.
 - b. From the north end of Industrial Park Road south a distance of 2.2 miles.

(Code 1987, § 21-21; Ord. No. 10-84, § 2, 10-1-1984; Ord. of 1-7-1985; Ord. of 6-3-1985)

Sec. 50-29. 35-mile-per-hour zones.

No person shall operate a motor vehicle at a greater speed than 35 miles per hour in the following listed zones of the city:

- (1) On Alabama Highway No. 1 (U.S. 431 Business) from a point 1.08 miles north of south city limits, thence northerly to junction Alabama Highway No. 27, a distance of 0.02 mile.
- (2) On Alabama Highway No. 10 from intersection of Alabama Highway No. 10 and U.S. 431 (Bypass), thence easterly to County Road No. 45, a distance of 0.35 mile.
- (3) On Alabama Highway No. 10 from Marianna Drive, thence easterly to Trawick Drive, a distance of 0.55 mile.
- (4) On Alabama Highway No. 10 from Armory Drive, thence easterly a distance of 0.35 mile.
- (5) On Alabama Highway No. 27 from Julia Drive, thence northerly to E. Clendinen Street, a distance of 0.60 mile.
- (6) On Alabama Highway No. 95 from a point 2.40 miles north of south city limits, thence northerly to Ash Drive, a distance of 0.25 mile.
- (7) On Alabama Highway No. 95 from a point 0.4 mile north of Alabama Highway No. 10, thence northerly, a distance of 0.1 mile.
- (8) On Hickory Grove Road from a point .85 mile north of Alabama Highway No. 10 east to Alabama Highway No. 95 north, a distance of 1.2 miles.

(Code 1987, § 21-22; Ord. No. 10-84, § 3, 10-1-1984; Ord. of 1-7-1985)

Sec. 50-30. 25-mile-per-hour zones.

No person shall operate a motor vehicle at a greater speed than 25 miles per hour in the following listed zones of the city:

- (1) On Alabama Highway No. 10 from Trawick Drive, thence easterly to Armory Drive, a distance of 0.35 mile.
- (2) On Alabama Highway No. 27 from E. Clendinen Street, thence northerly to Alabama Highway No. 10, a distance of 0.45 mile.
- (3) On Alabama Highway No. 95 from Ash Drive, thence northerly a distance of 1.1 miles.
- (4) On Hickory Grove Road from the south end north, a distance of 0.85 mile.

(Code 1987, § 21-23; Ord. No. 10-84, § 4, 10-1-1984; Ord. of 1-7-1985)

Sec. 50-31. Speed limit 25 miles per hour where not posted.

No person shall operate a motor vehicle at a greater speed than 25 miles per hour on any street or alley unless otherwise indicated by proper signs or markings.

(Code 1987, § 21-24; Ord. No. 10-84, § 5, 10-1-1984)

Secs. 50-32—50-50. Reserved.

ARTICLE III. PARKING

DIVISION 1. - GENERALLY

DIVISION 2. - SPECIAL PARKING ZONES

DIVISION 1. GENERALLY

[Sec. 50-51. Two-hour maximum parking time.](#)

[Sec. 50-52. Parking within lines.](#)

[Sec. 50-53. Fines for violations; arrest of offender.](#)

[Sec. 50-54. Towing.](#)

[Sec. 50-55. Impounding fee.](#)

[Secs. 50-56—50-85. Reserved.](#)

Sec. 50-51. Two-hour maximum parking time.

It shall be unlawful to park a motor vehicle, trailer or any other mode of conveyance for a longer period than two consecutive hours in the same space. Each two consecutive hours will be a separate offense on the streets of the city within those areas marked by appropriate designated signs.

(Code 1987, § 21-30; Ord. No. 5-86, § 1, 5-5-1986)

Sec. 50-52. Parking within lines.

It shall be unlawful for any person to park a motor vehicle, trailer or any other mode of conveyance outside of the designated lines describing a parking space.

(Code 1987, § 21-31; Ord. No. 4-93-1, § I, 4-19-1993)

Sec. 50-53. Fines for violations; arrest of offender.

Any person violating the provisions of sections 50-52 and 50-54 shall be subject to a fine of not less than \$5.00 if paid within 15 days. After 15 days, the fine will be \$15.00. After 30 days, a warrant of arrest will be issued by the magistrate, and any fine for conviction of any provisions of this article thereafter shall be not less than \$25.00 and not more than \$50.00.

(Code 1987, § 21-34; Ord. No. 4-93-1, § IV, 4-19-1993)

Sec. 50-54. Towing.

Any motor vehicle, trailer or other mode of conveyance left unattended within any of the areas described in division 2 of this article for a longer period of time than 24 hours may be towed away by wrecker and stored until called for by the owner or operator. In the event it shall become necessary to tow any such vehicle away, the cost of towing such shall be paid by the owner or operator of such vehicle in addition to the penalty levied by section 50-53.

(Code 1987, § 21-35; Ord. No. 4-93-1, § V, 4-19-1993)

Sec. 50-55. Impounding fee.

There shall be a charge as established from time to time for any impounded vehicle after five days, payable to the city.

(Code 1987, § 21-36; Ord. No. 4-93-1, § VI, 4-19-1993)

Secs. 50-56—50-85. Reserved.

DIVISION 2. SPECIAL PARKING ZONES

[Sec. 50-86. Establishment of no parking, handicapped parking and loading zones on the public streets of the city.](#)

[Sec. 50-87. Violations.](#)

[Sec. 50-88. Penalties.](#)

[Secs. 50-89—50-119. Reserved.](#)

Sec. 50-86. Establishment of no parking, handicapped parking and loading zones on the public streets of the city.

- (a) The city council, upon the advice of the police chief, shall from time to time establish no parking, handicapped parking and loading zones on the public streets of the city.
- (b) No parking shall be marked by yellow paint on the curb and street and/or by appropriate signs designating certain areas as no parking. The marking of such areas by yellow paint and/or appropriate signs shall be prima facie evidence that the city council has established such areas as no parking.
- (c) Handicapped parking shall be marked by blue paint on the curb and street and/or by appropriate signs designating certain areas as handicapped parking. The marking of such areas by blue paint and/or appropriate signs shall be prima facie evidence that the city council has established such areas as handicapped parking.
- (d) Loading zones shall be marked by yellow stripes painted on the street and by appropriate signs. The marking of such areas by yellow striped paint and appropriate signs shall be prima facie evidence that the city council has established such areas as loading zones.

(Ord. No. 04-09-1, § 1, 4-6-2009)

Sec. 50-87. Violations.

- (a) It shall be unlawful to stop, stand, or park any vehicle, except for an emergency vehicle being used for emergency purposes, within an area designated as a no parking in accordance with section 50-86(b).
- (b) It shall be unlawful to stop, stand, or park any vehicle, except for those which have a distinctive handicapped decal or other distinctive handicapped identification as provided for in state law, within any area designated as handicapped parking in accordance with section 50-86(c).
- (c) It shall be unlawful to stop, stand, or park any vehicle, except for the purpose of expeditious loading or unloading of materials or goods for the merchants within the business district of the city, within any area designated as a loading zone in accordance with section 50-86(d); and no person shall stop, stand, or park any vehicle in such loading zone for a continuous period in excess of 30 minutes.

(Ord. No. 04-09-1, § 2, 4-6-2009)

Sec. 50-88. Penalties.

- (a) Violation under section 50-87(a) or (c) shall be deemed a violation and punishable by a fine not to exceed \$100.00, plus court costs.
- (b) Violation under section 50-87(b) shall be deemed a violation and punishable by a fine not to exceed \$500.00, plus court costs.
- (c) Vehicles illegally parked in designated areas established under sections 50-87(a), (b) or (c) for a period greater than one hour may be towed and impounded by the police department. All towing and storage fees are the responsibility of the owner or operator of the vehicle.

(Ord. No. 04-09-1, § 3, 4-6-2009)

Secs. 50-89—50-119. Reserved.

ARTICLE IV. TRUCK TRACTORS AND TRAILERS

[Sec. 50-120. Definitions.](#)

[Sec. 50-121. Certain acts declared unlawful.](#)

[Sec. 50-122. Inapplicability.](#)

[Sec. 50-123. Penalties.](#)

[Secs. 50-124—50-144. Reserved.](#)

Sec. 50-120. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Trailer means every vehicle with or without motive power designed for carrying property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle; however, the term "trailer" shall not be construed to include utility trailers as defined in Code of Ala. 1975, § 40-12-240, nor shall it be construed to include boat trailers.

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Truck means every motor vehicle designed, used or maintained primarily for the transportation of property.

Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(Ord. No. 1-91-1, § I, 1-7-1991)

Sec. 50-121. Certain acts declared unlawful.

It shall be unlawful for any person to drive or move any truck towing any trailer or any truck tractor towing any trailer upon any residential street (except for those streets set forth in section 50-122, maintained by the city, unless said person is in the process of picking up or delivering goods carried in said trailer to a residence or business located in the corporate limits of the city, and the use of such street is necessary to reach the destination of such pickup or delivery point.

(Ord. No. 1-91-1, § II, 1-7-1991)

Sec. 50-122. Inapplicability.

The provisions of section 50-121 shall not apply to Bradley Street; that portion of East Alabama Street lying between the intersections of said street with Kirkland Street and Columbia Road; Singletary Road; Hickory Grove Road; Industrial Park Road; Whitehead Road; and any street which is maintained principally by the county as a part of its county road system, or the state as a part of its state highway system.

(Ord. No. 1-91-1, § III, 1-7-1991)

Sec. 50-123. Penalties.

Every person convicted of violating any of the provisions of this article shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(Ord. No. 1-91-1, § IV, 1-7-1991)

Secs. 50-124—50-144. Reserved.

ARTICLE V. TRUCK ROUTES

[Sec. 50-145. Definitions.](#)

[Sec. 50-146. Activity prohibited.](#)

[Sec. 50-147. Designation of truck route.](#)

[Sec. 50-148. Signs to be erected.](#)

[Sec. 50-149. Trucks not on specified routes; subject to violation.](#)

[Sec. 50-150. Vehicle exempted.](#)

[Sec. 50-151. Penalty.](#)

Sec. 50-145. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Truck includes all types and models of trucks, including, but not limited to, tractor trucks, tractor trucks with trailers attached, and tractor trucks with mobile homes attached, but shall not include pickup trucks.

(Ord. No. 12-05-1, § I, 12-12-2005)

Sec. 50-146. Activity prohibited.

No person shall drive, operate or park any large vehicle on any street or alley within the city limits except such parts of streets as are designated as truck routes in section 50-147; provided that such vehicles may deviate from said truck routes for the purpose of loading or unloading, but in so doing, such vehicle shall use the shortest and nearest route from a point on the truck route so that the vehicle shall at no time deviate from truck route for a greater distance than is necessary to reach the point of loading or unloading.

(Ord. No. 12-05-1, § II, 12-12-2005)

Sec. 50-147. Designation of truck route.

(a) The following streets or parts of streets shall constitute truck routes:

- (1) State Highway 10 within the corporate limits of the city.
- (2) State Highway 95 within the corporate limits of the city.
- (3) U.S. Highway 431 within the corporate limits of the city.

(b) The description in subsection (a) of this section is a description of the truck routes for trucks traveling in any direction.

(Ord. No. 12-05-1, § III, 12-12-2005)

Sec. 50-148. Signs to be erected.

The city shall cause to be erected and maintained at points where through trucks enter the city and at all junctions, points, and turns where necessary signs and such directions at such locations as shall be approved by the city, directing truck traffic in accordance with the provisions of this article.

(Ord. No. 12-05-1, § IV, 12-12-2005)

Sec. 50-149. Trucks not on specified routes; subject to violation.

Any truck traveling on the streets of the city, which said streets are not on the designated truck routes, may be stopped by the police and the driver of the truck, at the request of the police, shall

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produce evidence that his load is, or that he has goods, wares or merchandise, consigned to a business in the city; upon the failure of the driver to furnish such evidence, said driver shall be subject to prosecution for violating this article; provided, however, nothing contained in this section would prevent the driver from producing other types of evidence that he had a load or goods, wares or merchandise on his truck consigned to a business in the city.

(Ord. No. 12-05-1, § V, 12-12-2005)

Sec. 50-150. Vehicle exempted.

This article does not apply to buses operated under authority of the U.S. Department of Transportation, vehicles of the fire department, or other vehicles operating for the purpose of preserving life or property in cases of emergency.

(Ord. No. 12-05-1, § VI, 12-12-2005)

Sec. 50-151. Penalty.

Any person violating the provisions of this article shall be subject to a fine of not less than \$100.00, plus court costs.

(Ord. No. 12-05-1, § VII, 12-12-2005)

Appendix A ZONING AND SUBDIVISIONS [11](#)

ARTICLE I. - PURPOSE AND ENACTMENT

ARTICLE II. - SHORT TITLE

ARTICLE III. - DEFINITIONS OF TERMS USED IN THIS ORDINANCE

ARTICLE IV. - ESTABLISHMENT OF DISTRICTS

ARTICLE V. - APPLICATION OF REGULATIONS

ARTICLE VI. - GENERAL PROVISIONS

ARTICLE VII. - USE REQUIREMENTS BY DISTRICTS

ARTICLE VIII. - OTHER REQUIREMENTS BY DISTRICTS

ARTICLE IX. - SPECIAL PROVISIONS

ARTICLE X. - EXCEPTIONS AND MODIFICATIONS

ARTICLE XI. - ZONING ADMINISTRATION

ARTICLE XII. - PROCEDURES FOR SUBDIVISION PLAT APPROVAL

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ARTICLE XIII. - GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN FOR THE SUBDIVISION OF LAND

ARTICLE XIV. - REQUIRED SUBDIVISION IMPROVEMENTS

ARTICLE XV. - ENFORCEMENT AND REMEDIES

ARTICLE XVI. - LEGAL STATUS PROVISIONS

FOOTNOTE(S):

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Editor's note— The comprehensive land development ordinance, being Ord. No. 2-72, adopted on March 6, 1972, is set out herein as enacted and amended; except that missing section numbers and captions have been inserted in brackets [] by the editor. ([Back](#))

State Law reference— Municipal planning, zoning, and subdivisions generally, Code of Ala. 1975, § 11-52-1 et seq.; regional planning commissions generally, Code of Ala. 1975, § 11-85-1 et seq. ([Back](#))

ARTICLE I. PURPOSE AND ENACTMENT

[\[Sec. 11. Ordaining clause.\]](#)

[Sec. 11. Ordaining clause.]

The mayor and council of the City of Abbeville, Alabama, pursuant to the authority granted by Code of Alabama 1975, section 11-52-1 et seq. and for the purpose of promoting the health, safety, morals, convenience, order, prosperity, or the general welfare of the municipality and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, hereby ordains and enacts into law an official land development ordinance for the incorporated area of the City of Abbeville, for planning, zoning and subdivision control purposes and agreed upon through laws enacted by both the mayor and council of the City of Abbeville, Alabama. For subdivision control, the jurisdiction shall include additionally all land located within five (5) miles of the corporate limits and not located in any other municipality.

ARTICLE II. SHORT TITLE

[\[Sec. 21. Citing ordinance.\]](#)

[Sec. 21. Citing ordinance.]

This ordinance shall be known and may be cited as "The Comprehensive Land Development Ordinance for the City of Abbeville, Alabama."

ARTICLE III. DEFINITIONS OF TERMS USED IN THIS ORDINANCE

[Sec. 31. General.](#)

[Sec. 32. Specific definitions.](#)

Sec. 31. General.

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. The word "person" includes a firm, corporation, association, organization, trust or partnership. The word "lot" includes "plot" or "parcel." The word "building" includes "structure." The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied." The word "map" means the "Official Zoning Districts Map for the City of Abbeville, Alabama."

Sec. 32. Specific definitions.

When used in this ordinance, the following words and phrases shall have the meaning given in this section:

- (1) *Accessory use*: A use customarily incidental to the principal use of land.
- (2) *Block*: A piece or parcel of land entirely surrounded by public highways or streets, other than alleys.
- (3) *Building*: Any structure attached to the ground and intended for shelter, housing, or enclosure of persons, animals, or chattels.
- (4) *Building, accessory*: A subordinate building, the use of which is incidental to that of the dominant use of the main building or land.
- (5) *Building, alterations of*: Any change in the supporting members of a building (such as bearing walls, beams, columns, and girders) except such change as may be required for its safety; any addition to a building; any change in use resulting from moving a building from one location to another.
- (6) *Commission*: The Abbeville City Planning Commission.
- (7) *Council*: The mayor and council for the City of Abbeville, Alabama.
- (8) *District*: A section of the City of Abbeville within which the zoning regulations are uniform.
- (9) *Dwelling*: A building designed or used for permanent living quarters for one or more families.
- (10) *Easement*: A grant by a property owner of the use of land for a specific purpose or purposes by the general public, or a corporation or a certain person or persons.
- (11) *Family*: One or more persons occupying a dwelling and living as a single house-keeping unit, as distinguished from persons occupying a boardinghouse, lodging house, or hotel, as herein defined.

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- (12) *Frontage, lot*: The distance for which the front boundary line of the lot and the street line are coincident.
- (13) *Frontage, street*: All the property on the side of a street between two (2) intersecting streets (crossing or terminating), or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.
- (14) *Home occupation*: An occupation for gain or support conducted only by members of a family residing on the premises and entirely within the main dwelling.
- (15) *Lot*: A parcel of land occupied or to be occupied by one or more main buildings and its accessory buildings with such open and parking spaces as are required by the provisions of this ordinance and having its frontage upon a public street or streets.
- (15a) *Major highway*: A type of street having more than two (2) lanes which is divided in the center by a median or other such device for separating the flow of traffic. (Ord. No. 8-77B, § 1, 8-1-1977)
- (16) *Mobile home park*: A lot, portion or parcel of land designed for or which is intended to be used for the accommodation of two (2) or more residential mobile homes.
- (17) *Nonconforming use*: A use of land existing at the time of the enactment of this ordinance, or at the time of a zoning amendment and which does not conform with the regulations of the use district in which it is located.
- (18) *Plat*: A map, plan or layout of a county, city, town, section or subdivision indicating the location and boundaries of properties.
- (19) *Sign*: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product which are visible from any public way and used as an outdoor display.
- (19a) *Street*: A public or dedicated way or a public proposed right-of-way, widening, or extension of an existing street or way. (Ord. No. 8-77B, § 1, 8-1-1977)
- (20) *Structure*: Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.
- (21) *Subdivider*: Any person who undertakes the subdivision of land as herein defined.
- (22) *Subdivision*: Any division of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes any division of land involving a new street or a change in existing streets, and includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided; provided, however, that the following are not included in this definition:
 - (a) The division of land into parcels of five (5) acres or more where no new street is involved; and
 - (b) The sale or exchange of parcels of land between separate or common owners of adjoining properties, provided that additional lots are not thereby created, and that the lots created are in accordance with the provisions of this ordinance.
- (23) *Travel trailer park*: Any lot on which are temporarily parked two (2) or more travel trailers for a period of less than thirty (30) days.
- (24) *Yard*: A space on the same lot with a main building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.
- (25) *Yard, front*: An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the

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front line of the building and the right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

- (26) *Yard, rear:* An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.
- (27) *Yard, side:* An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

ARTICLE IV. ESTABLISHMENT OF DISTRICTS

[Sec. 41. Division of the city into districts.](#)

[Sec. 42. Incorporation of the zoning map.](#)

[Sec. 43. Map amendment.](#)

[Sec. 44. Rules for determining boundaries.](#)

Sec. 41. Division of the city into districts.

For the purpose of this ordinance, the City of Abbeville, Alabama, is divided into ten (10) districts as follows:

R-1	Single-Family Residential district
R-2	Two-Family Residential district
R-3	Multi-Family Residential district
R-4	Rural Residential district (Ord. No. 3-82, § 2, 3-15-1982)
R-5	Rural Residential district (Ord. No. 3-82, § 2, 3-15-1982)
C-1	Neighborhood Commercial district
C-2	General Commercial district
FH	Flood hazard district
M-1	Wholesale and Light Industrial district

M-2	Industrial district
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Sec. 42. Incorporation of the zoning map.

The official zoning map, with all notations, references and other information shown thereon shall be the official zoning map and is hereby made a part of this ordinance. Said map is hereby made a public record and shall be kept permanently in the office of the Abbeville City Clerk, where the map will be accessible to the general public.

Sec. 43. Map amendment.

If, in accordance with provisions of this ordinance, changes are made in the district boundaries or other information portrayed in the official zoning map, changes shall be made on the official zoning map promptly after the amendment has been approved by the council, together with a numerical entry on the official zoning map referring to the application on file which states the date of the official action and the brief description of the nature of the changes. No amendment to this ordinance which involves matters portrayed on the official zoning map shall be in effect until shown on said maps.

Sec. 44. Rules for determining boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the official zoning map, the following rules shall apply:

- 44.[1] Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, center lines of streets, highways, alleys or railroads, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and they shall be construed to follow such lines.
- 44.2 Where district boundaries are approximately parallel to the center lines of streets, highways, or railroads, or right-of-way of the same, or the center lines of streams, reservoirs, or other bodies of water, or said lines extended, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the official zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official zoning map.
- 44.3 Where a district boundary line as appearing on the official zoning map divides a lot which is single ownership at the time of this enactment, the use classification of a larger portion may be extended to the remainder by the council without recourse to amendment procedure.
- 44.4 Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street or alley.
- 44.5 In case the exact location of a boundary cannot be determined by the foregoing methods, the council shall, upon application, determine the location of the boundary.

ARTICLE V. APPLICATION OF REGULATIONS

[Sec. 51. Use.](#)

[Sec. 52. Building heights.](#)

[Sec. 53. Lots.](#)

[Sec. 54. Yards.](#)

Sec. 51. Use.

Except as hereinafter provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, constructed, moved, or altered except in conformity with the regulations herein specified for the district in which it is or is to be located.

Sec. 52. Building heights.

Except as hereinafter provided, no building shall hereafter be erected, constructed or altered so as to exceed the height limit, to accommodate or house a greater number of families than are required or specified in the regulations herein for the district in which it is located.

Sec. 53. Lots.

Except as hereinafter provided, no lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area per family or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public use.

Sec. 54. Yards.

No part of a yard or other open space required for any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend more than two (2) feet beyond the yard area requirements.

ARTICLE VI. GENERAL PROVISIONS

[Sec. 61. Nonconforming building and uses.](#)

[Sec. 62. Off-street automobile parking.](#)

[Sec. 63. Off-street loading and unloading space.](#)

[Sec. 64. Control of curb cuts and vision clearance.](#)

[Sec. 65. Storage and parking of trailers and vehicles.](#)

[Sec. 66. Screening and lighting.](#)

[Sec. 67. Minimum distance between buildings.](#)

[Sec. 68. Newly annexed land.](#)

[Sec. 69. Address numbers.](#)

Sec. 61. Nonconforming building and uses.

It is the intent of this ordinance to recognize that the elimination of existing buildings and structures or uses that are not in conformity with the provisions of this ordinance is as much a subject of health, safety and general welfare as is the prevention of the establishment of new uses that would violate the provisions of this ordinance. It is also the intent of this ordinance to administer the elimination of nonconforming uses, buildings, and structures as to avoid any unreasonable invasion of established private property rights.

Therefore, any structure or use of land existing at the time of the enactment of this ordinance, and amendments thereto, but not in conformity with its use regulations and provisions, may be continued subject to the following provisions:

- 61.[1] *Unsafe structures.* Any structure or portion thereof declared unsafe by an authority may be restored to a safe condition, provided the requirements in this section are met.
- 61.2 *Alterations.* Any change in a nonconforming building, use, or building site or yard area is subject to the following:
 - 61.21 No nonconforming building may be structurally altered, except repairs on or installation of plumbing fixtures required by law; the changing of interior partitions; and interior remodeling.
 - 61.22 No nonconforming building or lands, except those residential dwellings needing repairs on or installation of plumbing fixtures as required by law, can be substantially added to, moved, or extended in any manner unless such building or land is changed so as to conform with the provisions of this ordinance.
 - 61.23 Whenever an existing residential dwelling must have made repairs on or installation of plumbing fixtures which will force the location of the future addition of the dwelling nearer the lot line than the requirements set forth in this ordinance, the addition to the dwelling shall be allowed to extend to the existing building line but no nearer the property line than any existing portion of the dwelling.
 - 61.24 Should a nonconforming building be moved, all nonconforming yard areas shall be eliminated.
- 61.3 *Extension.* A nonconforming use of land shall be restricted to the lot occupied by such use as of the effective date of this ordinance. A nonconforming use of a building or buildings shall not be extended to include either additional buildings or land after the effective date of this ordinance.
- 61.4 *Restoration of damaged buildings.* A nonconforming building, structure, or improvement which is hereafter damaged or destroyed to an extent exceeding fifty (50) percent of the reasonable estimated replacement cost of the structure, building or improvement may not be reconstructed or restored to the same nonconforming use except upon approval of the board of adjustment.
- 61.5 *Change in use.* A nonconforming use which is changed to a conforming use shall not be permitted to revert to the original or a less restrictive use.
- 61.6 *Discontinuance.* A nonconforming use which became such after the adoption of this ordinance and which has been discontinued for a continuous period of two (2) years shall not be reestablished and any future use shall be in conformity with the provisions of this ordinance.

Sec. 62. Off-street automobile parking.

Off-street automobile storage or parking space shall be provided on every lot on which any permitted or conditional use is established in accordance with this ordinance.

- 62.[1] *General requirements.* For the purpose of this ordinance the following general requirements are specified:

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62.[1]1 The term "off-street parking space" shall mean a space at least nine (9) feet wide and twenty (20) feet in length with a minimum net area of one hundred and eighty (180) square feet, excluding area for egress and ingress and maneuverability of vehicles.

62.[1]2 If an off-street parking space cannot be reasonably provided on the same lot on which the principal use is conducted, the board of adjustment may permit such space to be provided on other off-street property, provided such space lies within six hundred (600) feet of the property line of such principal use. Such vehicle parking space shall be associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

62.[1]3 The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to another use at the same time, except that portion of the parking space required for existing church the peak attendance of which will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.

62.[1]4 Area reserved for off-street parking in accordance with the requirements of this ordinance shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, except where equivalent parking space is provided to the satisfaction of the board of adjustment.

62.[1]5 Off-street parking existing at the effective date of this ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.

62.2 *Parking space requirements for all districts.* Off-street automobile storage or parking space shall be provided with vehicular access to a street or alley, and shall be equal in or to at least the minimum requirements for the specific land use set forth:

Land Use	Parking Requirements
Dwellings:	
1. One and two families.	Two (2) spaces for each dwelling unit.
2. Multiple.	One and one-half (1½) space per dwelling unit except for efficiency apartments for which one (1) space per dwelling unit shall be provided.
3. Hotels.	One (1) space for each bedroom plus one (1) additional space for each five (5) employees.
4. Motels, tourist courts and homes, mobile home and travel trailer parks.	One (1) space for each guest bedroom or mobile home or travel trailer space, plus one (1) additional space for a resident manager or owner.
5. Boarding and rooming houses, dormitories.	One (1) space for each guest bedroom.

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Public assembly:		
1.	Churches and other places of worship.	One (1) space for each four (4) seats in the main auditorium or sanctuary.
2.	Private clubs, lodges, and fraternal buildings not providing overnight accommodations.	One (1) space for each five (5) active members.
3.	Theaters, auditoriums, coliseums, stadiums and similar places of assembly.	One (1) space for each four (4) seats.
4.	Libraries, museums.	One (1) space for each five hundred (500) square feet of gross floor area.
5.	Schools, including kindergartens, playschools and day care centers.	One (1) space for each four (4) seats in assembly hall, or one (1) space for each employee, including teachers and administrators, whichever is greater, plus five (5) spaces per classroom for high schools and colleges.
6.	Skating rinks, dance halls, exhibition halls, poolrooms and other places of amusement or assembly without fixed seating arrangements.	One (1) space for each two hundred (200) square feet of floor area.
7.	Bowling alleys.	Four (4) spaces for each alley.
Health facilities:		
1.	Hospitals, sanitariums, nursing homes for the aged and similar institutional uses.	One (1) space for each four (4) beds, plus one (1) space for each four (4) employees, including nurses.
2.	Kennels and animal hospitals.	A parking area equal to thirty (30) percent of the total enclosed or covered area.
3.	Medical, dental and health offices and clinics.	One (1) space for each two hundred (200) square feet of floor area used for offices and similar purposes.

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4.	Mortuaries and funeral parlors.	Five (5) spaces per parlor chapel unit, or one (1) space per four (4) seats, whichever is greater.
Businesses:		
1.	Automobile repair establishments.	One (1) space for each regular employee plus one (1) space for each two hundred fifty (250) square feet of floor area.
2.	Food stores.	One (1) space for each two hundred (200) square feet of floor area designed for retail sales only.
3.	Restaurants, including bars, grills, diners, cafes, taverns, nightclubs lunch counters, and all similar dining and/or drinking establishments.	One (1) space for each four (4) seats provided for patron use, plus one (1) space for each seventy-four (74) square feet of floor area provided for patron use but not containing seats.
4.	Office buildings, including banks, business, commercial and professional offices and buildings, but excluding medical, dental and health offices, and clinics.	One (1) space for each three hundred (300) square feet of ground floor area, plus one (1) space for each five hundred (500) square feet of upper floor area.
5.	General business, commercial or personal service establishments catering to the retail trade, but excluding food stores.	One (1) space for each two hundred (200) square feet of floor area designated for retail sales only.
6.	Governmental offices.	One (1) space for each three hundred (300) square feet of ground floor area plus one (1) space for each five hundred (500) square feet of upper floor area and one (1) space for each governmental vehicle.
7.	Shopping centers.	Ten (10) spaces for each one thousand (1,000) square feet of floor area designated for retail sales only for "centers" up to fifteen (15) acres in size and eight (8) spaces for each one thousand (1,000) square feet of floor area designated for retail sales only for "centers" of fifteen (15) or more acres in area.

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8.	Furniture stores.	One (1) space for each one thousand (1,000) square feet of gross floor area.
9.	Public utilities, such as telephone exchanges and substations, radio and TV stations, and electric power and gas substations.	A parking area equal to twenty-five (25) percent of the gross floor area.
Industries:		
1.	Commercial, manufacturing and industrial establishments, not catering to the retail trade.	One (1) space for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.
2.	Wholesale establishments.	One (1) space for every fifty (50) square feet of customer service area, plus two (2) spaces for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.

62.3 *Site requirements.* All off-street parking shall be laid out, constructed, and maintained in accordance with the following requirements (except in residential areas):

62.31 All such parking areas shall be hard surfaced with concrete or plant bituminous material and shall be maintained in a dustproof condition and a good stand of grass shall be maintained on the remainder of the lot.

62.32 Lighting facilities shall be so arranged that light is reflected away from adjacent properties.

62.33 The parking lot shall be adequately drained.

62.34 Along those lot liens [lines] of the parking area which abut residential districts, a dense planting of trees and shrubs shall be established on a strip of land not less than eight (8) feet in width adjacent to the districts and provided that such planting be not less than six (6) feet in height and a substantial bumper rail of wood, metal or concrete shall be installed on the inside of the planting strip.

62.35 A raised curb of at least six (6) inches shall be erected along all of the property lines, except for driveway openings, and those lot lines abutting residential districts where the requirements in section 62.34 shall prevail.

62.36 No sign, whether permanent or temporary, shall be placed within the public right-of-way. Signs and planting strips shall be arranged so that they do not obstruct visibility for drivers or pedestrians.

Sec. 63. Off-street loading and unloading space.

Off-street loading and unloading spaces shall be provided as hereinafter required by this ordinance.

- 63.[1] *Size of off-street loading spaces.* Each off-street loading space shall have minimum dimensions of fourteen (14) feet in height, twelve (12) feet in width, and fifty-five (55) feet in length. However, upon sufficient demonstration that a particular loading space will be used exclusively by shorter trucks, the board of adjustment may reduce the minimum length accordingly to as little as thirty-five (35) feet.
- 63.2 *Connection of street or alley.* Each required off-street loading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.
- 63.3 *Floor area over ten thousand square feet.* There shall be provided for each hospital, institution, hotel, commercial, or industrial building or similar use requiring the receipt or distribution of materials or merchandise, and having a floor area of more than ten thousand (10,000) square feet, at least one off-street loading space for each ten thousand (10,000) square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- 63.4 *Floor area of ten thousand or less square feet.* There shall be provided for each commercial or industrial building requiring the receipt or distribution of materials or merchandise and having a floor area of ten thousand (10,000) or less square feet, sufficient off-street loading space (not necessarily a full space if shared by an adjacent establishment) so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.
- 63.5 *Bus and trucking terminals.* There shall be provided sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded at the terminal at any one time.
- 63.6 *Location of off-street loading spaces.* All required off-street loading spaces shall be located on the same lot as the building which they are intended to serve, or on an adjacent lot when shared with the use occupying said adjacent lot.
- 63.7 *Permanent reservation.* Area reserved for off-street loading in accordance with the requirements of this ordinance shall not be reduced in area or changed to any other use unless the permitted use which is served is discontinued or modified, except where equivalent loading space is provided and approved by the board of adjustment.

Sec. 64. Control of curb cuts and vision clearance.

The requirements for controlling curb cuts and maintaining vision clearance shall be as follows unless more stringent requirements are specified elsewhere in this ordinance (Ord. No. 8-77B, § 1, 8-1-1977):

- 64.[1] *Curb cuts.* No curb cut shall exceed fifty (50) feet in length, nor shall curb cuts be closer than twenty (20) feet to other curb cuts or closer than twenty (20) feet to an intersection of two (2) streets measured along the curbline except when entering a major highway in which case no curb cut shall be closer than two hundred fifty (250) feet to other curb cuts or closer than three hundred (300) feet to an intersection of two (2) streets as measured along the curbline, provided the requirements in section 96 are met. (Ord. No. 8-77B, § 1, 8-1-1977)
- 64.2 *Vision clearance.* In all use districts, no fence, wall, shrubbery, sign, marquee or other obstruction to vision between the heights of two and one half (2½) and ten (10) feet from the street level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two (2) streets or railroad lines, or of a street intersection with a railroad line.

Sec. 65. Storage and parking of trailers and vehicles.

Commercial vehicles and trailers of all types, including travel, boat, camping and hauling, shall not be parked or stored on any lot occupied by a dwelling or any lot in and [any] Residential district except in accordance with the following requirements:

- 65.[1] No more than one commercial vehicle per dwelling shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquified petroleum products be permitted.
- 65.2 Travel trailers, hauling trailers, or boat trailers shall be permitted if parked or stored behind the front yard building line.
- 65.3 A travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area except in a trailer park authorized under this ordinance.
- 65.4 A junked vehicle, or one that is not in use, shall not be permitted to be located on or near to lots with dwelling units. These junked autos shall be confined to junkyards.

Sec. 66. Screening and lighting.

- 66.[1] In any Commercial or Industrial district, any operation not conducted within a building, such as drive-in businesses, outdoor recreation, outdoor storage of materials, and outdoor servicing activities, shall be enclosed by a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height where necessary to conceal such areas or facilities from a Residential district adjoining or facing across a street in the rear or on the side of the principal building or use.
- 66.2 In any district where reference is made requiring adequate screening of a specified operation, such screening shall be a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height.
- 66.3 Outdoor lighting of all types shall be directed so as to reflect away from all residential dwellings, and shall be so situated as not to reflect directly into any public right-of-way.

Sec. 67. Minimum distance between buildings.

The following minimum distances between buildings shall be required unless otherwise specified within this ordinance:

- 67.[1] There shall be a distance of not less than twenty (20) feet between a main and accessory building located on the same lot or parcel.

Sec. 68. Newly annexed land.

All land newly annexed into the corporate limits of the City of Abbeville, Alabama shall be automatically classified as R-1 Single-Family Residential district, pending further study by the council to determine its proper use district.

Sec. 69. Address numbers.

- (a) Any structures which have been assigned a street address number, or which may be assigned one in the future, shall be identified by such number permanently displayed as provided for herein. This requirement shall apply to all existing and future structures within the corporate limits of the City of Abbeville.
- (b) Street address numbers shall be assigned by the City Clerk of the City or by such other person as may, from time to time, be designated for such purpose by the governing body of the City.

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- (c) All street address numbers shall be constructed of durable, weather-resistant material. The street address numbers shall be a minimum of Three (3) inches in height and must be constructed of reflective material for ease of viewing; as an alternative, the street numbers shall be a minimum of Four (4) inches in height and constructed of a highly visible, non-reflective material. All street address numbers whether reflective or non-reflective shall be maintained in a clearly legible condition.
- (d) Street address numbers shall be placed so as to be clearly visible from the street from either direction. The number shall be conspicuously placed immediately above, on or at the side of the front door of the structure or immediately above, on or at the side of the door immediately visible from the public street or drive. In addition, if the structure and corresponding street address numbers are for any reason not clearly visible from the street, the street address numbers of the structure shall also be conspicuously displayed on the owner's property at the property line, near the walkway, driveway or entrance to such building, upon a gatepost, fence post, mail box or other appropriate place so as to be easily viewed from the street for which said building has been assigned a number.
- (e) Any structure that is utilized for multiple occupancies, whether business or residential that is subdivided in the form of suites or individual residential sub-units shall have each unit identified individually with a letter or numeral that complies with the stated requirements. It shall remain the responsibility of the structure owner to maintain compliance by each sub-unit.
- (f) All structures existing at the time of the effective date of this section shall be brought into compliance with the stated requirements within Ninety (90) days of its effective date.
- (g) It shall be the responsibility of the owner of any structure to comply with the provisions of this section.
- (h) Failure to comply with the requirements of this section shall constitute a misdemeanor and any person (which shall include any corporation or other corporate entity which may be an owner in violation hereof) violating any provision of this section shall be fined not more than \$100.00 for any violation hereof. Each day of noncompliance with the provisions of this section shall constitute a separate offense.

(Ord. No. 10-10-1, § 1, 3-6-1989)

ARTICLE VII. USE REQUIREMENTS BY DISTRICTS

[Sec. 71. Residential districts.](#)

[Sec. 72. Commercial districts.](#)

[Sec. 73. FH Flood Hazard district.](#)

[Sec. 74. Wholesale and Industrial district.](#)

Sec. 71. Residential districts.

71.[1] *R-1 Single-Family Residential districts.* Within R-1 Single-Family Residential districts, the following uses are permitted:

- (1) Single-family dwellings.
- (2) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto and provided the requirements in section 93 are met.
- (3) Fallout shelters provided the requirements in section 94 are met.
- (4) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence of at least five (5) feet in height and provided approval from the Henry County Health Department has been obtained.

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- (5) Agricultural, forestry, livestock and poultry production, provided that the operation is conducted on a tract of land not less than ten (10) acres in area, and that no structure containing poultry or livestock and no storage of manure or odor or dust producing substance or use shall be located within two hundred (200) feet of a property line[;] provided, however, any such structure existing at the time of passage of this ordinance shall be allowed to extend to the existing building line, but no nearer the property line than any existing portion of such structure. All animals (except those generally recognized as pets) shall be kept in a structure, pen or corral. Anyone may keep fowls for their own personal use on land less than ten (10) acres provided all of the requirements in this section are met.
- (6) Churches and related accessory buildings, provided they are located on a lot fronting an arterial or collector street and are placed not less than fifty (50) feet from any property line.
- (7) Home occupations provided the requirements in section 95 are met.
- (8) Kindergartens, playschools and day care centers.
- (9) Public and private schools and libraries, excluding business and trade schools.
- (10) Public utility structures and buildings provided that the installation is properly screened. No office shall be permitted and no equipment be stored on the site.
- (11) Golf, swimming, tennis or country clubs, privately owned and operated community clubs or associations, athletic fields, parks, and recreation areas, provided that no building for such purposes is located within one hundred (100) feet of any property line.
- (12) Hospitals, clinics, convalescent and nursing homes.
- (13) Cemeteries which abut federal, state or county highways, and providing the requirements in section 98 are met.

71.2 *R-2 Two-Family Residential districts.* Within the R-2 Two-Family Residential districts, the following uses are permitted:

- (1) Single-Family dwellings.
- (2) Two-Family dwellings (duplex).
- (3) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto, provided the requirements in section 93 are met.
- (4) Fallout shelters provided the requirements in section 94 are met.
- (5) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence at least five (5) feet in height and provided approval from the Henry County Health Department has been obtained.
- (6) Agricultural, forestry, livestock and poultry production, provided that the operation is conducted on a tract of land not less than ten (10) acres in area, and that no structure containing poultry or livestock and no storage of manure or odor or dust producing substance or use shall be located within two hundred (200) feet of a property line, provided, however, any such structure existing at the time of passage of this ordinance shall be allowed to extend to the existing building line, but no nearer the property line than any existing portion of such structure. All animals (except those generally recognized as pets) shall be kept in a structure, pen or corral. Any one may keep fowls for their own personal use on land less than ten (10) acres provided all other requirements in the section are met.
- (7) Churches and related accessory buildings provided they are located on a lot fronting an arterial street and are placed not less than fifty (50) feet from any property line.
- (8) Home occupations provided the requirements in section 95 are met.
- (9) Kindergartens, playschools and day care centers.
- (10) Public or private schools and libraries, excluding business or trade schools.

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- (11) Public utility structures and buildings provided that the installation is properly screened and services only the immediate area. No office shall be permitted and no equipment shall be stored on the site.
- (12) Golf, swimming, tennis or country clubs, privately owned and operated community clubs or associating athletic fields, parks and recreation areas, provided that no building for such purposes is located within one hundred (100) feet of any property line.
- (13) Hospitals, clinics, convalescent or nursing homes.

71.3 *[R-3] Multi-Family Residential district.* Within the R-3 Multi-Family Residential district, the following uses are permitted:

- (1) Single-family dwellings.
- (2) Two-family dwelling (duplex).
- (3) Multi-family dwelling.
- (4) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto, provided the requirements in section 93 are met.
- (5) Fallout shelters provided the requirements in section 94 are met.
- (6) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence at least five (5) feet in height and provided approval from the Henry County Health Department has been obtained.
- (7) Agricultural, forestry, livestock and poultry production, provided that the operation is conducted on a tract of land not less than ten (10) acres in area, and that no structure containing poultry or livestock and no storage of manure or odor or dust producing substance or use shall be located within two hundred (200) feet of a property line, provided, however, any such structure existing at the time of passage of this ordinance shall be allowed to extend to the existing building line, but no nearer the property line than any existing portion of such structure. All animals (except those generally recognized as pets) shall be kept in a structure, pen or corral. Anyone may keep fowls for their own personal use on land less than ten (10) acres provided all other requirements in this section are met.
- (8) Churches and related accessory buildings, provided they are located on a lot fronting an arterial or collector street and are placed not less than fifty (50) feet from any property line.
- (9) Home occupation provided the requirements in section 95 are met.
- (10) Kindergartens, playschools and day care centers.
- (11) Public or private schools and libraries.
- (12) Public utility structures and buildings provided that the installation is properly screened as required in section 66. No equipment shall be stored on the site.
- (13) Golf, swimming, tennis or country clubs, privately owned and operated community clubs or associations, athletic fields, parks and recreation areas, provided that no building for such purposes is located within one hundred (100) feet of any property line.
- (14) Hotels and apartment hotels.
- (15) Office buildings exclusively used for professional occupancy and of such character and nature that such use will not adversely affect adjacent and nearby Residential properties.
- (16) Hospitals, sanitariums, clinics, convalescent or nursing homes.
- (17) Clubs, lodges and boardinghouses.
- (18) Mobile home parks provided the requirements in section 91 are met.
- (19) Townhouses provided that the requirements in section 92 are met.

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71.4 *R-4 Rural Residential district.* Within the R-4 Rural Residential district, the following uses are permitted:

- (1) Single-family dwellings.
- (2) Mobile homes on individual lots provided that the minimum lot size is fifteen thousand (15,000) square feet per dwelling unit. Minimum setbacks and building lines, subject to section 81, "R-3" and section 82, "R-3," and, also, provided that the specifications and requirements of section 91.3A are met.
- (3) Mobile home parks, provided they conform to the requirements of section 91.2.
- (4) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto and provided the requirements in section 93 are met.
- (5) Fallout shelters provided the requirements in section 94 are met.
- (6) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence at least five (5) feet in height and provided approval from the Henry County Health Department has been obtained.
- (7) Agricultural, forestry, livestock and poultry production, provided that the operation is conducted on a tract of land not less than ten (10) acres in area, and that no structure containing poultry or livestock and no storage of manure or odor or dust producing substance or use shall be located within two hundred (200) feet of a property line, provided, however, any such structure existing at the time of passage of this ordinance shall be allowed to extend to the existing building line, but no nearer the property line than any existing portion of such structure. All animals (except those generally recognized as pets) shall be kept in a structure, pen or corral. Anyone may keep fowls for their own personal use on land less than ten (10) acres provided all of the requirements in this section are met.
- (8) Churches and related accessory buildings, provided they are located on a lot fronting an arterial or collector street and are placed not less than fifty (50) feet from any property line.
- (9) Home occupations provided the requirements in section 95 are met.
- (10) Kindergartens, playschools and day care centers.
- (11) Public and private schools and libraries, excluding business and trade schools.
- (12) Public utility structures and buildings provided that the installation is properly screened. No office shall be permitted and no equipment may be stored on the site.
- (13) Golf, swimming, tennis or country clubs, privately owned and operated community clubs or associations, athletic fields, parks, and recreation areas, provided that no building for such purposes is located within one hundred (100) feet of any property line.
- (14) Hospitals, clinics, convalescent and nursing homes.
- (15) Cemeteries which abut federal, state or county highways, and providing the requirements in section 98 are met.

(Ord. No. 3-82, § 2, 3-15-1982)

71.5 *R-5 Rural Residential district.* Within the R-5 Rural Residential district, the following uses are permitted:

- (1) Single-family dwellings.
- (2) Mobile homes on individual lots provided that the minimum lot size is fifteen thousand (15,000) square feet per dwelling unit. Minimum setbacks and building lines, subject to section 81, "R-3" and section 82, "R-3," and, also, provided that the specifications and requirements of section 91.3A are met.

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- (3) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto and provided the requirements in section 93 are met.
- (4) Fallout shelters provided the requirements in section 94 are met.
- (5) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence at least five (5) feet in height and provided approval from the Henry County Health Department has been obtained.
- (6) Agricultural, forestry, livestock and poultry production, provided that the operation is conducted on a tract of land not less than ten (10) acres in area, and that no structure containing poultry or livestock and no storage of manure or odor or dust producing substance or use shall be located within two hundred (200) feet of a property line, provided, however, any such structure existing at the time of passage of this ordinance shall be allowed to extend to the existing building line, but no nearer the property line than any existing portion of such structure. All animals (except those generally recognized as pets) shall be kept in a structure, pen or corral. Anyone may kept fowls for their own personal use on land less than ten (10) acres provided all of the requirements in this section are met.
- (7) Churches and related accessory buildings, provided they are located on a lot fronting an arterial or collector street and are placed not less than fifty (50) feet from any property line.
- (8) Home occupations provided the requirements in section 95 are met.
- (9) Kindergartens, playschools and day care centers.
- (10) Public and private schools and libraries, excluding business and trade schools.
- (11) Public utility structures and buildings provided that the installation is properly screened. No office shall be permitted and no equipment may be stored on the site.
- (12) Golf, swimming, tennis or country clubs, privately owned and operated community clubs or associations, athletic fields, parks, and recreation areas, provided that no building for such purposes is located within one hundred (100) feet of any property line.
- (13) Hospitals, clinics, convalescent and nursing homes.
- (14) Cemeteries which abut federal, state or county highways, and providing the requirements in section 98 are met.

(Ord. No. 3-82, § 2, 3-15-1982)

Sec. 72. Commercial districts.

72.[1] [C-1] Local Shopping district.

72.[1]1 *Required conditions.* All business, servicing, storage or processing shall be conducted within a completely enclosed building except where the nature of the activity makes it impossible as for example, off-street loading, automobile parking for customers while on the premises, miniature golf courses, and the sale of automobile fuel at service stations. Uses, processes or equipment employed shall be limited to those which are not objectionable by reason of odor, dust, bright lights, smoke, noise or vibration.

72.[1]2 *Permitted uses.* Within the C-1 Local Shopping district, the following uses are permitted:

- (1) Any retail business or commercial use in which there is no processing or treatment of materials, goods or products except as provided for, including:
 - (a) Appliance store, including radio and television service.
 - (b) Art and antique shop.
 - (c) Bakery employing not more than ten (10) persons.

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- (d) Bank and drive-in bank.
 - (e) Bicycle or motorcycle store.
 - (f) Book, stationery, camera or photographic supply store.
 - (g) Confectionery store.
 - (h) Clothing, shoe, millinery, dry goods and notions.
 - (i) Drugstore.
 - (j) Ice cream parlor.
 - (k) Furniture, home furnishings, including office furniture and equipment.
 - (l) Florist, nursery and gift shop.
 - (m) Grocery, fruit, vegetable, meat market, delicatessen, catering and supermarkets.
 - (n) Hardware and paint store.
 - (o) Jewelry store.
- (2) Any of the following service businesses:
- (a) Barber[shop] and beauty shop.
 - (b) Cafe, grills, lunch counters, and restaurants, but not including nightclubs, bars, taverns and drive-in restaurants.
 - (c) Dressmaking and tailoring shops.
 - (d) Laundry and dry cleaning pickup stations, and self-service laundry.
 - (e) Shoe repair shops.
- (3) Office buildings.
- (4) Bowling alleys, and billiard rooms.
- (5) General farming and horticulture.
- (6) Single and two-family dwellings provided the lot requirements in the R-2 Residential zoning district are met.
- (7) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto, provided the requirements in section 93 are met.
- (8) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence at least five (5) feet in height and provided approval from the Henry County Health Department has been obtained.
- (9) Fallout shelters provided the requirements in section 94 are met.
- (10) Signs as provided in section 97.
- (11) Automobile service stations, provided the requirements in section 96 are met.

72.2 C-2 General Commercial district.

72.21 *Required conditions.* All business, servicing, storage or processing shall be conducted within a completely enclosed building except where the nature of the activity makes it impossible as for example, off-street loading, automobile parking for customers while on the premises, miniature golf courses, and the sale of automobile fuel at service stations. Uses, processes or equipment employed shall be limited to those which are not objectionable by reason of odor, dust, bright lights, smoke, noise or vibration.

72.22 *Permitted uses.* Within the C-2 General Commercial district, the following uses are permitted:

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- (1) Any retail business or commercial use in which there is no processing or treatment of materials, goods, or products except as provided for, including:
 - (a) Appliance store including radio and television service.
 - (b) Art and antique shop.
 - (c) Bakery employing not more than ten (10) persons.
 - (d) Bank and drive-in bank.
 - (e) Bicycle or motorcycle store.
 - (f) Book, stationery, camera or photographic supply store.
 - (g) Confectionery store.
 - (h) Clothing, shoe, millinery, dry goods, and notions.
 - (i) Drugstore.
 - (j) Ice cream parlor.
 - (k) Furniture, home furnishings, including office furniture and equipment.
 - (l) Florist, nursery and gift shop.
 - (m) Grocery, fruit, vegetable, meat market, delicatessen, catering and supermarkets.
 - (n) Hardware and paint store.
 - (o) Jewelry store.
- (2) Any of the following service businesses:
 - (a) Barber[shop] and beauty shop.
 - (b) Cafe, grills, lunch counters, and restaurants, but not including night-clubs, bars, taverns, and drive-in restaurants.
 - (c) Dressmaking and tailoring shops.
 - (d) Laundry and dry cleaning pickup stations, and self-service laundries, including laundry and dry cleaning plants.
- (3) Office buildings.
- (4) Bowling alleys, and billiard rooms.
- (5) General farming and horticulture.
- (6) Bus and railroad terminal facilities.
- (7) Accessory buildings and uses when located on the same lot or parcel of land as the main structure and customarily incident thereto, provided the requirements in section 93 are met.
- (8) Home swimming pool provided the location is not closer than ten (10) feet to any property line and the pool is enclosed by a wall or fence at least five (5) feet in height, and provided approval from the Henry County Health Department has been obtained.
- (9) Fallout shelters provided the requirements in section 94 are met.
- (10) Signs as provided in section 97.
- (11) Automobile service stations, provided the requirements in section 96 are met.
- (12) Temporary tents for revivals.
- (13) Theater, but not including drive-in theaters.

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- (14) Public utility structures and buildings, including electric and natural gas, substations, telephone exchanges, radio and television stations, and similar structures for the storage of supplies, equipment or service operations when properly screened.
- (15) Churches and other places of worship with attendant education and recreation buildings.
- (16) Kindergartens, playschools, and day care centers.
- (17) Golf, swimming, tennis or country clubs, privately owned and operated community clubs or associations, athletic fields, parks and recreational area.
- (18) Private clubs, fraternal orders or lodges.
- (19) Hospitals, clinics, sanitariums, convalescent or nursing homes.
- (20) Commercial parking garage or lot provided no entrance or exit be on the same side of the street and within the same block as a school and that curb breaks be limited to two (2) for each one hundred (100) feet of street frontage, each not to exceed thirty (30) feet in width and not located closer than twenty (20) feet to a street intersection.
- (21) Temporary uses including sale of Christmas trees, carnivals, church bazaars, sale of seasonal fruit and vegetables from a roadside stands, but such use not permitted for a period to exceed two (2) months in any calendar year.
- (22) Multi-family dwellings, provided the requirements in section 81.2 are met.
- (23) Bottling works for soft drinks.
- (24) Printing, blue printing, book binding, photostating, lithography and publishing establishments.
- (25) Undertaking or mortuary establishments, and ambulance services.
- (26) All uses of a predominantly retail nature, including:
 - (a) Electrical supplies.
 - (b) Heating and plumbing equipment.
 - (c) Dairy products.
 - (d) Bakeries.
 - (e) Tires, batteries, and other automotive accessories.
 - (f) Sporting goods.
 - (g) Farm and garden supplies.
 - (h) Finance, insurance, and real estate offices.
- (27) Nightclubs, bars and taverns.
- (28) Public utility structures and buildings, including electrical and natural gas substations, telephone exchanges, radio and television stations, and similar structures for the storage of supplies, equipment or service operations when properly screened as required in section 66.
- (29) Public or private schools and libraries.
- (30) Motels, hotels and apartment hotels.
- (31) Food locker plant renting lockers for the storage of food, including sale of retail, delivery, cutting and packaging of meats not including slaughtering.
- (32) Automobile, travel trailer, farm equipment and implements, and mobile home sales (new and used) which need not be enclosed, but any mechanical or body repair must be conducted entirely within a structure which shall not have any opening, other than a

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stationary window, within one hundred (100) feet of a residential district and provided further that all vehicles on a used car sales lot must be in operating condition at all times.

- (33) Automobile repair garage, mechanical and body, provided all operations are conducted in a building which shall not have any opening, other than a stationary window, within one hundred (100) feet of a residential district and which shall not store or otherwise maintain any parts or waste material outside such buildings.
- (34) Drive-in restaurants.
- (35) Milk bottling and distribution and ice cream manufacture.
- (36) Places of assembly including auditoriums, stadiums, coliseums and dance halls.
- (37) Produce and farmers markets.

Sec. 73. FH Flood Hazard district.

73.[1] *Intent of district.* It is the intent of this ordinance that the Flood Hazard district contain lands which have periodically been subject to flooding and that these lands be limited to types of urban development and activities which will be least damaged by such flooding.

73.2 *Permitted uses.* Within the FH Flood Hazard district, the following uses are permitted:

- (1) Agriculture, poultry and livestock raising and riding stables, provided that no stable, pen or corral housing animals is located closer than one hundred (100) feet to a Residential district.
- (2) Publicly owned and operated buildings and lands, but not including residences.
- (3) Public utility structures and lands.
- (4) Noncommercial recreational facilities involving only light structures primarily for purposes of shelter and equipment storage—such as, fishing lakes, golf courses, tennis courts, archery clubs, swimming pools.
- (5) Park and outdoor recreational facilities.

Sec. 74. Wholesale and Industrial district.

74.[1] *M-1 Wholesale and Light Industrial district.* Within the M-1 Wholesale and Light Industrial district, the following uses are permitted:

- (1) All permitted uses in a C-2 General Commercial district, except that all new dwellings shall be prohibited and all existing dwellings shall be a conforming use.
- (2) Ice plants.
- (3) Car wash provided that a paved area shall be located on the same lot for the storage of vehicles awaiting entrance to the washing process sufficient to contain a number of vehicles (at 200 sq. ft. per vehicle) equal to one-third ($1/3$) of the practical hourly capacity of the washing machines and in addition that curb breaks be limited to two (2), each not to exceed thirty (30) feet in width, and located not closer than twenty (20) feet to an intersection.
- (4) Contractor's storage and equipment yards when located entirely within a building or fenced area.
- (5) Building and lumber supply establishments provided entire storage area is properly screened as required in section 66, or of a greater height as required to adequately screen such areas, and that any machine operations be conducted entirely within a building which shall not have any opening, other than a stationary window, within one hundred (100) feet of a residential district.
- (6) Establishments for manufacture, repair, assembly or processing including:
 - (a) Confectionery manufacture.

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- (b) Clothing and garment manufacture.
 - (c) Laboratories for testing materials, chemicals analysis, photography processing.
 - (d) Manufacture and assembly of scientific, optical and electronic equipment.
 - (e) Manufacture of musical instruments and parts.
 - (f) Manufacture of souvenirs and novelties.
 - (g) Manufacture of toy, sporting and athletic goods.
- (7) Wholesale warehouses.
 - (8) Drive-in theaters provided acceleration and deceleration lanes of at least two hundred (200) feet in length are provided for the use of vehicles entering or leaving the theater and the volume or concentration of traffic will not constitute a safety hazard or unduly impede highway traffic movement, and provided that the screen is not visible from any expressway, freeway, arterial or collector street located within two thousand (2000) feet of such screen.
 - (9) Truck terminals provided that acceleration and deceleration lanes of at least two hundred (200) feet are provided for trucks entering or leaving the site and that the truck traffic so generated will not create a safety hazard or unduly impede traffic movement.
 - (10) Trade shops including sheet metal, roofing, upholstery, electrical, plumbing, venetian blind, cabinet making and carpentry, rug and carpet cleaning and sign painting provided that all operations are conducted entirely within a building which shall not have any opening, other than stationary windows, within one hundred (100) feet of any residential district.
 - (11) Food processing plants, such as bakeries, meat packers, fish and poultry houses.
 - (12) Frozen dessert and milk processing plants.
 - (13) Any other establishments for the manufacture, repair, assembly, or processing of materials, similar in nature to those listed in section 74.1(6) which are not objectionable by reason of smoke, dust, odors, bright lights, noise or vibration, or which will not contribute to the congestion of traffic.

74.2 *M-2 Industrial district.* Within the M-2 Industrial district, the following uses are permitted:

- (1) All permitted uses in M-1 Wholesale and Light Industrial district.
- (2) Warehouses.
- (3) Agriculture, forestry, livestock and poultry production, provided that the operation is conducted on a tract of land not less than ten (10) acres in area, and that no structure containing poultry or livestock and no storage of manure or odor or dust producing substance or use shall be located within two hundred (200) feet of a property line.
- (4) Dwelling, including a mobile home, for the exclusive use of a watchman or caretaker when located on the same street as the industrial use and subject to all dimensional and area requirements of the R-3 Multi-Family Residential district.
- (5) Manufacturing, processing, fabrication, repair and servicing of any commodity or product except the following:
 - (a) Manufacture of acetylene gas or storage thereof, acid, asbestos, ammonia, bleaching powder or chlorine, asphalt or products thereof, cement, lime gypsum or plaster of paris, coal tar or derivatives thereof, creosote or creosote treatment, clay tile or vitrified products, emery cloth or sand paper, explosive or fire works or storage thereof, fertilizer, glue, size or gelatine, linoleum, matches, paint, oil, shellac, turpentine or varnish, rubber and gutta percha products, soda compounds.
 - (b) Petroleum refining, tanning, curing, storage of hides and skins; boiler works, foundry or forge operation; incineration, reduction or dumping of offal, dead animals, garbage or refuse; fat rendering; junk, iron, rags, storage and baling; distillation of bones, coal or wood.

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- (c) Any use that may be obnoxious or offensive by reason of the emission of odors, dust, smoke, gas, noise or vibration.
- (6) Outside aboveground tanks for the storage of gasoline, liquified petroleum gas, oil or other inflammable liquids or gases, but not when located within five hundred (500) feet of any residential district.
- (7) Junkyards provided the following provisions are met:
 - (a) No such operation shall be permitted to locate closer than three hundred (300) feet to a residential district and no closer than fifty (50) feet to any property line.
 - (b) No such operation shall be permitted to locate on or facing a state or federal highway.
 - (c) All such operations shall be completely enclosed by an opaque fence or wall, except driveway areas, having a minimum height of six (6) feet, but in no case less than such a height as will effectively screen all operations from view.
 - (d) The number of vehicular driveways permitted on any single street frontage shall be limited to one per five hundred (500) feet with a maximum of twenty (20) feet driveway width.

ARTICLE VIII. OTHER REQUIREMENTS BY DISTRICTS

[Sec. 81. Minimum lot area and lot width, and maximum lot coverage.](#)

[Sec. 82. Minimum setbacks.](#)

Sec. 81. Minimum lot area and lot width, and maximum lot coverage.

81.[1] *Single and Two-Family Residential dwelling units.* Within use districts permitting single and two-family residential dwelling units, the following minimum lot areas, minimum lot widths and maximum lot coverage shall apply.

	Minimum Lot Area (Square Feet)	Minimum Lot Width Measured at Building Line	Maximum Lot Coverage (Percent)
R-1-Residential			
Single-Family			
with septic tank and well	22,500	100'	25*
with septic tank	15,000	100'	25*
with public sewer	15,000	100'	25*
R-2-Residential			

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Single-Family			
with septic tank and well	20,000	100'	35*
with septic tank	15,000	90'	35*
with public sewer	12,000	80'	35*
Two-Family			
with septic tank and well	20,000	100'	35*
with septic tank	15,000	90'	35*
with public sewer	15,000	90'	35*
R-3-Residential			
Single-Family			
with septic tank and well	20,000	100'	40
with septic tank	15,000	90'	40
with public sewer	7,000	60'	40
Two-Family			
with septic tank and well	20,000	100'	40
with septic tank	15,000	90'	40
with public sewer	9,000	70'	40

*Does not apply to lots of record.

81.2 *Multi-Family Residential dwelling units.*

81.21 Within use districts permitting multi-family dwellings, the basic minimum lot area shall be seven thousand (7,000) square feet in R-3, Multi-Family Residential district, and ten thousand

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(10,000) square feet in commercial districts, or shall be greater based on the following minimum lot area and maximum lot coverage requirements, except as otherwise provided herein:

Height of Building (No. of floors)	Minimum Number of Units	Total Lot Area R-3 & C-1 Districts	*Per Unit C-2 District	Maximum Lot Coverage (Percent)
One	3	2,500	2,000	40
Two	3	2,000	1,500	40
Three	6	1,750	1,250	40
Four	16	1,500	1,000	30**
Five	20	1,250	875	30**
Six or More	24	1,000	750	25**

*In square feet

**For C-2 General Commercial district, subject to conditional approval of the commission.

81.22 Within use districts permitting multi-family residential dwelling units, the minimum lot width measured at the building line shall be eighty-five (85) feet.

81.23 Upon the completion of a city sewerage system, all multi-family dwelling units shall be connected to a public sewer. No septic tanks, or other methods of disposing of waste, will be permitted in any multi-family dwelling unit developments.

81.3 *Commercial, industrial and other uses.* Within the C-1 Local Shopping [district], M-1 Wholesale and Light Industrial district, and M-2 Industrial district, the minimum lot area for each permitted use shall be ten thousand (10,000) square feet. All other commercial, industrial, and other uses have no minimum requirement for lot area.

Sec. 82. Minimum setbacks.

Within the zoning districts herein defined, the following minimum setback requirement shall apply:

	Front Yard		Rear Yard	Side Yard	Corner Lot Side Yard	
	Arterial and collector streets	Local streets			Arterial and collector streets	Local streets

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Zoning District						
R-1 Residential	40'	30'	35'	10'	40'	30'
R-2 Residential	40'	25'	35'	10'	40'	25'
R-3 Residential						
One & Two-Family	40'	25'	35'	8'	40'	25'
Multi-Family	25'	25'	35'	a	25'	25'
C-1 Local Shopping						
Multi-Family	25'	25'	35'	a	25'	25'
Commercial	30'	25'	b	c	40'	25'
C-2 General Commercial						
Multi-Family	25'	25'	35'	a	25'	25'
Commercial	Not specified					
M-1 Wholesale and Light						
Industrial	50'	30'	b	c	50'	30'
M-2 Industrial	50'	30'	b	c	50'	30'

a—Eight (8) feet plus two (2) additional feet for each story (floor) above two (2) stories, but not exceeding twenty (20) feet; and when dwelling unit faces side yard, the dwelling unit shall not be less than twenty (20) feet from the side lot line.

b—None, except when abutting Residential district and then not less than twenty (20) feet.

c—None, except when abutting Residential district and then not less than fifteen (15) feet.

ARTICLE IX. SPECIAL PROVISIONS

[Sec. 91. Mobile homes and travel trailers.](#)

[Sec. 92. Townhouses.](#)

[Sec. 93. Accessory and temporary buildings.](#)

[Sec. 94. Fallout shelters.](#)

[Sec. 95. Home occupation.](#)

[Sec. 96. Automobile service stations.](#)

[Sec. 97. Signs.](#)

[Sec. 98. Cemeteries.](#)

Sec. 91. Mobile homes and travel trailers.

91.[1] *Travel trailer parks.* In any district where travel trailer parks are permitted, the applicant shall submit a layout of the park subject to the following conditions:

91.[1]1 No travel trailer park shall be located except with direct access to a county, state or federal highway, with a minimum lot width of not less than fifty (50) feet for portion used for entrance and exit. No entrance or exit shall be through a Residential district.

91.[1]2 The minimum lot area per park shall be three (3) acres.

91.[1]3 Spaces in travel trailer parks may be used by travel trailers provided they meet any additional laws and ordinances of the council and shall be rented by the day or week only, and an occupant of such space shall remain in the same trailer park for a period of not more than thirty (30) days.

91.[1]4 Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to operation of a trailer park are permitted as accessory uses in any district in which trailer parks are allowed provided:

- (1) Such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the area of the park.
- (2) Such establishments shall be restricted in their use to occupants of the park.
- (3) Such establishments shall present no visible evidence of their commercial character which would attract customers other than occupants of the park.

91.[1]5 No space shall be so located that any part intended for occupancy for sleeping purposes shall be within thirty (30) feet of the right-of-way line of any freeway, expressway, or collector street, or of any minor street.

91.[1]6 In addition to meeting the above requirements, the travel trailer park site plan shall be accompanied by a certificate of approval of the Henry County Health Department.

91.2 *Mobile home parks.* In any district where mobile home parks are permitted, the applicant shall submit a layout of the park, subject to the following conditions:

91.21 The minimum parcel of land required shall be not less than three (3) acres for each mobile home park.

91.22 The minimum size lot required for each mobile home space shall be five thousand (5,000) square feet, with a minimum width of fifty (50) feet and a minimum depth of eighty (80) feet; however, in no case shall minimum lot area be less than that required by the health department.

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- 91.23 A mobile home park may not accept mobile homes unless and until such time as at least six (6) of its lots (or one-half ($\frac{1}{2}$), whichever is greater) have been completely developed together with facilities required by this ordinance, the regulations of the State of Alabama, and other codes and ordinances.
- 91.24 All streets within a mobile home park shall be paved to a minimum width of twenty-four (24) feet. The planning commission may require wider streets when deemed necessary for safety and circulation. Adequate provision shall be made for storm water runoff and drainage.
- 91.25 Sewerage facilities shall be provided to each lot. When a mobile home park or portion thereof cannot be connected to the city's sanitary sewage system, health department approval shall be required to determine the appropriate sewage disposal system.
- 91.26 There shall be no less than thirty (30) feet between "mobile homes" in an approved park; each mobile home shall be located at least twenty (20) feet from an internal street.
- 91.27 A minimum of two (2) spaces of off-street parking shall be required for each lot.
- 91.28 No lot shall have direct access to any street external to the mobile home park. A buffer strip of not less than fifteen (15) feet in width shall be provided completely around the mobile home park; such strips shall be planted and maintained.
- 91.29 Adequate fire protection, as certified by the fire department chief, shall be provided.
- 91.30 All mobile home park plats or layouts shall be approved by the planning commission.

(Ord. No. 3-82, § 4, 3-15-1982)

- 91.3 *Single mobile homes.* Single mobile homes are permitted only by a variance for a period of six (6) months usage, and they shall be subject to the following conditions:
- 91.31 The lot area and dimensions must meet the requirements of a single-family dwelling unit within the district in which the mobile home unit is to be located.
- 91.32 In no case shall the unit be located within thirty (30) feet of any permanent type of building.
- 91.33 The mobile home unit shall be oriented with its long axis parallel to the street on which the lot fronts.
- 91.34 The mobile home unit must be supported under all exterior walls by a permanent foundation, completely enclosing the undercarriage, and must be connected to water and sewerage in compliance with the applicable ordinance of the council.
- 91.3A *Single mobile homes.* Single mobile homes are permitted in R-3 and R-4 districts, subject to the following conditions:
- 91.3A1 The lot and dimensions must meet the requirements of a single-family dwelling unit within the district in which the mobile home is to locate.
- 91.3A2 The mobile unit shall be oriented with the long axis parallel to the street on which the lot fronts and in no case shall the unit be located within twenty (20) feet of any permanent type of building. The unit shall not be located closer than ten (10) feet of any lot line and must be a minimum of twenty-five (25) feet from the street.
- 91.3A3 Applicant must own lot or have a two (2) year lease on lot.
- 91.3A4 The mobile home unit must be supported under all exterior walls by a permanent foundation completely enclosing the undercarriage and must be connected to the water and sewage in compliance with the applicable ordinance of the City of Abbeville, or in the event this is not available have a permit from the health department.
- 91.3A5 Applicant must submit permit for mobile home to the water department before water can be turned on.

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(Ord. No. 3-82, § 3, 3-15-1982)

91.4 *Temporary usage.* A single mobile unit, or travel trailer, may be used for an office in a subdivision by the developer or temporary residence during construction or for other special purposes, for a period not to exceed six (6) months upon written approval from the building inspector.

91.5 *Nonconformance.* Any travel trailer or mobile home which does not meet the requirements in the above paragraphs shall be removed after receipt of notice of its nonconformance from the building inspector.

Sec. 92. Townhouses.

Within the districts permitting townhouses, the following requirements shall apply:

92.[1] No more than ten (10) or fewer than three (3) continuous townhouses shall be built in a row with approximately the same front line.

92.2 No side yard is required except that on corner and interior lots the end of the building in any townhouse grouping shall conform to the side yard requirements of the district.

92.3 Not more than fifty (50) per cent of the lot area shall be occupied by buildings.

92.4 Insofar as practicable, off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks; and no off-street parking space shall be more than one hundred (100) feet by the most direct pedestrian route, from a door of the dwelling unit it intends to serve.

92.5 All townhouse complexes shall be required to tie into the public sanitary sewer system. No other means of waste disposal shall be permitted upon completion of a city waste disposal system.

92.6 All other requirements within the district in which the townhouses are located shall prevail.

Sec. 93. Accessory and temporary buildings.

93.[1] *Accessory buildings.* The location of accessory buildings and uses in Residential districts must meet the following requirements:

93.[1]1 Where an accessory building is attached to the main building, and substantial part of one wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof, and therefore such requirements applicable to the main building.

93.[1]2 A detached accessory building shall not be closer than twenty (20) feet to the main building, nor closer than five (5) feet to the lot line.

93.[1]3 A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard.

93.[1]4 No detached accessory building may be located on the front yard of a lot.

93.2 *Temporary buildings.* Temporary buildings used in conjunction with construction work only may be permitted in any district and shall be removed immediately upon completion of construction.

Sec. 94. Fallout shelters.

Fallout shelters are permissible as principal or accessory uses and structures in any district, subject to the following conditions:

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- 94.[1] If any portion of the structure extends above the ground, that portion above the ground must comply with the yard and lot coverage regulations of the district in which it is located, and the site plan for such shelter must be approved by the building inspector.
- 94.2 If the structure is completely underground, it need not comply with yard requirements or percentage of lot coverage requirements.
- 94.3 A fallout shelter, underground or aboveground, shall be confined to a side or rear yard and shall not be located in the front yard between the main building and the street on which it fronts.
- 94.4 Fallout shelters may contain or be contained in other structures or may be constructed separately.

Sec. 95. Home occupation.

- 95.[1] *Special requirements.* Home occupations, where permitted, must meet the following special requirements:
- 95.[1]1 The applicant must be the owner of the property on which the home occupation is to be located, or must have written approval of the owner of the property if the applicant is a tenant.
- 95.[1]2 The home occupation shall be operated only by the members of the family residing on the premises and no article or service shall be sold or offered for sale except as may be produced by members of the immediate family residing on the premises.
- 95.[1]3 The home occupation shall be restricted to the main building only and shall not occupy more than twenty-five (25) percent of the floor area of said building.
- 95.[1]4 The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise, vibration, electrical disturbance, or radio-activity or other conditions detrimental to the character of the surrounding area.
- 95.[1]5 The building in which the home occupation is to be located must be an existing structure ready for occupancy and not a proposed structure.
- 95.[1]6 Any business sign placed on the premises shall not be larger than two (2) square feet in sign area.

Sec. 96. Automobile service stations.

Within the districts permitting automobile service stations, the following requirements shall apply:

- 96.[1] *Location.* The property on which an automobile service station is located shall not be within one hundred (100) feet of any Residential district, or any property containing a school, public playground, church, hospital, public library, institution for children or dependents.
- 96.2 *Site requirements.* An automobile service station shall have a minimum frontage on the primary street of one hundred and twenty (120) feet and a minimum area of twelve thousand (12,000) square feet. All buildings shall be set back forty (40) feet from all street right-of-way lines and all canopies shall be set back fifteen (15) feet from all street right-of-way lines.
- 96.3 *Access to site.* Vehicular entrances or exits at an automobile service station:
- 96.31 Shall not be provided with more than two (2) curb cuts for the first one hundred twenty (120) feet of street frontage or fraction thereof.
- 96.32 Shall contain an access width along the curblines of the street of not more than forty (40) feet as measured parallel to the street at its narrowest point and shall not be located closer than twenty (20) feet to a street intersection or closer than ten (10) feet to the adjoining property.

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- 96.33 Shall not have any two (2) driveways, or curb cuts, any closer than twenty (20) feet at both the right-of-way line and the curb or edge of the pavement along a single street, including a major highway. (Ord. No. 8-77B, § 1, 8-1-1977)
- 96.4 *Gasoline pump islands.* All gasoline pump islands shall be set back at least fifteen (15) feet from the right-of-way line, or where a future widening line has been established, the setback line shall be measured from such line; and where pump islands are constructed perpendicular to the right-of-way line; however, the pumps shall be at least sixty (60) feet from the center line of an arterial street, fifty-five (55) feet from the center line of a collector street and forty-five (45) feet from the center line of other streets.
- 96.5 *Off-street parking.* A minimum of two (2) off-street parking spaces are required, with an additional off-street parking space for each lubrication or wash bay.
- 96.6 *Other site improvements.* In addition to the above requirements, the following additional site improvements shall be adhered to:
- 96.61 A raised curb of at least six (6) inches in height shall be erected along the street property lines, except for driveway openings.
- 96.62 A solid fence or wall six (6) feet in height shall be erected along all adjacent property lines facing any adjacent residential lot.
- 96.63 Exterior lighting shall be arranged so that it is deflected away from adjacent properties.
- 96.64 Signs, whether permanent or temporary, shall not be placed within the public right-of-way and shall be arranged so that they do not obstruct visibility for drivers or pedestrians.
- 96.65 All drives, parking storage, and service areas shall be paved and curbed and a good stand of grass shall be maintained on the remainder of the lot.
- 96.7 *Storage of inflammable products.* Outside aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gases shall be prohibited at any automobile service station in all zoning districts.

Sec. 97. Signs.

The provisions of this section shall govern the location, size, setback and height of signs in each of the use districts established in this ordinance in order to insure safe construction, light, air, and open space, to reduce hazards at intersections, to prevent the accumulation of trash, and to protect property values of the entire community.

97.[1] *General provisions.*

- 97.[1]1 All types of signs, except outdoor advertising signs, shall be allowed in all zoning districts without a permit.
- 97.[1]2 All outdoor advertising signs shall be subject to the same side yard and height limitations imposed upon other buildings or structures in the use district in which said sign is located, except as otherwise provided herein.
- 97.[1]3 For the purpose of computing sign area only one side of a "V-Type" or double-faced outdoor advertising sign shall be considered.
- 97.[1]4 Rooftop outdoor advertising signs or sign structures shall not extend more than thirty (30) feet above the roofline. Rooftop outdoor advertising signs or sign structures shall not extend beyond or overhang any exterior wall of the building upon which secured.
- 97.[1]5 No outdoor advertising sign or sign structure shall be placed upon any street or highway right-of-way.
- 97.[1]6 No outdoor advertising sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection or in such a manner as to

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materially impede the view of the intersection of a street or highway with a railroad grade crossing, as required in section 64.2 of this ordinance.

97.[1]7 No outdoor advertising sign shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape.

97.[1]8 No portion of any outdoor advertising sign shall be less than ten (10) feet above the level of a sidewalk or other pedestrian thoroughfare, nor shall be less than sixteen (16) feet above the level of a public driveway, alley or street.

97.2 *Outdoor advertising signs as permitted uses.* Outdoor advertising signs shall be permitted in the following classification districts provided the specified requirements are adhered to:

97.21 *R-1, R-2, R-3 Residential districts.* No outdoor advertising signs are permitted.

97.22 *C-1, C-2 Commercial districts.* One outdoor advertising sign for each lot of one hundred (100) feet or less of lot frontage with one additional sign for each additional one hundred (100) feet or less of lot frontage under single ownership at the time of the passage of this ordinance, and provided said sign shall not exceed four hundred (400) square feet in area per structure facing. Where two (2) signs, each not exceeding three hundred (300) square feet in area per structure facing are supported by the same sign structure, one above the other, they shall be considered as a single outdoor advertising sign.

97.23 *M-1 and M-2 Wholesale and Industrial district.* One outdoor advertising sign for each lot of seventy-five (75) feet or less of lot frontage with one additional sign for each additional seventy-five (75) feet or less of lot frontage under single ownership at the time of the passage of this ordinance, and provided said sign shall not exceed four hundred (400) square feet in area per structure facing. Where signs, each not exceeding three hundred (300) square feet in area per structure facing are supported by the same sign structure, one above the other, they shall not be considered as a single outdoor advertising sign.

97.3 *Signs prohibited in all districts.* The following signs are prohibited in all use districts:

97.31 Any sign erected or painted upon a sloping roof, fence, tree, standpipe, fire escape or utility pole.

97.32 Any sign which uses the word "Stop" or "Danger" prominently displayed and/or which is a copy or limitation of official traffic-control signs.

97.33 Any sign which contains flashing or intermittent red, green, blue or amber illumination.

97.4 *Maintenance and removal of outdoor advertising signs.*

97.41 All outdoor advertising signs and sign structures shall be kept in repair and in proper state of preservation.

97.42 Outdoor advertising signs which are no longer functional, or are abandoned, shall be removed, or relocated, at the owner's expense, in compliance with the provisions of this ordinance within thirty (30) days following dysfunction.

97.43 Any legally established nonconforming outdoor advertising sign or sign structure shall be permitted without alteration in size or location, provided that the requirements of section 61 of this ordinance are adhered to and provided that nothing herein shall prevent maintenance, repairing, or posting of legally established nonconforming signs.

97.44 In the event of the destruction, partial or complete, of an outdoor advertising sign, the owner thereof shall have the right to reconstruct, rebuild, renovate, or repair said sign substantially to the same condition as before said destruction, provided the provisions in section 61 of this ordinance are adhered to.

Sec. 98. Cemeteries.

Within the districts permitting cemeteries, the following requirements shall apply:

- 98.[1] The site proposed for a cemetery shall not interfere with the development of a system of collector or larger streets in the vicinity of such site. In addition such site shall have direct access to a thoroughfare.
- 98.2 Any new cemetery shall be located on a site containing not less than twenty (20) acres.
- 98.3 All structures shall be set back no less than twenty-five (25) feet from any property line or minor street right-of-way line.
- 98.4 All graves or burial lots shall be set back not less than twenty-five (25) feet from any property line or minor street right-of-way lines, and not less than fifty (50) feet from any collector, arterial, expressway, or freeway right-of-way line.
- 98.5 The entire cemetery property shall be landscaped and maintained.
- 98.6 An application must be made to the board of adjustment for any extension of existing cemeteries.

ARTICLE X. EXCEPTIONS AND MODIFICATIONS

[Sec. 101. Planned unit developments.](#)

[Sec. 102. Yard requirements.](#)

[Sec. 103. Access to public streets.](#)

[Sec. 104. Lots of record.](#)

[Sec. 105. Front and side yard setbacks for dwellings.](#)

Sec. 101. Planned unit developments.

A proposed plan for a large scale development of a tract of land, which has a proposed design making it desirable to apply regulations more flexible than those contained in this ordinance, may be submitted to the commission for consideration. Such proposed development may contain residential uses of various types and allied uses such as a shopping center to service the development. Upon finding that the following conditions exist, the council may, after a public hearing, initiate such zoning amendments as may be necessary for the establishment of the plan:

- 101.1 The tract of land to be developed must be at least fifty (50) acres.
- 101.2 The average lot area per family within the site, exclusive of streets must not be less than the lot area per family required in the district in which the development is located.
- 101.3 Where desirable, adequate and properly located areas are reserved for public uses such as schools, parks and playgrounds.
- 101.4 The property adjacent to the area included in the development must not be adversely affected.

Sec. 102. Yard requirements.

Yard requirements shall be modified subject to the following conditions:

- 102.1 On double frontage lots, the required front yard shall be provided on each street.

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- 102.2 Whenever a rear property line of a lot abuts upon an alley one-half ($\frac{1}{2}$) of the alley width shall be considered as a portion of the required rear yard.
- 102.3 An unroofed porch shall project into a required front yard for a distance not exceeding ten (10) feet.
- 102.4 The front and side yard requirements may be waived where dwellings occupy space above commercial uses upon approval of the board of adjustment.

Sec. 103. Access to public streets.

Access to public streets shall be maintained in accordance to the following requirements:

- 103.1 Each principal use shall be located on a lot or parcel which provides frontage on a public street having a right-of-way of not less than thirty (30) feet.
- 103.2 Any additional dwelling shall have access to a public street by means of a passageway open to the sky at least fifteen (15) feet in width.

Sec. 104. Lots of record.

Where the owner of a lot of record or the owner's successor to the title thereto does not own sufficient land to enable such owner to conform to the dimensional requirements of this ordinance, the following exceptions may be allowed:

- 104.1 *Land use.* Where a lot, tract or parcel of land has an area or width that does not conform to the requirements of the district in which it is located, said lot may be used for a single-family dwelling (except in the C-1 Neighborhood Commercial, M-1 and M-2 Industrial district). A single-family dwelling may be constructed in a R-2 or R-3 Residential district, provided the lot to be so used has a minimum area of four thousand (4,000) square feet and a minimum lot width at the building line of forty (40) feet, provided it is located on a public sewer.
- 104.2 *Replattng.* When two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of application and such lots have a frontage or lot area less than is required by the use district in which they are located, such lots shall be platted or reparcelled so as to create one or more lots which conform to the minimum frontage and area requirements of the use district.
- 104.3 *Improvements.* Buildings or structures located on sub-standard lots of record may be improved only when the addition of adequate plumbing is required by the laws and ordinances of the council, provided that the yard requirements in section 83 [82] are adhered to.
- 104.4 *Side yard requirements.* The side yard requirements for substandard lots of record may be reduced for each side yard at the rate of one foot for each four (4) feet by which the lot width lacks fifty (50) feet, provided in no event shall such side yard be reduced to less than five (5) feet on each side.

Sec. 105. Front and side yard setbacks for dwellings.

The setback requirements of this ordinance for side yards on corner lots and/or front yards shall not apply to any lot where the average setback on developed lots located, wholly or in part, one hundred (100) feet on each side of such lot and within the same block and zoning district and fronting on the same streets as such lot, is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots.

ARTICLE XI. ZONING ADMINISTRATION

[Sec. 111. Duties and powers of the zoning enforcement officer.](#)

[Sec. 112. Permits and certificates.](#)

[Sec. 113. Establishment of the board of adjustment.](#)

[Sec. 114. Duties and powers of the board of adjustment.](#)

[Sec. 115. Procedure for requesting a hearing before the board of adjustment.](#)

[Sec. 116. Procedure for requesting a zoning amendment.](#)

[Sec. 117. Continuance of previously issued permits.](#)

Sec. 111. Duties and powers of the zoning enforcement officer.

The zoning enforcement officer shall be the building inspector of the City of Abbeville, Alabama, or any public official of the city designated by the mayor and council of the city if there is no building inspector, whose duties and powers are as follows:

- 111.1 The zoning enforcement officer is authorized and empowered on behalf and in the name of the council to administer and enforce the provisions of this ordinance to include receiving applications, inspecting premises, and issuing certificates of zoning compliance and certificates of occupancy for uses and structures which are in conformance with the provisions of this ordinance.
- 111.2 The zoning enforcement officer does not have the authority to take final action on applications or matters involving variances, nonconforming uses, or other exceptions which this ordinance has reserved for public hearings before the board of adjustment, the commission, and/or the council.
- 111.3 The zoning enforcement officer shall keep records of all and any permits, the certificates of occupancy issued, and all submitted subdivision plats, with notations of all special conditions involved. Such officer shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of such officer's office and shall be made as a public record.

Sec. 112. Permits and certificates.

Permits and certificates shall be issued in accordance with the following provisions:

- 112.1 *Zoning compliance permit.* The zoning enforcement officer shall issue a zoning compliance permit, which may be incorporated into the building permit issued under the building code adopted and in effect by the council, for any permitted use or structural alteration provided such proposed use of land or structure, or structural alteration is in conformance with the provisions of this ordinance.
 - 112.11 An application shall be accompanied by two (2) copies of a dimensional sketch or a to-scale plan, signed by the owner, or the owner's authorized agent, to include, as a minimum the following: lot dimensions with property line monuments located thereon; shape, size, height, and location of the buildings proposed to be erected, demolished, altered, or moved, and of any buildings already on the lot; yard dimensions and the use of structures, including the number of dwelling units within each structure where appropriate; easements (private and public); water courses; fences; street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

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- 112.12 Each permit shall be conspicuously posted and displayed on the premises described in the permit during the period of construction or reconstruction.
- 112.13 If the proposed excavation, filling, construction, or movement set forth in said sketch or plan are in conformity with the provision of this ordinance, and other appropriate codes and ordinances of the council then in effect, the zoning enforcement officer shall sign and return one copy of the sketch or plan to the applicant and shall issue a zoning compliance permit. The zoning enforcement officer shall retain one copy of the zoning compliance permit and one copy of the sketch or plan for such officer's records.
- 112.14 If the sketch or plan submitted describes work which does not conform to the requirements of this ordinance, the zoning enforcement officer shall not issue a zoning compliance permit, but shall return one copy of the sketch or plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this ordinance with which the submitted sketch plan does not comply. The zoning enforcement officer shall retain one copy of the sketch or plan and two (2) copies of the refusal.
- 112.15 Any zoning compliance permit shall automatically expire six (6) months from the date of issuance if the person, firm, or corporation to which the certificate or permit was issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for period of one year.
- 112.2 *Certificate of occupancy.* Certificates of occupancy shall be issued by the zoning enforcement officer in accordance with the following provisions:
- 112.21 *Certificate of occupancy required.* A certificate of occupancy is required in advance of occupancy of use of:
- (1) A building hereafter erected;
 - (2) A building hereafter altered so as to affect height, or side, front or rear yards;
 - (3) A change of type of occupancy or use of any building on premises.
- 112.22 *Issuance of certificate of occupancy.* A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance, or unless the building, as finally constructed, complies with the sketch plan upon which the zoning compliance permit was issued.

Sec. 113. Establishment of the board of adjustment.

The board of adjustment of the City of Abbeville, Alabama, is hereby established.

- 113.1 *Membership.* The board of adjustment shall consist of five (5) members, appointed by the mayor and council of the City of Abbeville, Alabama, for overlapping terms of three (3) years.
- 113.11 *Initial appointment.* The initial appointment of the board of adjustment shall be as follows: two (2) members for one year; two (2) members for two (2) years; and one member for three (3) years.
- 113.12 *Vacancies.* Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the council upon written charges and after public hearing thereon.
- 113.13 *Public officers held.* No member shall hold any other public office or position, except that one member may be a member of the commission.
- 113.2 *Rules of procedure.* The board of adjustment shall observe the following procedures:
- 113.21 Said board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs.

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- 113.22 Said board shall elect one of its members, other than a member of the commission, as chairperson, who shall serve for one year or until such member is reelected or such member's successor is elected. Said board shall appoint a secretary.
- 113.23 The meetings of said board shall be held at the call of the chairperson and at such other times as said board may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena.
- 113.24 All meetings of said board shall be open to the public.
- 113.25 Said board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

Sec. 114. Duties and powers of the board of adjustment.

The board of adjustment shall have the following duties and powers.[:]

- 114.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning enforcement officer, or other administrative official, in the enforcement of this ordinance.
- 114.2 To hear and decide special exceptions of the terms of this ordinance upon which said board is required to pass under this ordinance.
- 114.3 Variances. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding by the board of adjustment that:
- 114.31 There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography, and
- 114.32 The application of this ordinance to this particular piece of property would create an unnecessary hardship, and
- 114.33 Such conditions are peculiar to the particular piece of property involved, and
- 114.34 Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

Sec. 115. Procedure for requesting a hearing before the board of adjustment.

Requests for a hearing before the board of adjustment for an administrative review, special exception or a variance shall observe the following procedures:

- 115.1 An application must be submitted in writing to the zoning enforcement officer from whom the appeal is taken and to the board of adjustment a notice of appeal specifying the grounds thereof.
- 115.2 An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the zoning enforcement officer. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public), water courses, and if existing and proposed; fences,

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street names and street right-of-way lines; and such other information regarding abutting property as directly affects the application.

- 115.3 The zoning enforcement officer shall cause to have posted in a conspicuous place on the property line in question one or more signs, each of which shall not be less than twelve (12) square feet in area, shall contain information as to the proposed change and the date and time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing.
- 115.4 The board of adjustment shall fix a reasonable time for the hearing of appeals or other matters referred to said board, give at least fifteen (15) days' public notice thereof, as well as due notice to the parties in interest, and decide the same within forty-five (45) days from the date of such public hearing.
- 115.5 An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning enforcement officer certifies to the board of adjustment after the notice of appeal shall have been filed with such officer that, by reason of facts stated in the certificate a stay would, in such officer's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the said board or by a court of record, on application, on notice to the official from whom the appeal is taken and on due cause shown.
- 115.6 In exercising the powers granted the board of adjustment in section 114 of this ordinance, the board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions or determination of the zoning enforcement officer and may issue or direct the issuance of zoning compliance permit.
- 115.7 A property owner, or such owner's appointed agent, shall not initiate action for a hearing before the board of adjustment relating to the same parcel of land more often than once every twelve (12) months on the same variance.
- 115.8 Any petition for a hearing before the board of adjustment may be withdrawn prior to action thereon by said board at the discretion of the person, firm or corporation initiating such a request upon written notice to the secretary of said board.
- 115.9 Any person or persons severally or jointly aggrieved by any decision of the board of adjustment may take, within fifteen (15) days thereafter appeal to the circuit court of like jurisdiction, by filing with such board a written notice of appeal specifying the judgment or decision from which appeal is taken.

Sec. 116. Procedure for requesting a zoning amendment.

The council may, from time to time, after examination, review and public hearing thereon, amend, supplement or change the regulations and zoning districts herein or subsequently established. Proposals for zoning amendments, whether initiated by the council, the commission, or any person, firm or corporation, shall be treated in accordance with the following procedure:

- 116.1 An application must be submitted in writing to the zoning enforcement officer and must be accompanied with a site plan of the proposed use included in any petition for a zoning amendment. Such site plan shall include the existing land use on adjacent and surrounding properties.
- 116.2 The application shall be sent to the commission for review and recommendation, and said commission shall have thirty (30) days within which to submit a report. If the commission fails to submit a report within the thirty-day period, it shall be deemed to have approved the proposed amendment.
- 116.3 Whenever a proposed amendment to this ordinance involves changing the zoning classification of a parcel of property from one district to another, the zoning enforcement officer shall cause to have posted in a conspicuous place on said property one or more signs, each of which shall not be less than twelve (12) square feet in area, shall contain information as to the

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proposed change and the date and time of the public hearing, and the cost of each sign shall be paid by the applicant prior to the public hearing.

116.4 Before enacting any amendment to this ordinance, the council shall hold a public hearing thereon provided that a legal notice has been published in a newspaper of general circulation in the City of Abbeville, Alabama, when required, a sign or signs have been posted on the property in question for at least fifteen (15) days prior to said public hearing.

116.5 The council shall hold a public hearing at the earliest possible time under the time limits spelled out above to consider the proposed zoning amendment, and shall take action on said proposed zoning amendment, within forty-five (45) days from the date of the public hearing except in the case where the council's tentative action is not in accordance with the commission's certified recommendation. In such case, the council shall not make any change in or departure from the text or maps, as recommended and certified by the commission, unless such change or departure be first resubmitted to the commission for an additional review and recommendation. The commission shall have thirty (30) days to resubmit its recommendation.

116.6 Any petition for a zoning amendment may be withdrawn prior to action thereon by the council at the discretion of the person, firm or corporation initiating such a request upon written notice to the clerk of the council.

116.7 A property owner, or such owner's appointed agent, shall not initiate action for a zoning amendment affecting the same parcel of land more often than once every six (6) months.

Sec. 117. Continuance of previously issued permits.

All building permits, which were previously issued by the City of Abbeville shall not be affected by the provisions of this ordinance, except as otherwise provided herein.

ARTICLE XII. PROCEDURES FOR SUBDIVISION PLAT APPROVAL

[Sec. 121. Platting authority.](#)

[Sec. 122. Pre-application review.](#)

[Sec. 123. Procedure for preliminary plat approval.](#)

[Sec. 124. Preliminary plat specifications.](#)

[Sec. 125. Final plat procedure.](#)

[Sec. 126. Final plat specifications.](#)

[Sec. 127. Certificate of final approval by the commission.](#)

[Sec. 128. Recording of final plat.](#)

[Sec. 129. Subdivisions not exceeding five lots.](#)

Sec. 121. Platting authority.

The Abbeville City Planning Commission shall be the official platting authority.

Sec. 122. Pre-application review.

Whenever the subdivision of a tract of land within the jurisdiction of the commission is proposed, the subdivider should consult early and informally with the zoning enforcement officer for advice and

assistance. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision. The zoning enforcement officer shall return within fifteen (15) days the submitted sketch plans to the subdivider and shall inform the subdivider where the plans do not comply with the regulations set forth in this ordinance. No fee shall be charged for the pre-application review and no formal application shall be required.

Sec. 123. Procedure for preliminary plat approval.

Prior to the cutting or grading of any street or the making of any street improvements or the installation of utilities, the subdivider shall submit to the commission a preliminary plat of the proposed subdivision in accordance with the following procedure:

- 123.1 *Application for preliminary plat approval.* Following the pre-application review of a proposed subdivision, the subdivider shall submit to the zoning enforcement officer, at least ten (10) days prior to the next regular meeting of the commission, a letter requesting review and approval of a preliminary plat, and four (4) copies of the preliminary plat and other documents, as specified in section 124 herein.
- 123.2 *Review of preliminary plat.* The zoning enforcement officer shall check the plat for conformance to the rules and regulations of this ordinance and report such officer's findings and recommendations to the commission, which shall afford a hearing on the preliminary plat.
 - 123.21 *Preliminary approval.* Following the hearing of the preliminary plat and other related material, the commission may express preliminary approval noting the conditions of such approval on four (4) copies of the preliminary plat with one copy being returned to the subdivider, one copy to the Henry County Health Department and one copy to the office of the building inspector for the council and one copy to be added to the records of the commission. Approval of a preliminary plat does not constitute approval of a final plat. It indicates only approval of the layout as a guide to the preparation of the final plat.
 - 123.22 *Expiration time.* Preliminary approval shall expire and be of no further effect twelve (12) months from the date of the preliminary approval unless the time is extended by the commission.
 - 123.23 *Disapproval.* Following the hearing of the preliminary plat and other related material, the commission may find reasons detrimental to the public safety, health, and general welfare, or in conflict with adopted plans of the commission which required the disapproval of the preliminary plat. A statement of the reasons for disapproval shall be made on two (2) copies of the preliminary plat with one copy being returned to the subdivider and one copy being added to the records of the commission. The applicant may reapply for preliminary plat approval in accordance with section 123.1 herein.
 - 123.24 *Automatic approval.* Failure of the commission to act on the preliminary plat within thirty (30) days after submission thereof, without due cause, shall be deemed to be approval of the plat and a certificate of preliminary approval shall be issued by the commission on demand; provided, however, that the subdivider may waive this requirement and consent to an extension of time.

Sec. 124. Preliminary plat specifications.

- 124.1 *Scale.* The preliminary plat shall be clearly and legibly drawn at a scale not smaller than one hundred (100) feet to one inch.
- 124.2 *Sheet size.* Sheet size shall not be greater than eighteen (18) inches by twenty-four (24) inches. If the complete plat cannot be shown on sheet of this size, it may be shown on more than one sheet with an index map on a separate sheet of a reduced scale.

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- 124.3 *Ground elevations.* The preliminary plat shall show ground elevations, based on the datum plane of the U.S. Coast and Geodetic Survey.
- 124.31 For land that slopes less than approximately two (2) percent, spot elevations shall be shown at all breaks in grade, along all drainage channels or swales, and at selected points not more than one hundred (100) feet apart in all directions.
- 124.32 For land that slopes more than approximately two (2) percent, contours shall be shown with an interval of not more than five (5) feet if the ground slope is regular or with an interval of not more than two (2) feet if the ground slope is irregular.
- 124.33 A tie to one or more bench marks shall be shown.
- 124.34 An exception to above requirements for showing ground elevation is a preliminary plat of a subdivision located in any subdivision with the average size of the lots being greater than one acre. A preliminary plat of such subdivisions shall show only the location of streams (both perennial and intermittent); direction of flow of these streams; any areas subject to flooding; and selected spot elevations.
- 124.4 *Information to be provided on preliminary plat.* The preliminary plat shall contain the following information:
- (1) Name and address of owner of record and of subdivider.
 - (2) Proposed name of subdivision and its acreage.
 - (3) North point and graphic scale and date.
 - (4) Vicinity map showing location and acreage of the subdivision.
 - (5) Exact boundary lines of the tract by bearings and distance.
 - (6) Names of owners of record of adjoining land with its approximate acreage.
 - (7) Existing streets, utilities and easements on and adjacent to the tract, including the size and width of each.
 - (8) Proposed layout including streets, alleys and easements with both dimensions and proposed street names; lot lines with approximate dimensions; land to be reserved or dedicated for public uses; and any land to be used for purpose other than single-family dwellings.
 - (9) Block letters and lot numbers.
 - (10) Provisions for water supply, sewerage and drainage, as required by the Henry County Health Department.
 - (11) Minimum building front yard setback lines.
 - (12) Such typical street cross-sections and center-line profiles as may be required.
 - (13) Location of streams, lakes, and swamps and land subject to flooding as determined from past history of flooding.
 - (14) Location of land dedicated for a neighborhood park or open space area for subdivisions exceeding ten (10) lots.
 - (15) Existing zoning district classification of the proposed subdivision and of adjoining properties.
 - (16) Inscription stating "Not for final recording."
- 124.5 *Approval from the health department.* A signed certificate of approval of the Henry County Health Department shall be placed on the Henry County plat.
- 124.6 *Certificate of preliminary approval.* A certificate of approval of the preliminary plat by the commission shall be inscribed on the plat as follows:

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"In that all the requirements of Preliminary Approval having been fulfilled, this subdivision plat was given Preliminary Approval by the Abbeville City Planning Commission on _____, 20____. The Preliminary Approval does not constitute approval of the Final Plat. This Certificate of Preliminary Approval shall expire and be null and void on _____, 20____.

<p>_____</p> <p>Date</p>	<p>_____</p> <p>(Title of Zoning Enforcement Officer)"</p>
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124.7 *Initiation of installing physical improvements.* After receiving a certificate of preliminary approval by the commission, the subdivider may then proceed to grade the streets and install all improvements required under this ordinance and any other applicable regulations of the council. In lieu of the completion of all improvements prior to submission of the final plat, the subdivider may post a performance bond with the city clerk in an amount and with survey conditions satisfactory to it, providing for and assuring to the council the actual construction and installation of such improvements within the period of time specified by the commission and stated in the bond.

Sec. 125. Final plat procedure.

After completion of the physical development of the subdivision or the posting of a performance bond the subdivider shall submit to the commission a final plat in accordance with the following procedure.[:]

125.1 *Application for final plat approval.* After the preliminary plat of a proposed land subdivision has been given preliminary approval by the commission, the subdivider, may within one year or within such additional time as may be granted by the commission, submit to the zoning enforcement officer at least ten (10) days prior to the next regular meeting of the commission, the following:

125.11 A letter requesting review and approval of the final plat.

125.12 Five (5) printed copies of the final plat with signed certifications and other documents as specified in section 126 herein.

125.2 *Review of the final plat.* The zoning enforcement officer shall check the plat for conformance with the tentatively approved preliminary plat, and with regulations of this ordinance.

125.21 *Notice of hearing.* Notice of time and place of hearing shall be sent by registered mail to the address of the subdivider not less than five (5) days before the date fixed therefore. It shall be the responsibility of the zoning enforcement officer to send said notice.

125.22 *Office approval.* The zoning enforcement officer may give final approval in the name and on behalf of the commission provided the final plat is the same as that granted preliminary approval by the commission and that all conditions specified by the commission and specified herein have been met; and shall sign a certificate of approval on all printed drawings with two (2) copies being returned to the subdivider, one copy to the Henry County Health Department, one copy to the office of the building inspector for the council and one copy being added to the records of the commission. No final plat shall be approved by the zoning enforcement officer until the required certifications have been approved by the appropriate approving agents as required in section 126.

125.23 *Disapproval.* The commission or the zoning enforcement officer may find the final plat in conflict with the tentatively approved preliminary plat or with this ordinance requiring the disapproval of the final plat. A statement of the reasons for disapproval shall be placed on two (2) copies of the final plat with one copy being returned to the subdivider and one copy being added to the records of the commission. No certificate of approval shall be given. The

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final plat may be resubmitted as a new application for final plat approval for hearing after the corrections noted by the commission are made.

125.24 *Automatic approval.* Failure of the commission to act on the final plat within thirty (30) days after submission thereof shall be deemed to be approval of the plat and a certificate of final approval shall be issued by the commission on demand; provided, however, that the subdivider may waive this requirement and consent to an extension of time.

Sec. 126. Final plat specifications.

126.1 *Conformance with the preliminary plat.* The final plat shall conform to the conditions of the tentatively approved preliminary plat.

126.2 *Original tracing specifications.* The final plat shall be clearly and legibly drawn on any acceptable tracing material. The scale shall be one hundred (100) feet or fifty (50) feet to an inch on a sheet size of not greater than eighteen (18) inches by twenty-four (24) inches. If the complete plat cannot be shown on one sheet of this size, it may be shown on more than one sheet with an index map at a reduced scale.

126.3 *Additional specifications.* The final plat shall contain the following information:

- (1) Name and address of owner of record and of subdivider.
- (2) North point and graphic scale and date.
- (3) Vicinity map showing location and acreage of the subdivision.
- (4) Names of owners of record of adjoining land with its appropriate acreage.
- (5) Location of streams, lakes, and swamps and land subject to flood as determined from past history of flooding.
- (6) Bearings and distance to permanent points on the nearest existing street lines or bench marks or other permanent monuments (not less than three (3)) shall be accurately described on the plat.
- (7) Municipal and county lines shall be accurately tied to the lines of the subdivision by distance and angles when such lines traverse or are reasonably close to the subdivision.
- (8) The closest land-lot corner shall be accurately tied to the lines of the subdivision by distance and angles.
- (9) Location of land dedicated for a neighborhood park or open space area for subdivisions exceeding ten (10) lots.
- (10) Land-lot and land-district number shall be shown.
- (11) Exact boundary lines of the tract, determined by a field survey, giving distances to the nearest one-tenth (1/10) foot and angles to the nearest minute, shall be balanced and closed with an apparent error of closure not to exceed one in five thousand (5,000).
- (12) Name of subdivision, exact locations, widths, and names of all streets and alleys within and immediately adjoining the new subdivision shall be shown on the plat.
- (13) Street right-of-way lines shall show angles of deflection, angles of intersection, radii, and lines of tangents.
- (14) Lot lines shall be shown with dimensions to the nearest one-tenth (1/10) foot and bearings.
- (15) Lots shall be numbered in numerical order and blocks lettered alphabetically.
- (16) Each lot shall have a house number.
- (17) Location, dimensions, and purposes of any easements and any areas to be reserved or dedicated for the public use shall be shown on the plat.

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(18) Accurate location, material, and description of monuments and markers, shall be described on the plat.

(19) Minimum building front yard setback lines shall be shown.

126.4 *Surveyor's certification.* A signed certification by a registered land surveyor certifying to the accuracy of the survey and the plat shall be placed on the final plat as follows:

"In my opinion this plat is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law and has been calculated for closure by latitudes and departures and is found to be accurate within one foot in _____ feet.

By: _____	
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Alabama Registered Land Surveyor No. _____

126.5 *Owner's certification.* A signed certification of ownership shall be placed on the final plat as follows:

"Owner's Certification:

State of Alabama, County of Henry.

The undersigned certifies that he or she is the owner of the land shown on this plat and acknowledges this plat and allotment to be such person's free act and deed and dedicates to public use forever all areas shown or indicated on this plat as streets, alleys, easements, or parks.

_____ Date	_____ Owner's Name"
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126.6 *Health department certification.* A signed certification of the Henry County Health Department shall be placed on the final plat as follows:

"I certify that the general lot layout shown on this plat has been approved by the Henry County Health Department for development with _____

_____ Date	_____ Health Officer"
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The blanks in the above certification statement shall be completed by the health officer, or such officer's representative, so as to indicate whether approval is based upon the use of individual water supplies, a community sewerage system, a community water supply or a combination thereof.

126.7 *Certificate of approval by the council.* A signed certification of the council shall be placed on the final plat as follows:

"We certify that the owner, or the owner's agent, has completed the construction and installation of the streets, drainage, utilities and other improvements in accordance with the laws and specifications of the (City of Abbeville), Alabama, or has posted a performance bond in lieu thereof.

_____ Date	_____ (Title of Zoning Enforcement Officer)"
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_____ City Clerk"	
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Sec. 127. Certificate of final approval by the commission.

Certification of final approval by the commission shall be placed on the final plat only after every item in sections 125 and 126 of this ordinance has been complied with and shall state the following:

"I certify that all the requirements for Final Approval of this Plat have been fulfilled in accordance with the Ordinance of the City of Abbeville, Alabama, and the requirements of the Abbeville City Planning Commission.

_____ Date	_____ Abbeville City Planning Commission, Chairperson"
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Sec. 128. Recording of final plat.

Upon the approval of a final plat by the commission, the owner, or the owner's agent, shall have the final plat recorded in the office of the probate judge prior to the sale of any lot in the subdivision. Upon recording of the approved final plat, a copy of any private covenants or deed restrictions shall be provided by the subdivider for the records of the commission.

Sec. 129. Subdivisions not exceeding five lots.

Notwithstanding the provisions stated elsewhere in this ordinance the zoning enforcement officer is hereby delegated the authority to give preliminary and final approval in the name and on behalf of the commission to applications for approval of a new subdivision not exceeding five (5) lots in size provided no new street is involved; the required certifications have been approved by the appropriate agent; no variances are involved; and all the requirements set forth in this ordinance are met.

ARTICLE XIII. GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN FOR THE SUBDIVISION OF LAND

[Sec. 131. General design requirements.](#)

[Sec. 132. General requirements for streets and other right-of-way.](#)

[Sec. 133. Right-of-way width requirements.](#)

[Sec. 134. Street design requirements.](#)

[Sec. 135. Design standards for blocks and lots.](#)

Sec. 131. General design requirements.

- 131.1 *Suitability of land.* Land subject to flooding, improper drainage, or erosion, or which is for topographical, geological or other reasons unsuitable for residential use shall not be platted for residential use, nor for any other uses than will continue to increase the danger to health, safety, or property destruction, unless the hazards can be and are corrected.
- 131.2 *Name of subdivision.* The name of the subdivision must have the approval of the commission. The name shall not duplicate nor closely approximate the name of an existing subdivision.
- 131.3 *Access.* Access to every subdivision shall be provided over a public street.
- 131.4 *Conformance to adopted major thoroughfare plans.* All streets and other features of the major thoroughfare plan of the City of Abbeville shall be platted by the subdivider in the location and to the dimension indicated on the major thoroughfare plan adopted by the council.
- 131.5 *Through traffic.* Minor streets shall be so laid out that their use by through traffic will be discouraged.

Sec. 132. General requirements for streets and other right-of-way.

- 132.1 *Continuation of existing streets.* Existing streets shall be continued at the same or greater width, but in no case less than the required width.
- 132.2 *Connections with future subdivisions.* Streets shall be reserved at strategic locations to provide for future access to adjoining properties which may be subdivided in the future. Each street connection shall intersect property lines at a ninety-degree angle.
- 132.3 *Street names.* Street names shall require the approval of the commission. Streets that are obviously in alignment with streets already in existence and already named shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets.
- 132.4 *Street jogs.* Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall not be permitted.

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- 132.5 *Cul-de-sacs.* Cul-de-sacs, or dead-end streets, shall not be greater in length than eight hundred (800) feet. They shall be provided at the closed end with a turn-around having a property line radius of at least fifty (50) feet with an outside pavement radius of at least forty (40) feet.
- 132.6 *Development along major street, limited-access highway or railroad right-of-way.* Where a subdivision abuts or contains an expressway, freeway, arterial or collector street, or a railroad right-of-way, the commission may require a street approximately parallel to and on each side of such right-of-way either as a marginal access street, or at a distance suitable for an appropriate use of intervening land, with a nonaccess reservation suitably planted. Due regard should be given requirements for approach grades and future grade separations in determining distances. Lots shall have no access to expressways, freeways, or arterial streets, but only to an accessible street in which case the commission may require double frontage lots.
- 132.7 *Half-streets.* Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract.
- 132.8 *Alleys.* The requirements for providing alleys within a subdivision are as follows:
- 132.81 Alleys shall be provided in multi-family, commercial and industrial districts, except where other definite and assured provision is made for service access such as off-street parking, loading and unloading consistent with and adequate for the uses proposed.
- 132.82 Alleys shall not be provided in one- and two-family residential developments unless the subdivider provides evidence satisfactory to the commission of the need for alleys.
- 132.83 Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the commission.
- 132.9 *Reserve strips and easements.*
- 132.91 Reserve strips controlling the access to streets shall be prohibited except where this control is definitely placed in the hands of the council under conditions approved by the commission. The commission may control access to expressways, freeways, arterial and collector streets by requiring all lots to face and have access to only minor streets.
- 132.92 Easements having a minimum width of ten (10) feet and located along the side or rear lot lines shall be provided, as is necessary for utility lines and underground mains and cables. Where a subdivision is traversed by a watercourse, drainage way, channel or streams, there shall be provided a stormwater or drainage right-of-way of adequate width. Parallel streets may be required by the commission in connection therewith.

Sec. 133. Right-of-way width requirements.

The minimum street right-of-way widths shall be as follows:

- (1) Freeways and expressways 150 feet
- (2) Arterial streets 80 feet
- (3) Collector streets 80 feet
- (4) Minor commercial and industrial streets 60 feet
- (5) Minor residential streets 50 feet
- (6) Dead-end streets (cul-de-sacs) 50 feet
- (7) Marginal access streets 50 feet
- (8) Alleys 20 feet

Sec. 134. Street design requirements.

- 134.1 *Street intersections.* Street intersections shall be as nearly at right angles as possible with no street intersection being at any angle of less than seventy-five (75) degrees.
- 134.2 *Right-of-way radius.* The street right-of-way radius at street intersections shall be at least twenty (20) feet. Where the angle of street intersection is less than ninety (90) degrees, the commission may require a longer radius.
- 134.3 *Additional width on existing streets.* Subdivisions that adjoin existing streets shall dedicate additional right-of-way if needed to meet the minimum street width requirements set forth in section 133.
- 134.31 The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing streets.
- 134.32 When the subdivision is located on one side of an existing street one-half (½) of the required right-of-way, measured from the center line of the existing roadway, shall be provided.

Sec. 135. Design standards for blocks and lots.

- 135.1 *Design lengths and widths.* Block lengths and widths shall be determined based on the following requirements:
- 135.11 Blocks shall not be greater than one thousand two hundred (1,200) feet.
- 135.12 Blocks shall be wide enough to provide two (2) tiers of lots of minimum depth, except where abutting upon major streets, limited-access highways, or railroads or where other situations make this requirement impracticable in which case the commission may approve a single tier of lots of minimum depth.
- 135.13 Blocks shall have pedestrian walkways, not less than ten (10) feet wide, where deemed essential, to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.
- 135.2 *Lot sizes.* Lot dimensions shall conform to the requirements set forth in the zoning districts in which the land to be subdivided is located. Residential corner lots shall have adequate width to permit appropriate building setback from and orientation to both abutting streets.
- 135.3 *Building lines.* A building line meeting the front and side yard setback requirements of the zoning district in which the subdivision is located shall be established on all lots.
- 135.4 *Lots abutting public streets.* Each lot shall abut upon a dedicated public street.
- 135.5 *Double frontage lots.* Double frontage lots should be avoided except where essential to provide separations of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

ARTICLE XIV. REQUIRED SUBDIVISION IMPROVEMENTS

[Sec. 141. Monuments.](#)

[Sec. 142. Special classification of streets for construction.](#)

[Sec. 143. Additional street design requirements.](#)

[Sec. 144. Basic construction requirements for all classes of streets.](#)

[Sec. 145. Roadway surfacing and paving.](#)

[Sec. 146. Installation of utilities.](#)

[Sec. 147. Sidewalks and streets signs.](#)

[Sec. 148. Public sites and open space.](#)

[Sec. 149. Administrative procedures.](#)

Sec. 141. Monuments.

Right-of-way and property line monuments shall be placed in each subdivision in accordance with the following:

- 141.1 *Right-of-way monuments.* A concrete marker imbedded at least two (2) feet into the ground shall be required at the intersection of all street right-of-ways and radius points. Such concrete marker shall be at least four (4) inches square with a one-eighth (1/8) inch iron pin imbedded in the center. The top surface of such concrete marker shall be level with the surface of the ground.
- 141.2 *Property line monument.* An iron pin imbedded at least two (2) feet into the ground shall be required at each lot corner and each point where the property line changes direction. Such iron pin shall be at least one-half (½) inch in diameter. The top surface of such iron pin shall be approximately level with the ground surface.

Sec. 142. Special classification of streets for construction.

All streets shall be classified for construction purposes only as follows:

- 142.1 *Class I street.* A class I street shall be paved, curbed and guttered in accordance with the specifications required herein, and shall be required in all zoning districts except R-1 and R-2 Residential districts but may be so located if the subdivider so desires. Right-of-way width requirements shall be in accordance with section 133 herein.
- 142.2 *Class II street.* A class II street shall be paved in accordance with the specifications required herein but no curbs and gutters shall be required and shall be required as a minimum in R-1 and R-2 Residential zoning districts. The minimum right-of-way width for all class II streets shall be fifty (50) feet and if such streets are ever improved to class I type street by the council, the cost of such improvements shall be in accordance with section 149.73 herein.

Sec. 143. Additional street design requirements.

143.1 *Grades, horizontal curves, tangents, and sight distances.* The following street design requirements shall be adhered to in addition to other requirements stated herein:

	Expressways, Freeways, Arterial Streets	Collector Streets	Other Streets
Maximum street grades	6%	8%	15%
Minimum radii of center line curvature	800'	500'	100'

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Minimum length of tangent between reverse curves	300'	200'	100'
Minimum stopping sight distance	350'	240'	200'

Sec. 144. Basic construction requirements for all classes of streets.

- 144.1 *Grading.* All streets, roads and alleys shall be graded to their full width by the subdivider so that pavements and sidewalks, where required or if installed in the future, can be constructed on the same level plane. The preparation of the right-of-way shall be completed before grading is started and the construction of cuts and fills shall be accomplished in accordance with the requirements herein and other specifications of the council.
- 144.2 *Storm drainage.* An adequate drainage system based on at least the ten-year rainfall frequency including necessary curbs, pipes, culverts, headwalls, and ditches shall be provided for the proper drainage of all surface water.
- 144.3 *Installation of utilities.* After grading is completed and approved and before any base is applied, all of the underground utilities—water mains, sewer mains, gas mains, and all service connections related thereto—shall be installed completely and approved throughout the length of the street. All driveways for houses to be built by the subdivider shall be cut and drained.
- 144.4 *Slopes and shoulders improvements.* The minimum ratio for all fill or cut slopes shall be two (2) to one and the minimum width for all shoulders from back edge of the curb, if installed, shall be eight (8) feet. All shoulders shall slope one-half (½) inch to the foot. When all construction is completed, all slopes and shoulders shall be cleared of all rubbish and shall have a stand of grass to prevent undue erosion, either by sprigging or seeding.

Sec. 145. Roadway surfacing and paving.

For class I and class II streets, the following minimum requirements shall be adhered to for the surfacing and paving of said streets:

- 145.1 *Pavement base.* The pavement bases, not including the surface courses, shall be one of the following types and shall be of the following minimum thickness as designated for each street classification:

	Other Streets	Collector Streets	Expressways, Freeways, Arterial Streets
Graded aggregate base	6"	7"	8"
Soil bituminous stabilized base	6"	7"	8"
Soil bound macadam base	6"	7"	8"

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Soil cement base	6"	7"	8"
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145.2 *Thickness of pavement.* The pavement shall be one of the following types and shall be designated for each street classification:

	Other Streets	Collector Streets	Expressways, Freeways, Arterial Streets
Portland cement concrete	6"	6"	8"
Asphaltic plant mixed surface (on approved type base)	1½"	2¾"	3½"

*A single surface bituminous treatment and one inch of plant mix may be substituted for one and one-half (1½) inches of plant mix.

**The three and one-half (3½) inches consists of two (2) inches binder and one and one-half (1½) inches surface.

145.3 *Minimum pavement width.* All minor residential streets shall have a minimum pavement width of twenty-seven (27) feet from back of curb to back of curb, or twenty-four (24) feet from edge of pavement to edge of pavement if no curb and gutters are installed. All other street width pavements shall be determined by the commission and the council as required.

145.4 *Pavement breaks for utility connections.* When it is necessary for a subdivider, or any utility company, to break existing pavement for the installation of utilities, for drainage facilities, or for any other purpose, the subdivider, or utility company, shall be financially responsible for the repair of the pavement. The pavement shall be repaired in accordance with the specifications required herein for construction of streets.

145.5 *Curbs and gutters.* Either the regular six-inch or four-inch roll-over concrete curbs and gutters with a minimum over-all width of twenty-four (24) inches shall be constructed on all class I streets. Cement concrete valley gutter shall be permitted across minor residential streets at street intersections only when no storm sewers are available as determined by the zoning enforcement officer. Valley gutters shall be at least six (6) feet in width. Whenever driveway openings are provided for lots abutting the street, the driveway shall be six (6) inches thick and a minimum of the ten (10) feet in width at the sidewalk or at the street right-of-way line. The driveway shall have a three-foot radii at the curbline.

Sec. 146. Installation of utilities.

146.1 *Water.* Water mains for both domestic use and fire protection shall be properly connected with the public water system, or with an alternate water supply approved by the Henry County Health Officer. The lines shall be constructed in such a manner as to serve adequately all lots shown on the

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subdivision plat. The lines shall be installed in conformance with the technical standards as established by the council.

- 146.2 *Sewer.* A publicly connected sanitary sewer system shall be installed when the cost of installing such a system does not exceed one hundred and fifty (150) percent of the cost of installing septic tanks for all lots in the subdivision. Where lots cannot be economically connected with a sewerage system, they must contain adequate area for the installation of approved septic tank and disposal fields approved by the Henry County Health Officer. All sewer facilities shall be installed in accordance with the standards of the department of public health of the State of Alabama.
- 146.3 *Gas.* When gas mains are connected with the gas distribution system of the City of Abbeville the lines shall be installed in such a manner as to serve adequately all lots shown on the subdivision plats. The gas lines shall be constructed in conformance with the technical standards as established by the council.

Sec. 147. Sidewalks and streets signs.

147.1 *Location of sidewalks.* Sidewalks shall be provided in each subdivision as follows:

R-1 Residential—None required.

R-2 Residential—Only on one side of street.

R-3 Residential—Both sides of the street.

Other zoning districts—As required by the commission.

- 147.2 *Sidewalk dimensions.* Unless otherwise specified, all sidewalks shall be four (4) inches thick with a minimum width of four (4) feet. A thirty-inch grass planting strip shall be provided between the back of the curb and the sidewalk. For class II streets, the sidewalk shall be located on the right-of-way line side of the drainage ditch located parallel to the street. All sidewalks shall slope one-fourth ($\frac{1}{4}$) inch to the foot toward the curb.
- 147.3 *Location of street signs.* All streets shall be designated by name on a metal street signpost approved by the council with such metal post having nameplates of metal set one above the other with a clearance of seven (7) feet. The post shall be so located as to be visible for both pedestrian and vehicular traffic. At cross-street intersections, two (2) street signposts shall be located diagonally across the intersection from each other. Only one street signpost shall be required at T-street intersections.

Sec. 148. Public sites and open space.

- 148.1 *Park dedication.* In subdivisions of fifty (50) or more lots or twenty (20) or more acres in size, the subdivider shall provide suitable recreation land of at least five (5) percent of the total area of land to be [be] subdivided. In the event the subdivision is to be developed in sections, appropriate agreement shall be made to assure the dedication of the required land.
- 148.2 *Features of the comprehensive plan.* Where public sites have been set aside, within an element of the comprehensive development plan for Abbeville or when such features are recommended as essential by a local governing body or agency, such sites shall be reserved for such purpose for a period of two (2) years from the date of the recording of the subdivision.
- 148.3 *Siting of reserved or dedicated land.* The subdivider or the subdivider's engineer shall review the subdivider's tentative lot arrangement with the recreation official (or a person so designated by the city council) to determine the location of land to be dedicated or reserved with the following limitations:
- a. Such land shall have adequate street access and, where necessary, pedestrian easements; and

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- b. Such land shall be in well-drained, useable tracts, suitable for recreation purposes, landscaping, and beautification, and shall not be used for drainage channels or holding ponds.

Review of lot arrangement and location of public sites shall be conducted at least thirty (30) days prior to the filing of a preliminary plat. Such official shall submit a statement signifying such official's findings to the planning commission prior to its review of the preliminary plat.

148.4 In subdivisions containing less than twenty (20) acres of land or less than fifty (50) lots, or in larger subdivisions where it is not practical to dedicate recreation areas, the subdivider shall be required to pay to the appropriate governing body a sum of money, equal in value to eight (8) percent of the sales value of lots within the subdivision, when said lots are improved. The subdivider may elect to pay the required sum in either a lump-sum payment, or an appropriate amount with each section when presented for final approval.

148.5 Funds paid to the governing bodies under this requirement shall be utilized for the acquisition of park and recreation areas and for no other purpose.

Sec. 149. Administrative procedures.

The administrative procedures for installing the subdivision improvements required herein shall be as follows:

149.1 *When construction may begin.* Construction and installation of any required public improvements as described herein shall not begin until the commission has given preliminary approval of the new subdivision. The subdivider shall then confer with the zoning enforcement officer to determine the method and estimated cost of the construction and installation of the required improvements.

149.2 *Inspections and approval by the council.* During the construction and installation of the required public improvements, the zoning enforcement officer shall from time-to-time make field inspections and supervise said work as predetermined and agreed upon by the zoning enforcement officer and the subdivider. After completion of all the construction and installation of the required public improvements and if said work has met the specifications as described herein, as determined by the zoning enforcement officer, the zoning enforcement officer shall notify the subdivider in writing of the approval of said work.

149.3 *Official acceptance by the council.* The council shall officially accept the completed work on the construction and installation of required public improvements one year from the date of the written acceptance by the zoning enforcement officer.

149.4 *Performance bond.* If the subdivider does not wish to construct and install any required public improvements as described herein prior to submitting the subdivision plat to the commission for final approval, a performance bond shall be required, such bond being equal to the estimated cost of construction.

149.5 *Maintenance of completed work.* The subdivider shall maintain such subdivider's completed work until the official acceptance by the council as described in section 149.3 above. The subdivider shall be required to sign a maintenance bond agreement with the council. If a maintenance bond is posted by the subdivider a bond equaling ten (10) percent of the construction cost shall be required. During the maintenance period, the zoning enforcement officer shall make final inspection and notify the subdivider and the bonding company, or in cases where funds are being held in escrow, the cost of making such corrections shall be deducted from these funds, and the subdivider charged with any costs above the amount of escrow funds. If the work is acceptable at this time, the remaining ten (10) per cent of the escrow funds shall be released to the subdivider.

149.7 *Cost of improvements.*

149.71 *Subdivider's responsibility.* The subdivider shall incur the cost of construction and installation of all required public improvements based on the following:

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- (1) *Streets*. Incur the cost for the construction of streets up to twenty-seven (27) feet in pavement width from back of curb, to back of curb, or twenty-four (24) feet in pavement width from edge of pavement to edge of pavement if no curbs and gutters are installed.
 - (2) *Water and sewer systems*. Incur the cost for the installation of all water and sewer systems which are required to serve the new subdivision and tie in with existing water and sewer systems, based on the specifications set forth herein.
 - (3) *Sidewalks*. Entire cost.
 - (4) *Monuments*. Entire cost.
- 149.72 *Council's responsibility*. The council shall partially participate in sharing the cost of construction and installation of required public improvements for the following conditions:
- (1) *Streets*. Incur cost for any additional required pavement which is in excess of twenty-seven (27) feet for streets with curbs and gutters and in excess of twenty-four (24) feet for streets without curbs and gutters, and any additional grading and paving related thereto.
 - (2) *Water and sewer systems*. Incur cost for any difference in the cost of the laying of oversized pipe and outfall systems which are needed in excess of the required water and sewer facilities needed to exclusively serve the new subdivision as determined by the commission and council.
 - (3) *Street signs*. Entire cost.
- 149.73 *Property owner's responsibility*. Whenever the council is petitioned by the property owners to upgrade a class II street to class I, the property owners shall then incur the entire cost for said improvements based on the footage along the property line of each lot abutting the street which is being improved and on the requirements in section 149.71 above.
- 149.74 *Estimated costs for construction and installation*. The current unit prices in effect at the time of submission of plans shall be used in determining the total estimated cost for construction and installation of required public improvements in new subdivisions.

ARTICLE XV. ENFORCEMENT AND REMEDIES

[Sec. 151. Penalties.](#)

[Sec. 152. Subdivision enforcement.](#)

[Sec. 153. Remedies.](#)

Sec. 151. Penalties.

Any person violating any provision of this ordinance shall be fined upon conviction, not less than two dollars (\$2.00) nor more than one hundred dollars (\$100.00) and costs of court for each offense. Each day such violation continues shall constitute a separate offense.

Sec. 152. Subdivision enforcement.

152.1 The owner, or agent of the owner, of any land to be subdivided within the City of Abbeville, who transfers or sells, or agrees to sell or negotiates to sell such land by reference to or exhibition of, or by other use of a plat to subdivide such land before such plat has been approved by the commission and recorded in the office of the probate judge of Henry County, shall forfeit and pay a penalty of one hundred dollars (\$100.00) for each lot or parcel so transferred or sold; and the description by metes

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and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt the transaction from such penalties.

The council, through its attorney or other designated officials, may enjoin such transfer or sale or agreement by appropriate action.

152.2 No plat or plan of subdivision within the City of Abbeville shall be filed or recorded by a subdivider in the office of the probate judge of Henry County until it shall have been submitted to and approved by the planning commission and such approval entered in writing on the plat by the secretary of the planning commission. The probate judge shall not file or record a plat of a subdivision which does not have the approval of the commission.

Sec. 153. Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure or land is or is proposed to be used in violation of this ordinance, the building inspector, city attorney, or other appropriate authority of the City of Abbeville or any adjacent or neighboring property owner who would be specially damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate such violation; or to prevent the occupancy of said building, structure, or land. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues shall be deemed a separate offense.

ARTICLE XVI. LEGAL STATUS PROVISIONS

[Sec. 161. Conflict with other laws.](#)

[Sec. 162. Validity.](#)

[Sec. 163. Repealed resolutions and ordinances.](#)

[Sec. 164. Effective date.](#)

Sec. 161. Conflict with other laws.

Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted statutes, rules, regulations, or ordinances, the most restrictive, or that imposing higher standards, shall govern.

Sec. 162. Validity.

Each phrase, sentence, paragraph, section or other provision of this ordinance is severable from all other such phrases, sentences, paragraphs, sections and provisions. Should any phrase, sentence, paragraph, section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of this ordinance.

Sec. 163. Repealed resolutions and ordinances.

This is a comprehensive enactment of a plan of zoning and regulation of subdivisions, and all prior zoning ordinances are hereby superseded and repealed.

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Sec. 164. Effective date.

This ordinance shall take effect and be in force from and after the date of its adoption.

CODE COMPARATIVE TABLE 1968 CODE

This table gives the location within this Code of those sections of the 1968 Code which are included herein. Sections of the 1968 Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

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CODE COMPARATIVE TABLE 1987 CODE

This table gives the location within this Code of those sections of the 1987 Code which are included herein. Sections of the 1987 Code not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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CODE COMPARATIVE TABLE ORDINANCES

This table gives the location within this Code of those ordinances, adopted after the 1987 Code was adopted, which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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STATE LAW REFERENCE TABLE

This table shows the location within this Code, either in the text or notes following the text, of references to the Code of Alabama 1975.

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