

ARTICLE VI  
SIGN REGULATIONS

Section 6-1. Purpose

The purpose of this Article is to regulate the location, size, placement and certain features of signs in order to enable the public to locate goods, services and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among businesses for attention, to prevent hazards to life and property, to assure the continued attractiveness of the city and to protect and enhance property values.

Section 6-2. Procedure

No sign, except those listed in Section 6-3, shall be posted, reposted, placed, replaced, hung, painted, or repainted in any district except in conformance with this Ordinance. An applicant desiring to erect a sign except those listed in Section 6-3 shall first obtain approval of an application for a sign permit from the Administrative Officer. Each application for a permit shall be accompanied by a ten dollar (\$10.00) fee and plans indicating the following:

1. The proposed site identifying the property owner, location, present use and zoning;
2. Location of the sign on the lot in relation to property lines and existing signs and structures;
3. Complete structural specifications;
4. Any additional information needed to determine if such sign is to be erected in conformance with this Ordinance.

Section 6-3. Signs not Requiring a Permit

1. Any sign not exceeding two (2) square feet in area and bearing only property numbers, names of occupants; or business and professional signs not exceeding two (2) square feet in area.
2. Temporary real estate signs, such as "For Sale" or "For Rent" signs, not exceeding four (4) square feet in area and non-illuminated may be placed on the premises.
3. Directional or informational signs of a public or quasi-public nature, not exceeding eight (8) square feet in area, such as a

community's name, place of worship, meeting place of a civic body, or event of public interest.

4. Signs for churches or public buildings to include bulletin boards, lighted or unlighted, not exceeding fifteen (15) square feet in area. Such signs must meet the yard requirements for the district in which they are located.
5. Signs advertising agricultural products for sale, which were produced on the premises, may not exceed ten (10) square feet in area.
6. Legal notices, identification, informational, or directional signs required by government bodies.
7. Signs directing and guiding traffic to parking areas on private property but bearing no advertising matter.
8. Other outdoor advertising devices including but not limited to plaques, banners, pennants, streamers, posters, are permitted for a period of not more than two (2) weeks after the opening of a new business or sale.
9. Any on-site business sign which is attached to the principle building and does not exceed the height of the building.

#### Section 6-4. Signs Requiring a Permit

The following signs shall require issue of a sign permit in accordance with Section 6-2:

1. On-site business signs which do not comply with Section 6-3-9
2. Off-site business identification sign
3. Off-site advertising sign

#### Section 6-5. On-Site Business Signs

All on-site business signs shall conform to the following standards:

1. Maximum height: 45 feet
2. Maximum sign face area: 500 square feet per sign face
3. Each business is permitted only one on-site business sign which requires a sign permit, in addition to other on-site signs which do not require a sign permit.

#### Section 6-6. Off-Site Business and Advertising Signs

All off-site business and advertising signs shall conform to the following standards:

1. Off-site signs shall be located only on lots zoned B-2, B-3, M-1, or M-2, and fronting on U. S. Highway 431. Only one (1) off-site sign per lot shall be permitted and said signs shall be located so as not to interfere with or obstruct the vision of motor vehicles at intersections.
2. Maximum height: 65 feet
3. Maximum sign face area: 700 square feet per sign face
4. No off-premise sign which exceeds 300 square feet of sign face area shall be located closer than 1,000 feet to any other off-premise sign which exceeds 300 square feet of sign face area.
5. Off-premise signs may not be stacked or erected side by side on the same support structure..

#### Section 6-7. Signs Not Permitted

In the interest of public safety, the following are not permissible:

1. Any sign extending or protruding more than six (6) inches over public property except by permit of the Zoning Board of Adjustment
2. Blinking illuminated signs
3. Any signs with moving parts
4. Signs hung from, or in any way affixed to any other sign
5. Any noise-making signs
6. Any signs illuminated red
7. Any spotlight illuminating a sign shall be controlled so as not to have the beams therefrom cast into the eyes of oncoming motorists.
8. Signs located in the public right of way

## ARTICLE VII

### NON CONFORMITIES

#### Section 7-1. Purpose

Within the districts established by this Ordinance or amendments that may later be adopted there may exist (a) lots, (b) structures, (c) uses of land and structures, which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these non-conformities to continue until they are voluntarily removed, or removed as required by this Ordinance, but not to encourage their continuance. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded, intensified, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

7-1-1 Incompatibility with Permitted Uses. Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land in combination shall not be extended or enlarged after the effective date of this Ordinance or its amendment by attachment on structures or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

7-1-2 Construction of Non-Conforming Use. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently until the completion of the new construction involved.

#### Section 7-2. Non-Conforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Said

lot must be in separate ownership and not in continuous frontage with other lots in the same ownership. This provision shall apply even though a lot fails to meet the requirements for area or width, or both that are applicable in the district, provided that yard dimensions, (front, rear and side) and requirements other than those applying to area or width, or both of the lots shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment (Article IX).

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and for area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance and no portion of said parcel shall be used in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.

### Section 7-3. Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of this Ordinance a lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual, permanently-fixed structures with a replacement cost exceeding \$1,000 and no combination of permanently-fixed structures with a replacement cost as high as \$4,000, the use may be continued for the period provided in 7-3-4 so long as it remains otherwise lawful, provided:

7-3-1 Enlargement, Increase, Intensification, Alteration. No such non-conforming use shall be enlarged, increased, intensified, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

7-3-2 Discontinuance. If any such non-conforming use ceases for any reason (except when governmental action impeded access to the premises) for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

7-3-3 Subdivision or Structural Additions. No land in non-conforming use shall be subdivided, nor shall any structures be added on such land, except for the purposes and in a manner conforming to the regulations for the district in which such land is located, provided, however, that subdivision may be made which does not increase the degree of non-conformity of the use.

7-3-4 Cessation of Non-Conforming Uses of Land (or land with minor structures only). In implementing the intent of Section 7-3, the non-conforming use of land or use of land with minor structures only, as defined in Section 7-3 above, is hereby declared to be a public nuisance and shall be discontinued not later than five (5) years from the effective date of this Ordinance.

Section 7-4. Non-Conforming Structures

Where a structure exists lawfully under this Ordinance at the effective date of its adoption or amendment that could not be built under this Ordinance by reason of restrictions on area, residential densities, lot coverage, height, yards, location on the lot, or requirements other than use concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

7-4-1 Enlargement. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

7-4-2 Reconstruction. Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

7-4-3 Relocation. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 7-5. Non-Conforming Use of Major Structures or of Major Structures and Premises in Combination

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of structures, or of structures and premises in combination exists involving an individual, permanently-fixed structure with a replacement cost at or exceeding \$1,000 or a combination of permanently-fixed structures with a replacement cost at or exceeding \$4,000, such use may be continued so long as it remains otherwise lawful provided:

7-5-1 Enlargement, Extension, Alteration, Etcetera of Structures. No existing structure devoted to a use not permitted by this Ordinance in the district in which such use is located shall be enlarged, extended, constructed, reconstructed, moved to another location on the property, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

7-5-2 Change in Tenancy or Ownership. There may be a change in tenancy, ownership, or management of a non-conforming use provided there is no change in the nature or character of such non-conforming use.

7-5-3 Discontinuance. If any non-conforming use of a structure, or structure and premises in combination, ceases for any reason (except where governmental action impeded access to the premises) for a period of more than twelve (12) consecutive months, any subsequent use shall conform to the regulations for the district in which the use is located.

7-5-4 Destruction of Major Structure or Structures. Where a non-conforming use status applies to a major structure or structures, or to a major structure or premises in combination, removal, or destruction of the structures shall eliminate the non-conforming status of land. "Destruction" of the structure for purposes of this subsection is hereby defined as damage to an extent of more than fifty (50) percent of the replacement cost at the time of destruction. Upon removal or destruction as set out in this subsection, the use of land and structures shall thereafter conform to the regulations for the district in which such land is located.

#### Section 7-6. Non-Conforming Structures Unsafe Because of Lack of Maintenance

If a non-conforming structure or portion of a structure or any structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance, and is declared by the Administrative Officer to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

#### Section 7-7. Uses Under Special Exception Provisions Not Non-Conforming Uses

Any use which is permitted as a Special Exception in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district, but shall without further action be deemed a conforming use in such district.

#### Section 7-8. Residential Uses Exempted

Non-conforming residential structures may be expanded, enlarged, or altered provided no additional dwelling units result. Destruction of non-conforming structures as provided for in Subsection 7-5-4 does not apply to residential structures. Residential structures may be rebuilt provided no additional dwelling units result.

## ARTICLE VIII

### ADMINISTRATION AND ENFORCEMENT

#### Section 8-1. Administrative Officer

The provisions of this Ordinance shall be administered and enforced by the Administrative Officer (Municipal Building Inspector). This official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this Ordinance.

If the Administrative Officer shall find that any of the provisions of this Ordinance are being violated, he shall take any action authorized to ensure compliance with or to prevent violation of its provisions.

#### Section 8-2. Building Permits Required

It shall be unlawful to commence the excavation for the construction of any building or other structure, including accessory structures or to store building materials or erect temporary field offices, or to commence the moving, alteration or repair (except repairs not changing the character of the structure and not involving Southern Standard Building Code Inspection) of any structure without a building permit issued by the Administrative Officer. Applications for a building permit shall be made to the Administrative Officer on forms provided for that purpose and shall be accompanied by a fee according to a fee schedule currently in use by the City.

#### Section 8-3. Approval of Plans and Issuance of Building Permit

It shall be unlawful for the Administrative Officer to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Ordinance.

#### Section 8-4. Certificate of Occupancy

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used or occupied until the Administrative Officer shall have issued a Certificate of Occupancy stating that such land or structure, or part thereof, is found to be in conformity with the provisions of this Ordinance.

## ARTICLE IX

### BOARD OF ZONING ADJUSTMENT

#### Section 9-1. Establishment of a Board of Zoning Adjustment

A Board of Zoning Adjustment is hereby established. Said Board shall consist of five (5) members, each to be appointed for a term of three (3) years by the City Council, except that in the first instance, one member shall be appointed for a term of three years, two for a term of two years, and two for a term of one year. Thereafter, each member appointed shall serve for a term of three years or until his successor is duly appointed. Each member may be removed for cause by the appointing authority upon written charges and after a public hearing.

The members of the Board of Adjustment serving on the effective date of this Ordinance under an Ordinance effective prior hereto shall be considered as the five (5) members to be appointed by the City Council and each of these members shall serve the balance of the term to which such member was appointed.

9-1-1 Qualification of Members. Members of the Board of Adjustment shall not hold any other public position or office in the government of the City of Boaz. All members of the Board of Adjustment shall be electors of the City of Boaz.

9-1-2 Vacancies. Vacancies in Board membership shall be filled by appointment by the City Council for the unexpired portion of the term of the member affected.

9-1-3 Removal. Members of the Board of Adjustment may be removed from office for cause by the appointing authority upon written charges and after a public hearing.

#### Section 9-2. Proceedings

9-2-1 Officers and Voting. The Board of Adjustment shall select a chairman and vice-chairman from among its members and may create such other offices as it may determine.

9-2-2 Rules of Procedure. The Board of Adjustment shall adopt rules of procedure necessary to its governance and the conduct of its affairs, in keeping with the applicable provisions of the Code of Alabama and this Ordinance. Such rules of procedure shall be in written form available to persons appearing before the Board and to the public.

9-2-3 Meetings. Meetings shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Meetings shall not be held without at least twenty-four (24) hours notice to each member. The Board of Adjustment shall have the power to take testimony under oath and compel the attendance of witnesses.

9-2-4 Quorum; Minutes; Public Records. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member (including the Chairman or Vice-Chairman) or if absent or failing to vote indicating such fact. The Board shall keep records of its examinations and be filed immediately in the Office of the Board. A quorum for the transaction of business shall consist of four (4) members.

9-2-5 Disqualification of Members. If any member of the Board of Adjustment shall find that his private or personal interests are involved in the matter coming before the Board, he shall disqualify himself from all participation in that case; or he may be disqualified by the votes of four (4) members of the Board, not including the member about whom the question or disqualification has been raised. No member of the Board of Adjustment shall appear before the Planning Commission or City Council as agent or attorney for another person.

#### Section 9-3. Powers and Duties of the Board of Zoning Adjustment

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

1. Upon proper application, to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Ordinance or any other ordinance adopted pursuant thereto.
2. Upon proper application, to hear and decide Special Exceptions to the terms of this Ordinance upon which said Board is required to pass under such Ordinance.
3. Upon application, to hear and authorize in specific cases such variances 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 result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done.

Section 9-4. Decisions of the Board of Zoning Adjustment

In exercising the above-mentioned powers, the Board of Adjustment shall reverse or affirm, wholly or in part; shall modify the order, requirement, decision, or determination appealed from; shall make such order, requirement, decision or determination as ought to be made; so long as such action is in conformity with the terms of this Ordinance, and to that end shall have the powers of the Administrative Officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Administrative Officer, to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 9-5. Appeals from Decisions of Board of Zoning Adjustment

Any person or persons, aggrieved by any decision of the Zoning Board of Adjustment may within fifteen (15) days thereafter appeal the decision to the appropriate court of law by filing with the Zoning Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken.

Section 9-6. Procedure for Appeal of the Decision of the Administrative Officer

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer, agency, or bureau of the City of Boaz affected by any decision of the Administrative Officer. Such appeal shall be taken within a reasonable time, not to exceed thirty (30) days. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, and give public notice of the public hearing in the same manner as required for public notice of a City Council zoning amendment hearing.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Officer and on due cause shown.

### Section 9-7. Procedure for Special Exceptions

The Board of Adjustment shall hear and decide special exceptions as the Board is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether a special exception should be granted; including the interpretation and classification of such uses which may not be specifically listed as special exceptions in the Zoning Ordinance; to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance.

Application for special exceptions shall be filed with the Secretary of the Board on forms provided by the Secretary at least fourteen (14) days in advance of the public hearing and shall be accompanied by:

1. A non-refundable application fee of \$50.00
2. A vicinity map showing location of the site in relation to the surrounding area and zoning of the site and adjacent property
3. A legal description of the property
4. A letter from the appropriate public utilities stating that said utilities are available to serve the proposed special exception use
5. A site plan, drawn to scale, showing: the location, use and dimensions of all existing and proposed structures; points of ingress and egress to the property; all public and private roads; off-street parking and loading areas; buffers and greenbelts; and signs
6. Any supplemental information which will assist the Board in reviewing the special exception request

Upon receipt of the completed application and appropriate fee, the Secretary shall immediately place the request upon the calendar for hearing. Owners of property adjacent to the property which is the subject of the special exception, as their names appear upon the plats of the Tax Assessor, shall be notified by mail of the date, time, place and nature of the public hearing, at least seven days prior to said hearing. Notices of the public hearing shall be posted in four conspicuous places in the City of Boaz, 7 days prior to the hearing for the special exception, together with a notice stating the time and place that the special exception is to be considered by the Board and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition or in favor of such special exception.

A Special Exception shall not be granted by the Board unless and until:

1. The Board finds that it is empowered under the Section of this Ordinance described in the application to grant a special exception and that the granting of the special exception will not adversely affect the public interest.
2. The Board determines compliance with the specific rules governing individual special exceptions and considers the potential arrangement and provisions for the following:
  - a. Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenient traffic flow control;
  - b. Provision of off-street parking and loading areas where required, with particular attention to the items in (1) and the economic, noise, glare, and odor effects of the special exception on adjoining properties in the area;
  - c. Utilities, with reference to locations, availability and compatibility;
  - d. Buffering with reference to type, location and dimensions;
  - e. Signs, if any and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - f. Location, use, plan, elevations and dimensions of each building or structure to be constructed;
  - g. The location, dimension, and arrangement of all open spaces, yards, access ways, entrances, exits, off-street parking facilities, pedestrian ways, location and width of roads, streets and sidewalks;
  - h. General compatibility with adjacent properties and other property in the district.

Section 9-8. Procedure for Application of Variances

The Board of Adjustment shall have the power to authorize, in specific cases such variances 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 would result in an unnecessary hardship.

Application for a variance shall be filed with the Secretary of the Board on forms provided by the Secretary at least twenty one (21) days in advance of the public hearing, and shall be accompanied by:

1. A non-refundable application fee of \$50.00
2. A site plan, drawn to scale, showing: property lines, rights-of-way and easements; and the location, dimensions, and building setback for all existing and proposed buildings and structures on the site and adjacent to the site
3. A scale drawing which shows all dimensions of the building, structure, or area which is the subject of the variance request

Upon receipt of the completed application and appropriate fee, the Secretary shall immediately place the request upon the calendar for hearing. Public notice for the hearing shall be provided in the same manner as required for public notice of a City Council zoning amendment hearing.

Such variance may be granted in such individual cases of unnecessary hardship upon a finding by the Board that the following conditions exist:

1. There are exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
2. A personal hardship exists on the part of an individual property owner which will not permit him to enjoy the full utilization of his property which is given to others within the City. A hardship exists only when it is not self-created or when it is not economic in nature.
3. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.
4. A literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
5. The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare.
6. The special circumstances are not the result of the actions of the applicant.
7. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
8. The variance is not a request to permit a use of land, building or structure which is not permitted in the district involved.

ARTICLE X  
AMENDMENTS

Section 10-1. Initiation of Amendment

The regulations, restrictions, procedures, official zoning map, district regulations, and other material set out in this Ordinance may from time to time be amended, supplemented, changed or repealed. Proposed changes or amendments may be initiated by:

- a. City Council
- b. Planning Commission
- c. Board of Adjustment
- d. Any other Department or Board of the City
- e. Any person other than those listed in (a), (b), (c), or (d) above; provided, however, that no such person shall propose an amendment for the rezoning of property which he does not own except as agent or attorney for an owner

All zoning amendments shall be considered by the Planning Commission in the manner herein set out.

Section 10-2. Application for Zoning Amendment

An application for any amendment shall be filed with the Secretary of the Planning Commission on forms provided by the Secretary and shall be accompanied by:

- a. A non-refundable application fee of \$50.00
- b. A vicinity map showing location of the site in relation to the surrounding area and zoning of the site and adjacent property
- c. A legal description of the property to be zoned
- d. A letter from the appropriate utilities stating that said utilities are available to serve the proposed use
- e. A site plan, drawn to scale, showing: the dimensions of the property, access to a public street, existing buildings and proposed buildings if applicable
- f. Any supplemental information which will assist the Commission in reviewing the zoning amendment.

Such application shall be filed with the Secretary of the Planning Commission not later than twenty one (21) days prior to the Commission meeting at which the application is to be considered.

Section 10-3. Notice of Planning Commission Hearing

Public notice for the hearing at which the amendment is to be considered shall be provided in the same manner as required for public notice of a City Council zoning amendment hearing.

Section 10-4. Fee

A non-refundable fee of fifty dollars (\$50.00) shall be paid to the City of Boaz, Alabama, for each application for an amendment to cover the costs of advertising and other administrative expenses involved.

Section 10-5. Action by the Governing Body

*See Ord. 97-678  
Amended*

10-5-1 Notice of Public Hearing. No zoning ordinance shall be passed by the City Council until: (a) Owners of property adjacent to the property which is the subject of the zoning amendment, as their names appear upon the plats of the Tax Assessor, shall be notified by mail of the date, time, place and nature of the public hearing at least 10 days prior to said hearing. (b) The proposed ordinance has been posted in four conspicuous places in the City of Boaz, 15 days prior to the hearing for the proposed ordinance, together with a notice stating the time and place that the ordinance is to be considered by the City Council and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition or in favor of such ordinance.

10-5-2 Planning Commission Action. Before taking such action as it may deem advisable, the City Council shall consider the Planning Commission's recommendations on each proposed zoning amendment.

10-5-3 Reconsideration. The City Council shall not reconsider an application which has been denied by the City Council for a period of twelve months. The twelve month period may be waived by two affirmative votes of the City Council when such action is deemed necessary to prevent injustice or to facilitate the proper development of the City.

## ARTICLE XI

### DEFINITION OF TERMS

For the purpose of interpreting this Ordinance, certain words and terms are herein defined. The following words shall, for the purpose of this Ordinance, have the meaning herein indicated.

#### Section 11-1. Interpretation of Commonly Used Terms and Words

11-1-1 Words used in the present tense include the future tense.

11-1-2 Words used in the singular number include the plural, and words used in the plural include the singular, unless the natural construction of the wording indicates otherwise.

11-1-3 The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.

11-1-4 The words "used for" shall include the meaning "designed for".

11-1-5 The word "structure" shall include the word "building"

11-1-6 The word "lot" shall include the words "plot", "parcel", or "tract".

11-1-7 The word "shall" is always mandatory and not merely directory.

11-1-8 The word "map" or "zoning map" shall mean the "Official Zoning Map, City of Boaz".

#### Section 11-2. Definitions of Commonly Used Terms and Words

11-2-1 Access. A way of approaching or entering a property.

11-2-2 Accessory Building or Use. A building which (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of the occupants of the principal building or principal use; and (4) is located on the same zoning lot as the principal building or principal use except as herein provided. Examples of accessory uses are private garages, storage sheds and swimming pools.

- 11-2-3 Adjoining. Having property or district lines in common.
- 11-2-4 Administrative Officer. The person appointed by the City Council to enforce all provisions of the Zoning Ordinance.
- 11-2-5 Alley. A public right-of-way, less than fifty (50) feet in width designed to serve as a secondary access to the side or rear of these properties whose principal frontage is on some other street.
- 11-2-6 Alteration.
- a. Any addition to the height or depth of a building or structure.
  - b. Any change in the location of any of the exterior walls of a building or structure.
  - c. Any increase in the interior accommodations of a building or structure.
- 11-2-7 Apartment. (See Dwelling, Multiple-Family)
- 11-2-8 Boarding House. A building other than a hotel, cafe or restaurant where for compensation meals are provided for three (3) or more persons.
- 11-2-9 Buffer Strip. A strip of land, established to protect one type of land use from another with which it is incompatible.
- 11-2-10 Building. A structure, having a roof supported by columns or walls and intended to be used for sheltering people, animals, property or business activity.
- 11-2-11 Building Area. That portion of a lot remaining after required yard setbacks have been provided.
- 11-2-12 Building, Height. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.
- 11-2-13 Building Line. A line, parallel to the property line, indicating the nearest distance to the street right-of-way line that is permissible by this Ordinance.
- 11-2-14 Building, Principal. A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot which it is situated.
- 11-2-15 Certificate of Occupancy. Official certification that a premise conforms to the provisions of the Zoning Ordinance (and building code) and may be used or occupied.

11-2-16 City. City of Boaz, Alabama.

11-2-17 Condominium Ownership. Condominium is that form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

11-2-18 District. Any section of the City of Boaz in which zoning regulations are uniform.

11-2-19 Dog Kennel. A structure used for the harboring of more than three (3) dogs that are more than six (6) months old.

11-2-20 Dwelling. Any building or portion thereof which is designed for use for residential purposes.

11-2-21 Dwelling, Single-Family. A building arranged to be occupied by one (1) family, the structure having only one (1) dwelling unit.

11-2-22 Dwelling, Two-Family. A building arranged to be occupied by two (2) families living independently of each other, the structure having two (2) dwelling units.

11-2-23 Dwelling, Multiple-Family. A building arranged to be occupied by three (3) or more families living independently of each other.

11-2-24 Dwelling Unit. A building, or portion thereof, designed, arranged and/or used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

11-2-25 Family. An individual, or two or more persons related by blood, marriage, or legal action, or a group not exceeding five persons living as a single housekeeping unit.

11-2-26 Flood. An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

11-2-27 Garage Apartment. A garage apartment is an accessory or subordinate building, not part of or attached to the main building, where a portion thereof contains a dwelling unit for one family only, and the enclosed space for at least one automobile is attached to such dwelling unit.

11-2-28 Group Development. A tract of land under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved development plan. (Group development may be residential, commercial, industrial or institutional in nature).

11-2-29 Hardship. A condition existing when the conditions imposed by the Zoning Ordinance would deprive the property owner of certain development rights that are enjoyed by other property owners within the same zoning district. Upon examination of the hardship claimed it should be determined that: (1) the property owner did not bring this hardship upon himself; (2) the physical site conditions are such that a hardship does exist; or (3) the property owner would be deprived of rights which are normally afforded under the same regulations for the zone in which his property is located. The term "hardship" should never be interpreted as meaning personal or economic hardship to the property owner.

11-2-30 Home Occupation. An occupation conducted in a dwelling unit provided that:

a. No person other than immediate members of the family residing on the premises shall be engaged in such occupation;

b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building;

d. No home occupation shall be conducted in any accessory building;

e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard or side yard.

11-2-31 Hotel, Motel, Motor Hotel, Motor Lodge, Tourist Court. The words hotel, motel, motor hotel, motor lodge, and tourist court are to be considered synonymous terms and to mean a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge, as distinguished from multiple family dwellings and rooming or boarding houses, where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients. Where more than one-half (1/2) of the units in a hotel, motel, motor hotel, motor lodge, tourist court have cooking facilities, such an operation shall be deemed a multiple family dwelling and shall be subject to this Zoning Ordinance as a multiple-family dwelling.

- 11-2-32 Junk Yard. The use of more than six hundred (600) square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of motor vehicles or machinery.
- 11-2-33 Land Use Plan. The officially adopted Land Use Plan of the City of Boaz.
- 11-2-34 Loading Space, Off-Street. Off-street loading space is space logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, provided the minimum size of any required off-street loading space shall have clear horizontal dimensions of twelve (12) feet by thirty (30) feet exclusive of platforms and piers and a clear vertical dimension of fourteen (14) feet.
- 11-2-35 Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.
- 11-2-36 Lot, Corner. A lot which occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front.
- 11-2-37 Lot, Depth. The mean horizontal distance between the front and rear lot lines.
- 11-2-38 Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Probate Judge of Etowah or Marshall County, or a lot described by metes and bounds, the description of which has been so recorded.
- 11-2-39 Lot Width. The distance between side lot lines measured at the building setback line.
- 11-2-40 Mobile Home. A single-family dwelling unit constructed on a chassis and which has been so designed that it may be occupied and used with or without a permanent foundation. It is intended for year-round occupancy and is equipped with appliances and electrical and sanitary systems that function independently of auxiliary facilities so that only simple utility connections that can be expanded, or consist of two separate units joined at the site into a single home (double-wide). Removal of wheels or chassis and placing such a structure on the ground, or other foundation shall not remove such a unit from this definition.

11-2-41 Mobile Home Park. A parcel of land under single ownership, designed, maintained, intended or used for the purpose of supplying a location of accommodations for two (2) or more mobile homes for non-transient use. This definition shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection or sale.

11-2-42 Mobile Home Subdivision. A subdivision which meets the requirements of the Boaz Subdivision Regulations.

11-2-43 Non-Conforming Use. Any lawful use of land, building or structure existing at the time of adoption of the Zoning Ordinance, which does not conform with the regulations of the district in which it is located.

11-2-44 Non-Residential Use. A use which is not a residential use or accessory to a residential use.

11-2-45 Parking Space. A permanently surfaced area, enclosed or unenclosed, of not less than ten (10) feet by twenty (20) feet, together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. It shall be located outside the street right-of-way.

11-2-46 Planning Commission. Planning Commission of the City of Boaz, Alabama.

11-2-47 Rooming House. Any building or portion thereof which contains not less than three (3) or more than nine (9) guest rooms which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly.

11-2-48 Sign, Advertising. A sign which advertises goods, services, facilities, events or attractions available on or off the premises where located.

11-2-49 Sign, Identification. An identification sign is a sign which depicts only the name and/or address of a building or establishment as a means of identifying said building or establishment.

11-2-50 Special Exception. A Special Exception is a use that would not be appropriate generally or without restriction throughout a zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses may be permissible in a zoning classification

or district as a Special Exception if specific provisions for such Special Exception is made in this Ordinance. (See Section 9-7 for application procedures).

11-2-51 Stand, Mobile Home. An area within a mobile home park which has been improved for a single mobile home as provided in this Ordinance.

11-2-52 Story. The term "story" shall mean that portion of a building or structure included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building or structure included between the upper surface of the topmost floor and the ceiling or roof above.

11-2-53 Street. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting property.

11-2-54 Street Frontage. All the property on one side of a street between two intersecting streets (crossing or terminating), or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

11-2-55 Street Line. The dividing line between a right-of-way and the contiguous property.

11-2-56 Structure. Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including buildings, signs, walls, fences and mobile homes.

11-2-57 Town Houses or Row Houses. Two or more dwelling units, attached by a common side wall(s), each unit of which is located on an individual lot and designed to be occupied and owned by one family.

11-2-58 Variance. A Variance is a relaxation of the terms of this Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship on the land. As used in this Ordinance, a Variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited or not permitted shall not be allowed by Variance, nor shall a Variance be granted because of the presence of non-conformities in the zoning classification or district or adjoining zoning classifications or districts. (See Section 9-8 for application procedures).

11-2-59 Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

11-2-60 Yard, Front. A yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than steps.

11-2-61 Yard, Rear. A yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

11-2-62 Yard, Side. A yard between the building and the side line of the lot and extending from the lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

ARTICLE XII  
REMEDIES AND PENALTIES

Section 12-1. Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building structure or land is used in violation of this Ordinance or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the City in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, to use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure use in or about such premises.

Section 12-2. Penalties for Violation

Penalties for violation of this Ordinance may be instituted as prescribed in Title 11, Chapter 45, Section 11-45-9 of the Code of Alabama (recompiled 1975).

ARTICLE XIII

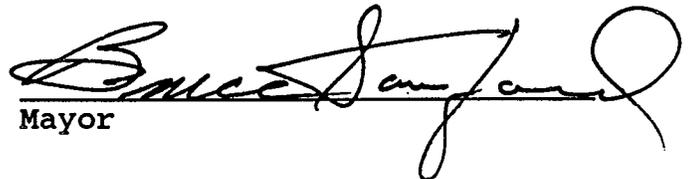
LEGAL STATUS PROVISIONS

Section 13-1. Separability

Should any section or provision of this Ordinance be declared invalid by any court or jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is specifically declared to be invalid.

Section 13-2. Effective Date

This Ordinance shall be in full force after its passage by the City of Boaz City Council, State of Alabama, this the 17th day of June, 1991.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk