

# *Town of Magnolia Springs*

# Ordinance 2007-02

## Zoning Regulations

Adopted by the  
Magnolia Springs Town Council

**February 20, 2007**

Magnolia Springs Town Council

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## **Article I Purpose, Enactment and Title**

### **Section 1.1 Mission and Purpose**

The overall mission of these regulations is to maintain the cultural resources, historic nature, and character of area, by preserving the “small community” atmosphere by encouraging the proper use of the natural resources and other aspects of the area, while not discouraging or hampering proper and advantageous development and/or growth in the community.

The purpose of these regulations is to promote the health, safety, morals and general welfare; to encourage the use of lands and natural resources in Magnolia Springs in accordance with their character and adaptability; to limit the improper use of land; to provide for the orderly development and growth of Magnolia Springs; to reduce hazards to life and property; to establish the location and size of and the specific uses for which dwellings, buildings and structures may hereafter be erected or altered, and the minimum open spaces and sanitary, safety and protective measures that shall be required for such buildings, dwellings, and structures; to avoid congestion on the public roads and streets; to provide safety in traffic and vehicular parking; to facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and sufficient water supply and other public requirements; to conserve life, property and natural resources and the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties, for the general good and benefit to the people of Magnolia Springs.

### **Section 1.2 Short Title**

These regulations shall be known and may be cited as the “Magnolia Springs Zoning Regulations.”

### **Section 1.3 Authority**

The rules and regulations herein set forth are hereby adopted in accordance with the requirements of §11-52-70 through §11-52-84, *Code of Alabama 1975*.

### **Section 1.4 Jurisdiction**

These zoning regulations shall be in force and effect in Magnolia Springs in compliance with the §11-52-70 through §11-52-84, *Code of Alabama 1975*.

### **Section 1.5 Conflict With Other Laws**

Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

### **Section 1.6 Validity**

Each phrase, sentence, paragraph, section or other provision of these regulations is severable from all other such phrases, sentences, paragraphs, sections and provisions. Should any phrase, sentence, paragraph, section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such declaration shall not affect any other portion or provision of these regulations.

## **Section 1.7 Disclaimer of Liability**

These regulations shall not create liability on the part of the Magnolia Springs Town Council, or its assigns, or any officer or employee thereof for any damages that may result from reliance on these regulations or any administrative decision lawfully made hereunder.

## **Section 1.8 Adoption**

The Magnolia Springs Zoning Regulations were adopted by the Magnolia Springs Town Council on the 20th day of February, 2007, **Ordinance 2007-02**. They shall take effect and be in force from and after the date of adoption. The zoning map approved for the Town of Magnolia Springs is hereby adopted and made a part of these regulations.

## **Article II Establishment of Zoning Districts**

### **Section 2.1 Establishment of Zoning Districts**

The following zoning districts are hereby established for the Town of Magnolia Springs:

- RA Rural Agricultural District
- ER Single Family Estate District
- R-1(a) Single Family District
- R-1(b) Single Family District
- R-2(a) Single Family District
- R-2(b) Single Family District
- B-1 Professional Business District
- B-2 Local Business District

## **Article III Rural Districts**

### **Section 3.1 RA Rural Agricultural District**

**3.1.1 Generally.** This zoning district provides for large, open, unsubdivided land that is vacant or is being used for agricultural, forest or other rural purposes.

**3.1.2 Permitted uses.** The following uses and structures designed for such uses shall be permitted:

- (a) The following transportation, communication, and utility uses: water well (public or private).
- (b) Outdoor recreation uses.
- (c) The following general commercial uses: animal clinic and/or kennel; farm implement sales; farmers market/truck crops; nursery; landscape sales; country club.
- (d) The following local commercial uses: fruit and produce store.
- (e) The following institutional uses: church or similar religious facility; school (public or private).
- (f) Agricultural uses.
- (g) Single family dwellings excluding manufactured housing and mobile homes.
- (h) Accessory structures and uses.

**3.1.3 Special exceptions.** The following uses and structures designed for such uses may be allowed as special exceptions:

- (a) The following local commercial uses: bed and breakfast or tourist home (see *Section 7.7: Bed and Breakfast Establishments*).

**3.1.4 Conditional uses.** The following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Transportation, communication, and utility uses not permitted by right.
- (b) Institutional uses not permitted by right.

**3.1.5 Area and dimensional regulations.** The area and dimensional regulations set forth below shall be observed.

- Maximum Height of Structure in Feet 35
- Maximum Height of Structure in Habitable Stories 2½
- Minimum Front Yard 40-Feet
- Minimum Rear Yard 40-Feet
- Minimum Side Yards 15-Feet
- Maximum Density 1 Dwelling Unit Per 3 Acres
- Minimum Lot Area 3 Acres
- Minimum Lot Width at Building Line 210-Feet
- Minimum Lot Width at Street Line 210-Feet

**3.1.6 Lot size modifications.** Within the RA district, minimum lot size may be reduced to 40,000 square feet where property is divided among the following designated legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

**3.1.7 Density modifications.** Within the RA district, maximum density may be increased to one (1) dwelling unit per acre where dwellings are occupied by the following designated legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

## **Article IV Residential Districts**

### **Section 4.1 ER, Single Family Estate District**

**4.1.1 Generally.** This zoning district is provided to afford the opportunity for the choice of a very low density residential environment consisting of single family homes on estate size lots.

**4.1.2 Permitted uses.** The following uses and structures designed for such uses shall be permitted:

- (a) The following transportation, communication, and utility uses: water well (public or private).
- (b) Agricultural uses.
- (c) Single family dwellings excluding manufactured housing and mobile homes.
- (d) Accessory structures and uses.

**4.1.3 Conditional uses.** The following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: church or similar religious facility; day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

**4.1.4 Special exception.** The following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 7.7: Bed and Breakfast Establishments*).

**4.1.5 Area and dimensional regulations.** The area and dimensional regulations set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet
Maximum Height of Structure in Habitable Stories	2½
Minimum Front Yard	40-Feet
Minimum Rear Yard	40-Feet
Minimum Side Yards	15-Feet
Maximum Density	1 Dwelling Unit Per 2 Acres
Minimum Lot Area	80,000 Square Feet
Minimum Lot Width at Building Line	165-Feet
Minimum Lot Width at Street Line	165-Feet

**4.1.6 Lot size modifications.** Within the ER district, minimum lot size may be reduced to 40,000 square feet where property is divided among the following legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

**4.1.7 Density modifications.** Within the ER district, maximum density may be increased to one (1) dwelling unit per acre where dwellings are occupied by the following designated legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

## **Section 4.2 R-1(a), Single Family District**

**4.2.1 Generally.** This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

**4.2.2 Permitted uses.** The following uses and structures designed for such uses shall be permitted:

- (a) The following transportation, communication, and utility uses: water well (public or private).
- (b) The following agricultural uses: Silviculture.
- (c) Single family dwellings excluding manufactured housing and mobile homes.
- (d) Accessory structures and uses.

**4.2.3 Conditional uses.** The following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: church or similar religious facility; day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

**4.2.4 Special exception.** The following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 7.7: Bed and Breakfast Establishments*).

**4.2.5 Area and dimensional regulations.** The area and dimensional regulations set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet	
Maximum Height of Structure in Habitable Stories		2½
Minimum Front Yard	30-Feet	
Minimum Rear Yard	30-Feet	
Minimum Side Yards	10-Feet	
Maximum Density	1 Dwelling Unit Per Acre	
Minimum Lot Area Per Dwelling Unit	40,000 Square Feet	
Minimum Lot Width at Building Line	120-Feet	
Minimum Lot Width at Street Line	60-Feet	

### **Section 4.3 R-1(b), Single Family District**

**4.3.1 Generally.** This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

**4.3.2 Permitted uses.** The following uses and structures designed for such uses shall be permitted:

- (a) The following transportation, communication, and utility uses: water well (public or private).
- (b) The following agricultural uses: Silviculture.
- (c) Single family dwellings excluding manufactured housing and mobile homes.
- (d) Accessory structures and uses.

**4.3.3 Conditional uses.** The following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: church or similar religious facility; day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

**4.3.4 Special exception.** The following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 7.7: Bed and Breakfast Establishments*).

**4.3.5 Area and dimensional regulations.** The area and dimensional regulations set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet	
Maximum Height of Structure in Habitable Stories		2½
Minimum Front Yard	30-Feet	
Minimum Rear Yard	30-Feet	
Minimum Side Yards	10-Feet	
Maximum Density	1 Dwelling Unit Per Acre	
Minimum Lot Area Per Dwelling Unit	30,000 Square Feet	
Minimum Lot Width at Building Line	100-Feet	
Minimum Lot Width at Street Line	50-Feet	

## Section 4.4 R-2(a), Single Family District

**4.4.1 Generally.** This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.

**4.4.2 Permitted uses.** The following uses and structures designed for such uses shall be permitted:

- (a) The following transportation, communication, and utility uses: water well (public or private).
- (b) The following agricultural uses: Silviculture.
- (c) Single family dwellings excluding manufactured housing and mobile homes.
- (d) Accessory structures and uses.

**4.4.3 Conditional uses.** The following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: church or similar religious facility; day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

**4.4.4 Special exception.** The following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 7.7: Bed and Breakfast Establishments*).

**4.4.5 Area and dimensional regulations.** The area and dimensional regulations set forth below shall be observed.

Maximum Height of Structure in Feet	35
Maximum Height of Structure in Habitable Stories	2½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Maximum Density	2 Dwelling Units Per Acre
Minimum Lot Area Per Dwelling Unit	20,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet

## Section 4.5 R-2(b), Single Family District

**4.5.1 Generally.** This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.

**4.5.2 Permitted uses.** The following uses and structures designed for such uses shall be permitted:

- (a) The following transportation, communication, and utility uses: water well (public or private).
- (b) The following agricultural uses: Silviculture.
- (c) Single family dwellings excluding manufactured housing and mobile homes.
- (d) Accessory structures and uses.

**4.5.3 Conditional uses.** The following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: church or similar religious facility; day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

**4.5.4 Special exception.** The following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 7.7: Bed and Breakfast Establishments*).

**4.5.5 Area and dimensional regulations.** The area and dimensional regulations set forth below shall be observed.

Maximum Height of Structure in Feet	35
Maximum Height of Structure in Habitable Stories	2½
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Maximum Density	2 Dwelling Units Per Acre
Minimum Lot Area Per Dwelling Unit	15,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet

## Article V Commercial Districts

### Section 5.1 B-1, Professional Business District

**5.1.1 Purpose and intent.** The B-1, Professional Business and Office District, is intended to allow a concentration of office type buildings and land uses that are most compatible with, and located near, residential areas. Most B-1 commercial, professional and business office districts will be placed in close proximity to residential areas, and therefore serve as a transitional zoning district between residential areas and higher intensity commercial zoning districts. The types of office uses permitted are those that do not have high traffic volumes throughout the day, which extend into the evening hours. They will have morning and evening short-term peak conditions. The market support for these office uses should be those with a localized basis of market support as opposed to office functions requiring inter-jurisdictional and regional market support. Because office functions have significant employment characteristics, which are compounded when aggregations occur, certain personal service uses shall be permitted, to provide a convenience to office-based employment. Such convenience commercial uses shall be made an integral part of an office building as opposed to the singular use of a building.

**5.1.2 Permitted uses.** The following uses are permitted as of right, or as uses accessory to permitted uses in the B-1, Professional Business and Office District:

- (a) Accessory structures and uses
- (b) Bank
- (c) Barber shop or beauty parlor
- (d) Child care center
- (e) Child care institution
- (f) Church or similar religious facility

- (g) Clinic or dentist office (medical, dental, psychiatric)
- (h) Club or lodge
- (i) Fire station
- (j) Library
- (l) Office
- (m) Optician
- (n) Police station
- (o) Post office
- (p) School (public or private)
- (q) Silviculture
- (r) Studio for dance, music, photography, painting, etc.
- (s) Water well (public or private)

**5.1.3 Conditional uses.** The following uses are permissible as conditional uses in the B-1 Commercial Professional and Business Office District, subject to the standards and procedures established in *Section 11.11: Conditional Uses*:

- (a) Arboretum
- (b) Ball field
- (c) Golf course
- (d) Park or playground
- (e) Riding academy
- (f) Swimming pool (outdoor)
- (g) Tennis court (outdoor)
- (h) Wildlife sanctuary
- (i) Dwellings, in combination with commercial uses, subject to the standards listed under *Section 5.1.4: Mixed uses*

**5.1.4 Mixed uses.** Mixed residential and commercial uses may be permissible as conditional uses in the (B-1) commercial professional and Business office district, subject to the standards and procedures established in *Section 11.11: Conditional Uses*, and subject to the following criteria:

- (a) The commercial uses in the development may be limited in hours of operation, size of delivery trucks, and type of equipment;
- (b) The residential uses shall be designed so that they are compatible with the commercial uses;
- (c) Residential and commercial uses shall not occupy the same floor of a building;
- (d) Residential and commercial uses shall not share the same entrances;
- (e) The number of residential dwelling units shall be controlled by the dimensional standards of the B-1 district. A dwelling unit density of .5 (1/2) dwelling units per 1,000 square feet of the gross floor area devoted to commercial uses, may be allowed (structures with less than 2,000 square feet devoted to commercial uses shall be allowed one dwelling unit). In no case, however, shall the overall dwelling unit density for a mixed use project exceed 4 dwelling units per acre;
- (f) Building height shall not exceed 2.5 stories;
- (g) A minimum of 30 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained);
- (h) The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential



units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible, and;

- (i) Off-street parking spaces for the mixed residential and commercial uses shall be the sum total of the residential and commercial uses computed separately (See *Article VIII: Parking and Loading Requirements*).

### 5.1.5 *Area and dimensional regulations.*

Maximum Height of Structure in Feet	.35
Maximum Height of Structure in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	25-Feet
Minimum Side Yards	15-Feet
Minimum Lot Area	20,000 Square Feet
Maximum Impervious Surface Ratio	.60
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	60-Feet
Maximum Individual Building Size Allowed	8,000 Square Feet

**5.1.6 *Lighting standards.*** The maximum height of exterior lights shall be 25-feet. The intensity, location, and design of lighting shall be such that not more than one foot candle of light is cast upon adjacent property or public rights-of-way. Light fixtures shall be designed to cast light downward. Where necessary, cut-off devices shall be used to minimize glare off premises. No light shall be aimed directly toward a property designated residential, which is located within 200-feet of the source of the light.

**5.1.7 *Distance between structures.*** If there is a separation between any two principal structures on the same parcel, said separation shall be a minimum of 15-feet or a distance equal to one-half the sum of their heights, whichever is the greater.

**5.1.8 *Landscaping and buffering.*** All B-1, Professional Business and Office District, uses shall meet the requirements of *Article X: Landscaping and Buffers*.

## **Section 5.2 B-2, Neighborhood Business District**

**5.2.1 *Purpose and intent.*** The purpose and intent of the B-2 Neighborhood Business District is to provide a limited commercial convenience facility, servicing nearby residential neighborhoods, planned and developed as an integral unit.

**5.2.2 *Permitted uses.*** The following uses are permitted as of right, or as uses accessory to permitted uses in the B-2, Neighborhood Business District:

- (a) All uses permitted by right under the B-1 zoning designation
- (b) Antique store
- (c) Apparel and accessory store
- (d) Appliance store including repair
- (e) Art gallery or museum
- (f) Art supplies
- (g) Bait store
- (h) Bakery retail
- (i) Bed and breakfast or tourist home
- (j) Bicycle sales and service
- (k) Boarding, rooming or lodging house, dormitory
- (l) Book store

- (m) Café
- (n) Camera and photo shop
- (o) Candy store
- (p) Car wash
- (q) Catering shop or service
- (r) Copy shop
- (s) Delicatessen
- (t) Discount/grocery/variety store
- (u) Drug store
- (v) Fixture sales
- (w) Floor covering sales or service
- (x) Florist
- (y) Fraternity or sorority house
- (z) Fruit and produce store
- (aa) Gift shop
- (bb) Hardware store, retail
- (cc) Ice cream parlor
- (dd) Interior decorating shop
- (ee) Laundry, self service
- (ff) Lawnmower sales and service
- (gg) Locksmith
- (hh) Music store
- (ii) Neighborhood convenience store
- (jj) News stand
- (kk) Paint and wallpaper store
- (ll) Picture framing and/or mirror silvering
- (mm) Restaurant
- (nn) Shoe repair shop
- (oo) Shoe store
- (pp) Sign shop
- (qq) Sporting goods store
- (rr) Tailor shop
- (ss) Tobacco store
- (tt) Toy store

**5.2.3 Conditional uses.** The following uses are permissible as conditional uses in the B-2, Neighborhood Business District, subject to the standards and procedures established in *Section 11.11: Conditional Uses*:

- (a) Air conditioning sales and service
- (b) Amusement arcade
- (c) Animal clinic/kennels
- (d) Arboretum
- (e) Ball field
- (f) Business machine sales and service
- (g) Car wash
- (h) Country club
- (i) Discount/grocery/variety store
- (j) Drug store
- (k) Exterminator service office
- (l) Golf course
- (m) Liquor store
- (n) Mini-warehouse
- (o) Night club, bar, tavern

- (p) Office equipment and supplies sales
- (q) Park or playground
- (r) Pawn shop
- (s) Pet shop
- (t) Plumbing shop
- (u) Restaurant sales and supplies
- (v) Riding academy
- (w) Rug and/or drapery cleaning service
- (x) Seafood store
- (y) Swimming pool (outdoor)
- (z) Tennis court (outdoor)
- (aa) Water storage tank
- (bb) Wildlife sanctuary
- (cc) Wireless telecommunication facility
- (dd) Dwellings, in combination with commercial uses, subject to the standards listed under *Section 5.2.4: Mixed uses*

**5.2.4 Mixed uses.** Mixed residential and commercial uses may be permissible as conditional uses in the B-2 Neighborhood Business District, subject to the standards and procedures established in *Section 11.11: Conditional Uses*, and subject to the following criteria:

- (a) The commercial uses in the development may be limited in hours of operation, size of delivery trucks and type of equipment.
- (b) The residential uses shall be designed so that they are compatible with the commercial uses.
- (c) Residential and commercial uses shall not occupy the same floor of a building.
- (d) Residential and commercial uses shall not share the same entrances.
- (e) The number of residential dwelling units shall be controlled by the dimensional standards of the B-2 district. A dwelling unit density of .5 (1/2) dwelling units per 1,000 square feet of the gross floor area devoted to commercial uses, may be allowed (structures with less than 2,000 square feet devoted to commercial uses shall be allowed one dwelling unit). In no case, however, shall the overall dwelling unit density for a mixed use project exceed 4 dwelling units per acre.
- (f) Building height shall not exceed three stories.
- (g) A minimum of 30 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained).
- (h) The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible.
- (i) Off-street parking spaces for the mixed residential and commercial uses shall be the sum total of the residential and commercial uses computed separately (See *Article VIII: Parking Loading Requirements*).

**5.2.5 Area and dimensional regulations.**

- Maximum Height of Structure in Habitable Stories 2 1/2
- Minimum Front Yard 30-Feet
- Minimum Rear Yard 25-Feet
- Minimum Side Yards 15-Feet
- Minimum Lot Area 20,000 Square Feet
- Maximum Impervious Surface Ratio .60
- Minimum Lot Width at Building Line 80-Feet
- Minimum Lot Width at Street Line 60-Feet
- Maximum Individual Building Size Allowed 8,000 Square Feet

**5.2.6 Lighting standards.** The maximum height of exterior lights shall be 25-feet. The intensity, location, and design of lighting shall be such that not more than one foot candle of light is cast upon adjacent property or public rights-of-way. Light fixtures shall be designed to cast light downward. Where necessary, cut-off devices shall be used to minimize glare off premises. No light shall be aimed directly toward a property designated residential, which is located within 200-feet of the source of the light.

**5.2.7 Distance between structures.** If there is a separation between any two principal structures on the same parcel, said separation shall be a minimum of 15-feet or a distance equal to one-half the sum of their heights, whichever is the greater.

**5.2.8 Landscaping and buffering.** All B-2, Neighborhood Business District, uses shall meet the requirements of *Article X: Landscaping and Buffers*.

**5.3 Table of Area and Dimensional Regulations**

Zoning District Name	Minimum Lot Area	Minimum Lot Width (Feet)	Max. Density (DU's per acre)	Min. Front Yards (Feet)	Min. Rear Yards (Feet)	Min. Side Yards (Feet)	Max. Height	Max. ISR
RA Rural Agricultural District	3 Acres	210/210	1.0 per 3 acres	40 (c)	40 (c)	15	35/2.5	N/A
ER Single Family Estate District	80,000 sq. ft.	165/165	1.0 per 2 acres	40 (c)	40 (c)	15	35/2.5	N/A
R-1(a) Single Family District	40,000 sq. ft. (a)	120/60	1.0 per acre	30 (c)	30 (c)	10	35/2.5	N/A
R-1(b) Single Family District	30,000 sq. ft. (a)	100/50	1.0 per acre	30 (c)	30 (c)	10	35/2.5	N/A
R-2(a) Single Family District	20,000 sq. ft. (a)	80/40	2.0 per acre	30 (c)	30 (c)	10	35/2.5	N/A
R-2(b) Single Family District	15,000 sq. ft. (a)	80/40	2.0 per acre	30 (c)	30 (c)	10	35/2.5	N/A
B-1 Professional Business District	20,000 sq. ft. (b)	80/60	N/A	30	25	15	35/2.5	0.60
B-2 Local Business District	20,000 sq. ft. (b)	80/60	N/A	30	25	15	35/2.5	0.60

(a) Per dwelling unit.

(b) No minimum except where abutting a residential district, in which case there shall be a minimum yard of 25-feet abutting the residential district.

(c) The minimum setback distance from the river bank ordinary high water line shall be determined as follows: (1) Where the proposed residence is between two existing residences, it shall be no closer to the ordinary high water line than the average of the setback distances of the two adjacent residences. The setback distance for each adjacent residence shall be determined by averaging the distance from each end of the residence perpendicular to the ordinary high water line of the river. (2) Where the proposed residence does not have existing residences on parcels adjacent thereto, the setback distance shall be determined by averaging the setback distances of the nearest two residences. The setback distance for each of the two nearest residences shall be determined by averaging the distance from each end of the residence perpendicular to the ordinary high water line of the river.

## Article VI General Requirements

### Section 6.1 General Requirements

**6.1.1 Generally.** The general regulations contained in this Section shall apply in all zoning districts except as specifically provided in herein.

**6.1.2 Use of land.** No land shall be used except for a use permitted in the zoning district in which it is located. Other provisions of these regulations notwithstanding, any tract of farmland under cultivation or pastureland and timberland presently being used for such purposes may continue to be used for such purposes regardless of the zoning district in which they may be located.

**6.1.3 Use of structures.** No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any structure be used, except for a use permitted in the zoning district in which such structure is located and subject to the special provisions specified in these regulations.

**6.1.4 Area and dimensional requirements.** No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the area and dimensional regulations of the zoning district in which the structure is located. No lot may be subdivided except in conformity with the area and dimensional regulations of the zoning district in which the lot is located.

**6.1.5 Off-street parking and loading.** No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the off-street parking and loading provisions of these regulations.

**6.1.6 Signs.** No sign or sign structure shall be erected except in conformity with the sign provisions of these regulations.

**6.1.7 Stormwater management.** No development may precede except in conformity with the stormwater management provisions of these regulations.

**6.1.8 Erosion control.** No development may proceed except in conformity with the erosion control provisions of these regulations.

**6.1.9 Landscaping.** No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered except in conformity with the landscaping provisions of these regulations.

### Section 6.2 Temporary Structures

**6.2.1** Non-habitudinal structures for use incidental to construction work shall be permitted in any district during the period that construction work is in progress not to exceed 12 months.

**6.2.2** A recreational vehicle may be occupied as living quarters on a temporary basis for up to 12 months pending the repair or rebuilding of a primary dwelling following any disaster which may render the primary dwelling uninhabitable. A recreational vehicle, when used as temporary living quarters, may only be occupied by the owner/occupant of the primary dwelling being repaired or rebuilt, and must be located on the same parcel with the subject primary dwelling. In addition, the recreational vehicle must meet the location and setback requirements specified for accessory structures in residential districts (See *Section 7.1.2 (a)*). An approved land use certificate (See *Section 11.2*) shall be obtained from the Town Administrative Staff, prior to the use of a recreational vehicle as temporary living quarters in order to ensure compliance with these regulations.

### **Section 6.3 Utility Structures**

Utility structures, including, but not limited to, poles, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power or to provide telephone or telegraph service and pipe lines, vents, valves, hydrants, regulators, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other fluids, may be constructed, erected, repaired, maintained, or replaced within any district in Magnolia Springs. This is not to be construed to include transportation, communication and utility uses as herein defined.

### **Section 6.4 Height Modifications**

**6.4.1** The height limits for the various districts shall not apply to the following structures not used for human habitation: church spires, belfries, cupolas, elevator penthouses, mechanical penthouses or domes, provided that such features are limited to that height necessary for their proper functioning. Further, the height limits for the various districts shall not apply to chimneys, ventilators, skylights, water tanks, parapet walls, cornices, radio and television transmitting and receiving antennas, telecommunications towers, or necessary mechanical appurtenances usually carried above the roof level, provided that such features are limited to that height necessary for their proper functioning.

**6.4.2** Public, semipublic or public service buildings, including but not limited to hospitals, schools and churches, when permitted in a district with height limitations of less than 60-feet, may be erected to a maximum height of 60-feet, provided the side yards are increased by one foot for each foot of additional building height above the height limitation for the district in which the building is located.

### **Section 6.5 Yard Requirements**

**6.5.1** 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 2-feet beyond the yard area requirements.

**6.5.2** Yard requirements shall be modified subject to the following conditions:

- (a) Through lots shall provide the required front yard on each street.
- (b) Decks and unroofed porches may project into a required front yard for a distance not to exceed 5-feet and a required rear yard not to exceed 10-feet.
- (c) Uncovered steps and handicap ramps may project into a required front, or side yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.
- (d) On a corner lot, the side yard from the side lot line which abuts a street shall be a minimum of 20-feet.
- (e) Where a subdivision has been approved by the Planning Commission in accordance with the *Magnolia Springs Subdivision Regulations* prior to the enacting of zoning regulations with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.
- (f) All buildings or structures located within coastal high hazard areas (V-zones) shall be located 50-feet landward of the reach of the mean high tide.)

### **Section 6.6 Coastal Areas**

Areas of Baldwin County lying seaward of the continuous 10-foot contour are subject to the requirements of the Alabama Coastal Area Management Program as defined in the Alabama Coastal Area Management Plan (ACAMP) and to the ADEM Division 8 Administrative Code.

## **Section 6.7 Highway Construction Setbacks**

In accordance with Act No. 94-572 of the Legislature of Alabama enacted April 21, 1994, the following construction setbacks shall apply from any state or county road or highway:

- (a) *Principal arterials*. Principal arterials require a setback of 125-feet from the centerline of the right-of-way
- (b) *Minor arterials*. Minor arterials require a setback of 100-feet from the centerline of the right-of-way.
- (c) *Major collectors*. Major collectors require a setback of 75-feet from the centerline of the right-of-way.
- (d) *Minor collectors*. Minor collectors require a setback of 50-feet from the centerline of the right-of-way.

## **Section 6.8 Substandard Lots of Record**

Where a lot of record at the time of the effective date of these zoning regulations had less area or width than herein required for the zoning district in which it is located, said lot may nonetheless be used as a building site.

## **Section 6.9 Rules for Determining Zoning District Boundaries**

The boundaries of the zoning districts are shown on the map adopted by the Magnolia Springs Town Council. Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the zoning map, the following rules shall apply:

- (a) Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, center lines of streets, highways, alleys, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and they shall be construed to follow such lines.
- (b) Where district boundaries are approximately parallel to the center lines of streets, highways, or railroads, 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 zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the zoning map.
- (c) Where a public road, street or alley or other public property 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.
- ((d) In the event territory now lying within the corporate limits of a municipality, located in any planning district subject to zoning, is removed from the corporate limits of such municipality the affected territory shall be automatically zoned to the lowest density single family district available in the respective planning district until rezoned by the Baldwin County Commission.)

## **Section 6.10 Density**

**6.10.1 Density.** The number of dwelling units per acre of land. To determine the maximum number of dwelling units permitted on a lot, multiply the lot area, in acres, by the maximum density allowed in the zoning district. Where fractional numbers result, the figure shall be rounded to the nearest lower number.

**6.10.2 Wetland Density.** The density for jurisdictional wetlands, as defined herein, shall be one-half the density allowed by the underlying zoning. Where fractional numbers result, the figure shall be rounded to the nearest lower number.

## Article VII Design Standards

### Section 7.1 Accessory Uses and Structures

**7.1.1 Generally.** Any use may be established as an accessory use to any permitted principal use in any district provided that such accessory use:

- (a) Is customarily incidental to and is maintained and operated as a part of the principal use.
- (b) Is not hazardous to and does not impair the use or enjoyment of nearby property in greater degree than the principal use with which it is associated.
- (c) Does not create levels of noise, odors, vibration and lighting, or degrees of traffic congestion, dust or pollutants, in a greater amount than customarily created by principal use.
- (d) Is not located in a required yard.

**7.1.2 Residential districts.** In residential districts an accessory use or structure will conform to the following requirements:

- (a) An accessory structure may be located in a rear or side yard but shall not be closer than 5-feet to any side or rear lot line.
- (b) An accessory structure may not be located in the front yard of a lot, except that on waterfront lots accessory structures may be located between the principal building and the waterfront property line but not within the required front yard setback.
- (c) An accessory structure may not exceed the height limit for the district in which it is located and may not occupy more than 30% of the rear yard.
- (d) No accessory structure, other than a pier and boathouse, may be located on a lot by itself.

**7.1.3 Accessory dwellings.** Accessory dwellings are permitted by right in residential districts provided they do not exceed 60 % of the size in square feet of the foot print of the principal residence.

**7.1.4 Observation towers.** An observation tower may be located above the main roof level of a single family or two family dwelling provided the finished floor area including stairways may not exceed 180 square feet and the tower may not exceed the height limit (in feet) for the district in which it is located. Observation towers shall not include kitchen or bathroom facilities.

### Section 7.2 Satellite Dishes and Radio and TV Antennas

**7.2.1 Satellite dishes.** Satellite receiving dishes are permitted accessory uses in any zoning district. In any zoning district the satellite receiving dish shall be located behind the front building setback line and must be setback 10-feet from any interior or rear lot line. In residential districts where the satellite receiving dish is detached from the principal building, its maximum height may not exceed the height limit for the zoning district. Roof mounted satellite receiving dishes must conform to the zoning district's height limit.

**7.2.2 Radio and TV antennas.** Private radio and TV antennas for individual homes or for amateur use are permitted as accessory structures in any district and may be placed on roofs or in rear or side yards but shall be no closer than 10-feet from any interior or rear lot line. Maximum height of the antennas shall not be more than 5 feet above the highest point of the primary structure.



## Section 7.3 Residential Docks, Piers and Related Structures

### 7.3.1 General requirements.

- (a) *State and Federal regulations.* All regulations and specifications of the Army Corps of Engineers, ADEM, EPA, and Alabama State Docks relating to the construction of docks, piers, boat slips, decks, boathouses and related structures shall be followed explicitly.
- (b) *Setbacks.* Piers and related structures including mooring pilings shall be setback a minimum of 10-feet from the lateral riparian rights line.
- (c) *Height and width.* In crossing a marsh, the pier or walkway shall not exceed 5-feet in width and must be at least 5-feet above the marsh surface.
- (d) *Length.* No pier or related structure shall extend into navigable channels or obstruct any commonly used waterway.

**7.3.2 Single family (and two family) dwellings.** Boat docking facilities including docks, piers, boat slips, decks, boathouses and related structures shall be permitted as an accessory use to a single family or two family dwelling provided no boat related services are rendered.

- (a) *Number of piers.* A maximum of one pier shall be permitted per lot provided however, that a second pier shall be permitted on lots with 200-feet or more of water frontage.
- (b) *Number of boat slips.* A maximum of 3 boat slips shall be permitted per pier.
- (c) *Number of boathouses and pier decks.* A maximum of one boathouse and one pier deck shall be permitted per pier.
- (d) *Pier deck area.* The sum of the area of a boathouse and pier deck shall not exceed 1,600 square feet per pier. Pier decks and boathouses shall be a maximum of 40 feet in length and 40 feet in width. Pier decks and boathouses may be covered with a roof having a maximum dimension of 40-feet in length and 40-feet in width and a maximum height of 20-feet above mean high water. Access to sun decks shall be within the confines of the pier deck.

**7.3.3 Multifamily dwellings.** Boat docking facilities including docks, piers, boat slips, decks, boathouses and related structures shall be permitted as an accessory use to a multifamily development provided no boat related services are rendered.

*Boat slips.* A maximum of one boat slip per dwelling unit shall be permitted in multifamily developments.

**7.3.4 Hotels.** Boat docking facilities including docks, piers, boat slips, decks, boathouses and related structures and the provision of services thereto shall be permitted as an accessory use to a hotel or similar use.

## Section 7.4 Home Occupations

**7.4.1 Home occupations.** Home occupations within residential districts shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part. No home occupation shall be permitted which might interfere with the general welfare of the surrounding residential district due to potential noise, increased pedestrian and vehicular traffic or any other condition which would constitute an objectionable use of residentially zoned property. Limitations on the type of home occupation are as follows:

- (a) The area used for a home occupation shall not exceed 20% of the gross floor area in the principal building.

- (b) The home occupation shall be confined entirely to the principal building or an accessory structure located on the same lot as the principal building.
- (c) No display of products shall be visible from the street and only articles made on the premises may be sold; except that non-durable articles (consumable products) that are incidental to a service, which service shall be the principal use in the home occupation, may be sold on the premises.
- (d) The home occupation must be carried on solely by family members and no person outside the family may be employed on the premises.

**7.4.2 Home occupations, rural.** Home occupations within the RA or ER districts shall be limited to accessory uses which are customarily associated with agricultural uses or rural non-farm households. Limitations on the type of rural home occupation are as follows:

- (a) The rural home occupation shall be confined to the principal building or an accessory structure located on the same lot as the principal building.
- (b) No display of products shall be visible from the street and only articles made on the premises may be sold; except that non-durable articles (consumable products) that are incidental to a service, which service shall be the principal use in the home occupation, may be sold on the premises.
- (c) The rural home occupation must be carried on solely by family members and no person outside the family may be employed on the premises.

## **Section 7.5 Utilities**

**7.5.1 Septic tanks.** Septic tanks may be used in accordance with current regulations of the Alabama Department of Public Health, the Baldwin County Health Department, and the Baldwin County Coastal Area Program, where applicable.

**7.5.2 Water and sewer connections.** All projects in all districts shall meet all requirements of the Baldwin County Health Department. If the projects are to be served by water and/or sewer, documentation shall be provided that the appropriate utilities have the capacity and agree to provide service.

**7.5.3 Utility plan.** A utility plan is required for all major projects as defined. Such plan shall be submitted in conjunction with an application for a land use certificate as herein provided. The plan shall show plans and specifications for the proposed water supply, sewage disposal, refuse collection, fire protection, electricity, street lighting, telephone and gas.

**7.5.4 Other.** To the extent feasible, utilities for all major projects shall be placed underground.

## **Section 7.6 Buildings and Access**

**7.6.1 Buildings to be on lots.** Every building hereafter erected, converted, enlarged, reconstructed, moved, or structurally altered shall be located on a lot which provides access to a public street and there shall be no more than one (1) principal residential building on a lot. (except as follows:

In any district where multifamily structures, motels, or hotels are permitted, two or more such residential structures may be permitted on a lot provided that no building shall be located closer to another building on the same lot than a distance equal to half the sum of the heights of both buildings. In addition, the front or rear of any building may be no closer to the front or rear of any other building than 40-feet. The side of any building shall be no closer to the side, front or rear of any other building than 30-feet.)

**7.6.2 Access.** Each principal building shall be placed on a lot or parcel which provides access to a public street. Subdivisions shall be provided with access as required by the *Magnolia Springs Subdivision Regulations*.

## **Section 7.7 Bed and Breakfast Establishments**

**7.7.1 Purpose.** A bed and breakfast establishment may be approved as a special exception under the RA, ER, R-1(a), R-1(b), R-2(a), and R-2(b) zoning designations, subject to the approval of the Board of Adjustment for the zoning district in which the bed and breakfast would be located.

**7.7.2 Standards.** A special exception for a bed and breakfast establishment may be approved only upon determination that the application and evidence presented clearly indicate that all of the following standards will be met:

- (a) No more than eight (8) guest rooms shall be included in any one establishment.
- (b) Except for serving meals to overnight guests, the establishment shall not engage in the restaurant business. Guest rooms shall not contain cooking facilities.
- (c) Guest stays shall be limited to two weeks.
- (d) At least one off-street parking space shall be provided for each guest room, plus two for the owner.
- (e) All requirements, standards, and conditions contained in *Section 11.8.4* of these zoning regulations shall be met.

## **Section 7.8 Stormwater Management**

A stormwater management plan is required for all major projects. Such plan shall be prepared by a licensed engineer and shall be submitted in conjunction with an application for a land use certificate as herein provided. No development may proceed until a land use certificate has been approved. The Town Council or designee shall, in consultation with the Building Official and County Engineer or his/her designee, determine that reasonable provisions for properly handling surface drainage have been made in the applicant's design.

## **Section 7.9 Erosion Control**

An erosion control plan is required for all major projects. Such plan shall be prepared by a licensed engineer and shall be submitted in conjunction with an application for a land use certificate as herein provided. No development may proceed until a land use certificate has been approved. The Town Council or designee shall, in consultation with the Building Official and County Engineer or his/her designee, determine that reasonable provisions for erosion control have been made in the applicant's design.

## **Article VIII Parking and Loading Requirements**

### **Section 8.1 Generally**

**8.1.1** Off-street automobile storage or parking spaces shall be provided with vehicular access to a street or alley, and shall be equal to at least the minimum requirements for the specific land use as herein provided.

**8.1.2** The required number of parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time, except that portion of the parking space required for an existing church whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

**8.1.3** Where business and multifamily unit developments require large numbers of parking spaces, such spaces may be accommodated in parking decks provided that no such parking deck shall exceed 3 levels above ground or 25% of the height of the principal structure, whichever is greater. Parking deck design shall be compatible with the design of the principal structure.

8.1.4 Any use not specified by these regulations shall require one (1) parking space for each 300 square feet of gross floor area in the building. Where the use is mixed, total requirements for off-street parking shall be the sum of the requirements for the various uses computed separately.

## **Section 8.2 Parking Schedule**

### **8.2.1 Dwellings.**

(a) *One and two family dwellings.* 2 spaces for each dwelling unit.

### **8.2.2 Institutional.**

(a) *Churches or other place of worship.* One space for each 4 seats in the main auditorium or sanctuary.

(b) *Private clubs, lodges, country clubs and fraternal buildings.* One space for each 200 square feet of gross floor area.

(c) *Theaters, auditoriums, coliseums, stadiums and similar places of assembly.* One space for each 4 seats or seating spaces.

(d) *Libraries, museums, art galleries and similar uses.* One space for each 500 square feet of gross floor area.

(e) *College or university.* 10 spaces per classroom.

(f) *High school.* 7 spaces per classroom.

(g) *Elementary or middle school.* 2.5 spaces per classroom.

(h) *Business or trade school.* One space per 4 seats.

(i) *Kindergartens, play schools, or day care centers.* One space per employee.

### **8.2.3 Health facilities.**

(a) *Hospitals, sanitariums, nursing homes, homes for aged and similar institutional uses.* 1 space for each 4 beds.

(b) *Kennels and animal hospitals (veterinarian).* One space per 500 square feet of gross floor area.

(c) *Medical, dental and health offices.* One space for each 200 square feet of gross floor area.

(d) *Mortuaries and funeral homes.* One space for each 4 parlor or chapel seats.

### **8.2.4 Business and office.**

(a) *Commercial establishments and offices including but not limited to food stores, banks, furniture stores, or personal service establishments.* One space for each 200 square feet of gross floor area.

(b) *Restaurants, night clubs, bars, cafes, and similar eating/drinking places.* One space for each 100 square feet of gross floor area.

(c) *Shopping centers.* One space per 200 square feet of gross floor area.

### **8.2.5 Recreation and amusement.**

(a) *Skating rinks, dance halls, exhibition halls, pool rooms and other places of amusement or assembly without fixed seating arrangements.* One space for each 200 square feet of floor area.

(b) *Bowling alleys.* 4 spaces for each alley.

(c) *Marinas.* One space for each slip or berth plus 1 space for each 500 square feet of dry boat storage area.

(d) *Golf course.* 4 spaces per golf hole.

(e) *Golf driving range.* One space for each driving tee area.

(f) *Amusement park.* One space per 200 square feet of area within enclosed buildings, plus One space for every 3 persons that the outdoor facilities are designed to accommodate.

**8.2.6 Industrial, warehouse and similar establishments.**

- (a) *Industrial/manufacturing.* One space for each 500 square feet of gross floor area.
- (b) *Warehouses.* One space for each 1,000 square feet of gross floor area.
- (c) *Mini warehouses.* 2 parking spaces shall be provided for the manager's quarters plus one additional space for every 25 storage cubicles to be located at the project office for use of clients.

**Section 8.3 Design Standards and Improvement Requirements**

**8.3.1 Off-street parking space defined.** An off-street parking space is an area of not less than 171 square feet which is permanently reserved for the temporary storage of one automobile. The minimum dimension of an off-street parking space is 9' x 19'. Off-street parking spaces may not be located in a street or alley and must be connected with a street or alley by a driveway which affords unobstructed ingress and egress to each space.

**8.3.2 Parking area dimensions.** The design and dimensions of the parking area shall be in accordance with the following dimensions table:

Angle of Parking	Curb Per Car	Length	Stall Depth	Access Driveway Width
0	23'0"		9'0"	12'0"
20	20'4"		15'0"	11'0"
30	18'0"		17'4"	11'0"
40	14'0"		19'2"	12'0"
45	12'9"		19'10"	13'0"
50	11'9"		20'5"	12'0"
55	11'1"		20'3"	15'6"
60	10'5"		21'0"	18'0"
70	9'8"		21'0"	19'0"
80	9'8"		20'4"	24'0"
90	9'0"		19'0"	24'0"

**8.3.3 Width of two-way access driveways.** The minimum width of two-way access driveways within and to parking areas shall be 24-feet.

**8.3.4 Paving standards.** Parking spaces and driveways shall be improved with a suitable hard surface permanent type of pavement such as asphalt, concrete, limestone or other similar surface approved by the Planning and Zoning Commission.

**8.3.5 Drainage.** Off-street parking facilities shall be drained to prevent damage to abutting property and streets and to prevent pollutants from draining onto the adjacent lots. Landscaped areas and perimeter areas shall be so graded as to receive a reasonable portion of the rainfall from the surrounding pavement. Protective curbing around landscaped areas will leave openings for the flow of water onto unpaved areas. No runoff shall be directed to the beaches or to surface waters.

**8.3.6 Landscaping.** Parking lots shall be landscaped in accordance with *Article X: Landscaping and Buffers.*

**8.3.7 Off-street loading and unloading space.** Off-street loading/unloading spaces shall be provided as hereinafter required by this Ordinance.

(a) *Size of spaces.* Each off-street loading/unloading space shall have minimum dimensions of 14-feet in height, 12-feet in width, and 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 35-feet.

(b) *Connection to street or alley.* Each required off-street loading/unloading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.

(c) *Floor area over 10,000 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 10,000 square feet, at least one off-street loading/unloading space for each 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.

(d) *Floor area less than 10,000 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 less than 10,000 square feet, sufficient off-street loading/unloading 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.

(e) *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.

(f) *Location.* All required off-street loading/unloading 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.

(g) *Permanent reservation.* Areas reserved for off-street loading/unloading in accordance with the requirement of these regulations 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/unloading space is provided and approved by the Board of Adjustments.

**8.3.8 Curb cuts and vision clearance.** The requirements for controlling curb cuts and maintaining vision clearance shall be as follows:

(a) *Curb cuts.* No curb cut shall exceed 50-feet in length, nor shall curb cuts be closer than 100-feet to other curb cuts or closer than 50-feet to any intersection of two streets measured along the curb line.

(b) *Vision clearance.* In all use districts, no fence, wall, shrubbery, sign, marquee, or other obstruction to vision between the heights of 2½ feet and 10-feet from the street level shall be permitted within 20-feet of the intersection of the right-of-way lines of two streets or railroad lines, or of a street intersection with a railroad line.

**8.3.9 Storage and parking of trailers and commercial vehicles.**

(a) Recreational vehicles, trailers and commercial vehicles shall not be parked or stored on any lot in any residential district except in accordance with the following requirements:

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 liquefied petroleum products be permitted.

2. Recreational vehicles, trailers and commercial vehicles may not be parked within a required front yard.

3. Recreational vehicles shall not be occupied for a time period exceeding 10 consecutive days while parked or stored in any residential district except as provided by *Section 6.2: Temporary Structures*.

4. A recreational vehicle, trailers or commercial vehicle may not be located on a lot in any residential district by itself.

(b) Junked vehicles or automotive vehicles without current license plates shall not be parked or stored in any residential district other than in completely enclosed buildings.

## Article IX Signs Requirements

### Section 9.1 Intent

The intent of this article is to reinforce the perception of Magnolia Springs as a unique, pleasant and livable community, and to reflect the architectural resources and natural feature of the community. To accomplish this, the standards shall govern the location, size, setback and height of signs for each use of the use districts established in the ordinance, and for specific uses, 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.

### Section 9.2 Sign Types

The following table identifies the categories, types and general description of signs permitted in the Town. Any other type sign not listed in this table is prohibited.

<u>Sign Category</u>	<u>Sign Type</u>	<u>Description</u>
Free Standing Signs	Monument Sign	A permanent sign mounted on the ground and designed with a continuous structural element of approximately the same dimension from the ground to the top of the sign
	Pole Sign	A permanent sign mounted on the ground where the structural element is significantly more narrow than the sign. Pole signs shall not exceed 8 feet in height and the sign surface shall not exceed 16 square feet in area. Pole signs shall only be located near the entrance of a building.
	Incidental Sign	Signs that direct patrons and citizens into or out of a site. These signs are intended merely to enhance the safe ingress and egress of citizens and vehicles.
Building Signs	Façade Sign	A permanent sign mounted on or otherwise affixed to the side of a building and projecting no more than one foot from the surface it is mounted on.
	Hanging Sign	A permanent sign mounted on or otherwise affixed to the side of a building and projecting generally perpendicular from the building surface it is mounted on. Examples of typical applications are under a canopy, or beside a door.
	Window Sign	A permanent sign applied to a window of a building but intended to be viewed and read from the exterior of the building.
	Awning Sign	A permanent sign applied to the surface of an awning, which is affixed to a building structure.

## Section 9.3 Sign Permits and Exceptions

**9.3.1 Permit Requirements and Permit Changes.** It shall be unlawful to erect, alter or relocate any sign without first obtaining a sign permit. When a sign permit has been issued, it shall be unlawful to change, alter or otherwise deviate from the terms of conditions of said permit without prior approval of the Town Council or its designee.

**9.3.2 Activities and Signs not Requiring a Permit.** The following activities and signs shall not require a sign permit:

**9.3.2.1** The changing of advertising copy or message signs, which are specifically designed for the use of replaceable copy;

**9.3.2.2** One general identification sign per building entrance such as a nameplate, street number, or occupant identification sign on common entrances, not to exceed six square feet;

**9.3.2.3** One on-site bulletin board or identification sign for public, charitable, educational or religious use not exceeding 32 square feet;

**9.3.2.4** Symbolic flags or insignias limited to 50 square feet in area'

**9.3.2.5** Decorative flags, banners and bunting authorized by the Town Council for a Townwide celebration, conventions or commemorations;

**9.3.2.6** Memorial Signs, Tablets or corner stones, names of buildings and date of erection when consisting of a cut masonry surface or when constructed of bronze or other noncombustible materials;

**9.3.2.7** Up to four incidental signs or symbols (e.g. entrance, exit, caution, slow, no trespassing) located on and pertaining to a parcel or property not to exceed two square feet in area per sign;

**9.3.2.8** Identification signs at the entrance drive of residences, estates, ranches, and plantations, which do not exceed two square feet in area;

**9.3.2.9** One non-illuminated, double faced, temporary, real estate for sale sign per street frontage not exceeding in face area;

(a) In residential zoning districts six square feet where the property being advertised has a front line of less than 500 linear feet, or 16 square feet where the property being advertised has a front lot line of 500 linear feet or more.

(b) In all other districts, 16 square feet where the property or structure being advertised has a front line of less than 200 linear feet, or 32 square feet where the property or structure being advertised has a front line of 200 linear feet or more.

**9.3.2.10** One construction sign per street frontage located on property where construction is actually in progress under a current building permit. This shall be a ground sign not to exceed 16 square feet for residential structures and 32 square feet for non-residential structures. This sign shall be removed before a certificate of occupancy is issued;

**9.3.2.11** Temporary signs provided:

(a) In residential districts or for residential uses, temporary signs shall not exceed 18 total square feet at any one time, and shall not exceed 12 square feet for any single sign.

(b) For all other districts and uses, temporary signs shall not exceed 48 total square feet at any one time, and shall not exceed 20 square feet for any individual sign.

**9.3.2.12** Window signs which identify or advertise activities, services goods or products available within the building and which collectively cover 20 percent or less of the window glass surface area;

**9.3.2.13** Signs incorporated on machinery or equipment at the manufacturer's or distributors level, which identify or advertise only the product or service dispensed by the machine or equipment, such as signs customarily affixed to vending machines, newspaper racks, telephone booths, and gasoline pumps and do not exceed two square feet per piece of equipment;

**9.3.2.14** Directional and regulatory signs erected by an agency of government or any lawfully constituted utility;

**9.3.2.15** One (1) under canopy sign per business not to exceed three square feet, not lower than eight feet clear above the walkway surface and not illuminated.



## Section 9.4 Engineer Designed Signs

The following signs shall be designed, signed and certified by an Alabama registered professional engineer, who shall submit sufficient data to enable the building inspector to determine whether the sign complies with all applicable codes and ordinances;

- 9.4.1 Ground signs over 32 square feet in area;
- 9.4.2 All signs with unusual structural features.

## Section 9.5 Sign Permit Term

A sign permit shall become null and void if the sign for which the permit was issued has not been completed within a period of six months after the date of issuance.

## Section 9.6 Sign Standards

### 9.6.1 *Permitted Signs for Residential Districts and Uses;*

9.6.1.1 No building signs are allowed in residential districts or for residential uses unless they are exempt from permits according to *Section 9.3.2*.

9.6.1.2 Two free standing signs are permitted for each subdivision, neighborhood, or complex entrance subject to the following:

- (a) No sign area shall exceed 32 square feet,
- (b) No sign and associated structure shall exceed seven feet in height,
- (c) The total freestanding sign area for the entire subdivision, neighborhood, or complex shall not exceed 96 square feet,
- (d) The sign and associated structure shall not create a physical or visual hazard. Multiple pedestrian-scaled signs and associated structures at all connection points of the subdivision, neighborhood, or complex are preferred over single monumental signs and structures at a primary entrance,
- (e) An acceptable legal entity shall be provided to assure maintenance of the signs.

### 9.6.2 *Permitted Signs for Non-Residential Districts and Uses*

9.6.2.1 One building sign shall be allowed for each street frontage of each premise. Corner lots and double frontage lots may not transfer allowable sign area from one frontage to another.

9.6.2.2 One free standing sign shall be allowed for each street frontage of each premise. Corner lots and double frontage lots may not transfer allowable sign area from one frontage to another.

9.6.2.3 Size – The aggregate surface area per lot for all permitted signs in non-residential districts shall be limited to the following;

- (a) One square foot for each two linear feet of building frontage,
- (b) No more than 32 square feet per lot in any business district,
- (c) In all other non-residential districts, no more than 150 square feet,

### 9.6.2.4 *Height and Projection*

- (a) Free-standing signs shall not exceed 12 feet above the natural ground level at the sign structure base,
- (b) Building signs shall not extend higher than the building surface upon which they are mounted,
- (c) Building signs shall not project more than 12 inches from the building surface upon which they are mounted.

### 9.6.2.5 *Multiple-occupancy Lots or Buildings*

Where a single building or lot contains two or more separate activities or establishments, each activity or establishment shall be permitted a wall sign area based on the portion of the building occupied. Total aggregate signs shall not exceed the limits in Section 10.4, however the multiple-occupancy lot or building may be permitted one directory sign. The directory sign surface shall not exceed 10 square feet and the height shall not exceed 8 feet.

#### **9.6.2.6 Complex Signs**

Complexes such as shopping centers, special activity districts, or campuses, an additional free-standing sign bearing the name or logo of the center, district or campus shall be allowed with a maximum height of 16 feet and a maximum surface area 50 square feet .

#### **9.6.2.7 Gasoline Pricing Signs**

One sign advertising the price of gasoline is permitted provided it shall not exceed 12 square feet per sign face and an aggregate area of 24 square feet. If free-standing, the sign shall not exceed 5 feet in height. The sign shall count toward the aggregate size permitted for the lot.

#### **9.6.2.8 Temporary Event Signs or Banners**

A temporary event sign or banner may be allowed in addition to all permitted signs upon which written application to the Town. Permits are subject to the following limitations;

- (a) Permits shall be valid for a period no longer than 10 days,
- (b) No more than one permit shall be issued for the same premises more frequently than six (6) times per a calendar year,
- (c) Signs shall not exceed 30 feet in horizontal dimension and the vertical height shall not exceed 6 feet,
- (d) No off-premise signs shall be permitted except as specified.
- (e) Permits shall specify the size and location of the signs. Any violation of the terms of the permit shall cause the permit to be immediately revoked.

#### **9.6.2.9 Off-premise Directional Signs.**

A maximum total of two off-premise directional signs may be permitted per establishment. The signs may be double sided and shall not exceed 3 square feet in area per side. It is the responsibility of the sign owner to obtain permission from the sign location property owner. No off-premise directional signs may be erected within any right-of-way limits. Maximum sign height shall not exceed 5 feet.

### **9.7 Limitations**

- 9.7.1** The following signs are expressly prohibited and subject to immediate removal;
- 9.7.1.1** Any sign erected or painted upon a sloping roof, fence tree, standpipe, fire escape, or utility pole.
- 9.7.1.2** Any sign which is a copy or imitation of official traffic control signs.
- 9.7.1.3** Signs, which flash or illuminate intermittently, revolve, and animated signs except time and temperature or public service signs.
- 9.7.1.4** Signs, which emit visible smoke, vapor, particles, or odor.
- 9.7.1.5** Signs with any lighting control mechanism, which causes radio or television or other communication interference.
- 9.7.1.6** Any sign placed on any public right-of-way.
- 9.7.1.7** Any sign attached or painted onto a vehicle, trailer, or portable system parked on or adjacent to public right-of-way for the purpose of advertising.
- 9.7.1.8** Any tethered inflatable signs.
- 9.7.2** Other limitations
- 9.7.2.1** Signs in non-residential zoning districts shall not be located within 15 feet of a residential district boundary.
- 9.7.2.2** Illuminated or neon signs shall not produce glare or reflection onto residential property.
- 9.7.2.3** All signs, which are no longer functional or are abandoned shall be removed or relocated at the owners expense within 30 days.

## **Article X Landscaping and Buffers**

### **Section 10.1 Landscaping Plan**

A landscaping plan is required for all major projects. Such plan shall be submitted in conjunction with an application for a land use certificate as herein provided. The plan shall clearly show what existing trees, shrubbery, and other vegetation will be retained, and what trees, shrubbery, and other vegetation will be added to complete the landscaping of the property. The developers shall attempt to retain as many trees as possible on the property unless the trees are a safety hazard to pedestrians, property, or vehicular traffic, or that their removal is necessary to construct the proposed improvements. In such case, the landscape plan shall indicate replacement trees at least 6 feet tall and one inch in diameter for each indigenous tree of at least 3 inches in diameter removed, unless the property already has a tree density which does not allow adequate space or light for additional trees. The landscape plan shall show the locations of the proper number of replacement trees. Replacement trees and other vegetation to be installed shall be native species or noninvasive exotics which are not likely to out-compete native vegetation and do not require excessive pesticides, fertilizer, or water to maintain growth.

(a) A major project which abuts a freeway/expressway, arterial or collector shall maintain a minimum of 10-feet of the required setback as a buffer along the entire width of the property which abuts said freeway/expressway, arterial or collector except where curb cuts provide ingress and egress. Said buffer shall be planted with trees, shrubs and grass or other ground cover so that an attractive appearance is presented as detailed in the required landscape plan.

(b) A minimum of 5-feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Planning and Zoning Commission. Adjacent property owners may jointly agree on the establishment of a common landscaped area between their properties that meets the requirement of this Section; provided that such agreement and the planting and maintenance of the common area shall be binding upon both parties and their successors, interests and assigns.

### **Section 10.2 Buffers for Uncomplimentary Land Uses and Zones**

Where uncomplimentary land uses or zoning districts occur, a buffer shall be required along the entire length of all such common boundaries. Said buffer shall be of the width specified below and shall be planted with trees and shrubs of sufficient density and of sufficient height (but in no case less than 8-feet high at the time of planting) to afford adequate sight, sound and debris protection. All screen planting shall be maintained in a clean and neat condition so as to accomplish its purpose continuously.

(a) Institutional uses, professional service and office uses, local commercial uses, and general commercial uses(, major commercial uses and marine recreation uses) when adjacent to a single family estate district or single family district shall require a minimum buffer of 25-feet.

### **Section 10.3 Tree Protection**

During construction and development, trees that are to be preserved shall be protected from activities that may injure or kill them. To the extent possible, trees within the required setbacks or buffer strips shall be preserved.

## **Section 10.4 Parking Lots**

The design and appearance of parking areas is intended to be compatible with the character of the community. A landscaping plan shall be submitted for the construction of the off-street parking areas accommodating 6 or more parking spaces. The following standards shall apply:

- (a) A landscaped area of at least 5-feet wide shall be provided between parking areas and any adjacent public streets and contiguous properties. Landscaping shall include the placement of shade trees at intervals of approximately 6 parking spaces. Such trees shall be a minimum height of 6-feet at planting.
- (b) Interior portions of the parking area shall be broken by provision of landscaped islands (a minimum of 6-feet wide) between every 10 to 15 spaces. Each island shall provide at least one shade tree having a minimum height of 6- feet at planting.
- (c) A continuous landscape strip a minimum of 5-feet wide shall be provided between every 4 rows of parking. Landscaping shall include the placement of shade trees at intervals of approximately 6 parking spaces. Such trees shall be a minimum height of 6-feet at planting.
- (d) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (e) The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat, and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.

## **Article XI Administration**

### **Section 11.1 Administration, Interpretation and Enforcement**

**11.1.1** The duty of administering and enforcing the provisions of these zoning regulations is hereby conferred upon the Town Administrative Staff.

**11.1.2** The Town Administrative Staff is authorized and empowered to administer and enforce the provisions of these zoning regulations to include receiving applications, inspecting sites, and issuing land use certificates for projects and uses and structures which are in conformance with the provisions of these zoning regulations.

**11.1.3** The Town Administrative Staff shall keep records of all permits and certificates issued and maps, plats, and other documents with notations of all special conditions involved. The Town Administrative Staff shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of his office and shall be made as a public record.

**11.1.4** Where the exact location of a boundary cannot be determined by the methods described in *Section 6.9: Rules for Determining Zoning District Boundaries*, the Town Administrative Staff shall interpret the map and render a decision. Any such decision may be appealed to the Board of Adjustment.

**11.1.5** In any case where a requested use is not specifically provided, the Town Administrative Staff shall determine the appropriate zoning classification by reference to the most clearly analogous use or uses that are specifically provided.

### **Section 11.2 Land Use Certificates**

**11.2.1 Authorization.** A land use certificate shall be obtained from the Planning and Zoning Commission prior to the commencement of development and issuance of any building permit including electrical, HVAC and plumbing permits.

### **11.2.2 Application procedure.**

- (a) The Town Administrative Staff shall receive the application for a land use certificate upon determination that it complies with all applicable submission requirements.
- (b) Where appropriate, the Town Administrative Staff shall circulate the application to the Building Official, County Engineer, and/or Coastal Program Director, as appropriate, for review and comment.
- (c) The land use certificate shall be issued or denied within 7 days otherwise it shall be deemed to be approved.

### **11.2.3 Application submittal.**

- (a) *Application form.* The land use certificate shall be on a form provided by the Town Administrative Staff.
- (b) *Plans and specifications.* Each application for a land use certificate shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon, the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may be reasonably requested to determine compliance with these zoning regulations including but not limited to a landscaping plan, erosion control plan, stormwater management plan, and utilities plan.
- (c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for a land use certificate, and the land use certificate may be conditioned upon the actual receipt of said permits by the applicant.
- (d) *Application fee.* The applicant for a land use certificate shall be required to pay an application fee according to the current schedule of fees established by the Magnolia Springs Town Council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

**11.2.4 Conditions and restrictions on approval.** A land use certificate shall be valid for the issuance of a building permit for 180 days after issuance. After that time a new land use certificate must be obtained. A record of the application and site plan shall be kept in the files of the Town Administrative Staff for a period of not less than 3 years.

**11.2.5 Revocation of land use certificate.** The Mayor or Town Council may revoke a land use certificate issued in a case where there has been a false statement or misrepresentation in the application or on the site plan for which the Certificate was issued or if after a documented warning has been issued the applicant has failed to comply with the requirements of these zoning regulations. Revocation of the land use certificate shall also cause suspension of the building permit until such time as in the judgment of the Town Administrative Staff the applicant is in compliance with the requirements of these zoning regulations.

**11.2.6 Right of appeal.** The applicant may appeal the denial of the land use certificate to the Board of Adjustments in writing within twenty (20) calendar days after the rejection of the application.

### **Section 11.3 Building Permits**

It shall be unlawful to commence the excavation for or the construction of any building or other structures, including accessory structures, or to store building materials or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until the Building Official has issued a permit for such work including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of these zoning regulations. Applications for building permits including electrical, HVAC and plumbing permits shall be made to the Building Official on forms provided for that purpose.

### **Section 11.4 Certificate of Occupancy**

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until the Building Official 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 these zoning regulations. It shall be the duty of the Building Inspector to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform to the provisions of these zoning regulations or, if such certificate is refused, to state the refusal in writing with the cause.

### **Section 11.5 Appeals to the Board of Adjustment**

**11.5.1** The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Planning and Zoning Commission or other administrative official in the enforcement of these zoning regulations.

**11.5.2** Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer affected by any decision of any administrative officer representing the Town in an official capacity in the enforcement of these zoning regulations. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

**11.5.3** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such 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 and notice to the officer from whom the appeal is taken and on due cause shown.

### **Section 11.6 Variances**

**11.6.1 Authorization.** The Board of Adjustment shall authorize upon application in specific cases such variance from the terms of these zoning regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these zoning regulations will result in unnecessary hardship and so that the spirit of these zoning regulations shall be observed and substantial justice done; provided, however, that the foregoing provisions shall not authorize the Board of Adjustment to approve a use or structure in a zoning district restricted against such use or structure.

**11.6.2 Standards for approval.** A variance may be authorized based upon the existence of the following conditions:

- (a) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.
- (b) Exceptional topographic conditions or other extraordinary situation or condition of a specific piece of property.
- (c) That the granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.
- (d) That the granting of the application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the Town of Magnolia Springs.
- (e) Any owner of record of real property upon the date of the adoption by the Town of Magnolia Springs of the zoning regulations shall automatically obtain a variance, if needed, for a single family dwelling (notwithstanding the type of dwelling to be placed or constructed on the property).

## **Section 11.7 Hearing of Appeals and Variances**

### **11.7.1 Application procedure.**

- (a) Any appeal or application for variance must be submitted to the Town Administrative Staff at least 15 days prior to the regularly scheduled meeting of the Board of Adjustment.
- (b) The Town Administrative Staff shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Board of Adjustment.
- (c) The Town Administrative Staff shall, 5 days before the scheduled public hearing by the Board of Adjustment, provide notice of such hearing by certified mail to adjacent property owners as their names appear in the county tax records.
- (d) The Board of Adjustment shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.
- (e) Any application may be withdrawn prior to action thereon by the Board of Adjustment at the discretion of the applicant initiating the request upon written notice to the Planning and Zoning Commission.

**11.7.2 Submission requirements.** No appeal or application for variance shall be considered complete until all of the following has been submitted:

- (a) *Application form.* The application shall be submitted on forms to be provided by the Planning and Zoning Commission.
- (b) *Plans and specifications.* Each application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.
- (c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application.
- (d) *Application fee.* The applicant shall be required to pay an application fee according to the current schedule of fees established by the Town Council of Magnolia Springs for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application;

however, where an applicant is successful in reversing a decision of the Planning and Zoning Commission the fee shall be returned to the applicant.

## **Section 11.8 Special Exceptions**

**11.8.1 Authorization.** The Board of Adjustment may, under the prescribed standards and procedures contained herein, authorize the construction or initiation of any use that is expressly permitted as a special exception in a particular zoning district; however, the Board of Adjustment reserves full authority to deny any request for a special exception, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.

### **11.8.2 Application procedure.**

- (a) An application for special exception approval must be submitted to the Town Administrative Staff at least 15 days prior to the regularly scheduled meeting of the Board of Adjustment.
- (b) The Town Administrative Staff shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Board of Adjustment.
- (c) The Town Administrative Staff shall, 5 days before the scheduled public hearing by the Board of Adjustment, provide notice of such hearing by certified mail to the owners of property adjacent to the proposed special exception as their names appear in the county tax records.
- (d) The Board of Adjustment shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.
- (e) Any petition for special exception approval may be withdrawn prior to action thereon by the Board of Adjustment at the discretion of the applicant initiating the request upon written notice to the Planning and Zoning Commission.

**11.8.3 Submission requirements.** No request for special exception approval shall be considered complete until all of the following has been submitted:

- (a) *Application form.* The application shall be submitted on forms to be provided by the Town Administrative Staff.
- (b) *Plans and specifications.* Each application for special exception approval shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon, the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may reasonably be requested to determine compliance with these Zoning Regulations including but not limited to a landscaping plan, erosion control plan, stormwater management plan, and utilities plan.  
compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for conditional use approval, and the conditional use may be conditioned upon the actual receipt of said permits by the applicant.
- (d) *Application fee.* The applicant for a special exception shall be required to pay an application fee according to the current schedule of fees established by the Town of Magnolia Springs for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.



**11.8.4 Standards for approval.** A special exception may be approved by the Board of Adjustment only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

- (a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Magnolia Springs Master Plan, these regulations, or any other official plan, program, map or regulation of Magnolia Springs.
- (b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.
- (c) The proposed use shall not unduly decrease the value of neighboring property.
- (d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.

**11.8.5 Conditions and restrictions on approval.** In approving a special exception, the Board of Adjustment may impose conditions and restrictions upon the property benefited by the special exception as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such special exception upon the property in the neighborhood, and to carry out the general purpose and intent of the regulations. In approving any special exception, the Board of Adjustment may specify the period of time for which such approval is valid for the commencement of the proposed special exception. The Board of Adjustment may, upon written request, grant extensions to such time allotments not exceeding 6 months each without notice or hearing. Failure to comply with any such condition or restriction imposed by the Board of Adjustment shall constitute a violation of these regulations. Those special exceptions which the Board of Adjustment approves subject to conditions, shall have specified by the Board of Adjustment the time allotted to satisfy such conditions.

## **Section 11.9 Decisions of the Board of Adjustment**

In exercising its authority, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as should be made and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to act.

## **Section 11.10 Appeal from Decision of the Board of Adjustment**

Any party aggrieved by a final judgment or decision of the Board of Adjustment may, within 15 days thereafter, appeal the final judgment to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court where the appeal is taken, and the action of such court shall be tried de novo.

## **Section 11.11 Conditional Uses**

**11.11.1 Authorization.** The Planning and Zoning Commission may, under the prescribed standards and procedures contained herein, authorize the construction or initiation of any use that is expressly permitted as a conditional use in a particular zoning district; however, the Town of Magnolia Springs reserves full authority to deny any request for a conditional use, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.

### **11.11.2 Application procedure.**

- (a) An application for conditional use approval must be submitted to the Planning and Zoning Commission at least 30 days prior to the regularly scheduled meeting of the Planning and Zoning Commission.
- (b) The Planning and Zoning Commission shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Planning and Zoning Commission.
- (c) The Planning and Zoning Commission shall, 5 days before the scheduled public hearing, provide notice of such hearing by certified mail to the owners of property adjacent to the proposed conditional use as their names appear in the county tax records.
- (d) The Town Administrative Staff shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.
- (e) Any petition for conditional use approval may be withdrawn prior to action thereon by the Planning and Zoning Commission at the discretion of the applicant initiating the request upon written notice to the Planning and Zoning Commission.

**11.11.3 Submission requirements.** No request for conditional use approval shall be considered complete until all of the following has been submitted:

- (a) *Application form.* The application shall be submitted on forms to be provided by the Town Administrative Staff.
- (b) *Plans and specifications.* Each application for conditional use approval shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon, the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may reasonably be requested to determine compliance with these zoning regulations including but not limited to a landscaping plan, erosion control plan, stormwater management plan, and utilities plan.
- (c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for conditional use approval, and the conditional use may be conditioned upon the actual receipt of said permits by the applicant.
- (d) *Application fee.* The applicant for a conditional use shall be required to pay an application fee according to the current schedule of fees established by the Magnolia Springs Town Council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

**11.11.4 Standards for approval.** A conditional use may be approved by the Planning and Zoning Commission only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

- (a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Magnolia Springs Master Plan, these regulations, or any other official plan, program, map or regulation of Magnolia Springs.
- (b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.
- (c) The proposed use shall not unduly decrease the value of neighboring property.
- (d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.

**11.11.5 Conditions and restrictions on approval.** In approving a conditional use, the Planning and Zoning Commission may impose conditions and restrictions upon the property benefited by the conditional use approval as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such conditional use upon the property in the neighborhood, and to carry out the general purpose and intent of the regulations. In approving any conditional use, the Planning and Zoning Commission may specify the period of time for which such approval is valid for the commencement of the proposed conditional use. The Planning and Zoning Commission may, upon written request, grant extensions to such time allotments not exceeding 6 months each without notice or hearing. Failure to comply with any such condition or restriction imposed by the Planning and Zoning Commission shall constitute a violation of these regulations. Those conditional uses which the Planning and Zoning Commission approves subject to conditions, shall have specified by the Planning and Zoning Commission the time allotted to satisfy such conditions.

## **Section 11.12 Tolling Provisions**

If subsequent to the filing of a any application/petition, the applicant/petitioner is enjoined by order of a court of competent jurisdiction from commencement of construction, the time from the entry of such order against applicant/petitioner until such time as the order is lifted or becomes final and unappealable, shall not be counted toward or against the time allowed/required by these regulations for applicant to commence construction. The provisions of this section shall retroactively apply to all pending applications/petitions.

## **Article XII Amendments to Official Zoning Map and Regulations**

### **Section 12.1 Purpose**

The Official Zoning Map may be amended from time to time in accordance with the procedures and standards set forth in this Section. The purpose of this Section is not to relieve particular hardships, not to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the County. Zoning text amendments may be necessary to further the Magnolia Springs land use policies and to keep pace with current development trends.

### **Section 12.2 Initiation of Map Amendment.**

An amendment to the Official Zoning Map may be initiated:

- (a) By application of any person owning the property proposed for change on the Official Zoning Map, or by written authorization by the owner for an agent to act on the owner's behalf

- (b) By a motion of the Planning and Zoning Commission.
- (c) By a motion of the Town Council of Magnolia Springs.

### **Section 12.3 Initiation Text Amendment**

An amendment to the text of the Zoning Regulations may be initiated:

- (a) By a motion of the Town Council of Magnolia Springs.
- (b) By a motion of the Planning and Zoning Commission.

### **Section 12.4 Amendment Application Preparation**

The Town Clerk shall prepare and file the applications initiated by the Planning and Zoning Commission and the Town Council.

### **Section 12.5 Amendment Application Distribution**

Within a reasonable time after the receipt of an application, the Town Clerk shall deliver to the Planning and Zoning Commission and the Town Council a written report summarizing the facts of the case, including all relevant documents, and schedule a date for a public hearing. The Town Council shall be furnished with minutes, recommendations and other relevant information from the Planning and Zoning Commission.

### **Section 12.6 Factors for Reviewing Proposed Amendments**

In deciding whether to recommend approval of a proposed amendment, or in deciding whether to adopt a proposed amendment, the Planning and Zoning Commission and Town Council shall consider whether the proposed amendment is consistent with the following factors:

- (a) Is the requested change compatible with the existing development pattern and the zoning of nearby properties?
- (b) Has there been a change in the conditions upon which the original zoning designation was based? Have land uses or conditions changed since the zoning was established?
- (c) Does proposed zoning better conform to the Master Plan?
- (d) Will the proposed change conflict with existing or planned public improvements?
- (e) Will the proposed change adversely affect traffic patterns or congestion?
- (f) Is the proposed amendment consistent with the development patterns in the area and appropriate for orderly development of the community? The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request?
- (g) Is the proposed amendment the logical expansion of adjacent zoning districts?
- (h) Is the timing of the request appropriate given the development trends in the area?
- (i) Will the proposed change adversely the impact the environmental conditions of the vicinity or the historic resources of the Town?

(j) Will the proposed change adversely affect the health, safety and welfare of the Town and the vicinity?

(k) Other matters which may be appropriate.

### **Section 12.7 More Restrictive Rezoning**

The Town Council may not approve a rezoning other than the rezoning posted unless the change is more restrictive than the proposed rezoning posted.

### **Section 12.8 Examination and Copying of Application and Other Documents**

At any time upon reasonable request, and under the supervision of the Planning and Zoning Commission Chairman or his/her designee, any person may examine an application filed. Copies of such materials shall be made upon payment of the appropriate fee as determined by Town Council policy.

### **Section 12.9 Revocations of Approvals**

Applicants shall be responsible for ensuring that all development proceeds in accordance with terms and conditions of any approval issued to the applicant. A determination by the Planning and Zoning Commission that the terms and conditions of the approval have been violated shall subject the approval to be revoked.

### **Section 12.10 Reliance on Information Presented by Applicant**

The Planning and Zoning Commission shall have the right to rely on the accuracy of statements, documents and all other information presented to them by applicant, their attorney or agent, in review of an application issued under these regulations.

### **Section 12.11 Presentation or Submittal of Incorrect Information**

In the event that an applicant, their attorney or agent submits or presents false or incorrect information, whether or not such information is presented fraudulently or deceitfully to the staff, Planning and Zoning Commission concerning a material fact or consideration relating to an application for a rezoning, conditional use, or other type of approval issued under these regulations, the following action may be taken:

When such false or incorrect information was a material fact or consideration in approving an application for rezoning, amendment, modification, or repeal, the Planning and Zoning Commission Chairman shall notify the applicant in writing of the false or incorrect information given and all actions necessary to resolve those problems resulting from the false or incorrect information given. If the problems cannot be resolved within ten (10) days or such other time period stated in notification, the Planning and Zoning Commission or Town Council shall hold a public hearing, of which the applicant shall be notified with at least seven (7) days notice by certified mail, return receipt requested. Upon the conclusion of the public hearing the Planning and Zoning Commission or Town Council may amend, revoke, or void approval. Prior to such action, the Commission must find that the applicant, his agent, or attorney, presented fraudulently or deceitfully, to the Board of Adjustment, Planning and Zoning Commission, or Town Council concerning a material fact or consideration relating to an application or an applicant, whether or not such information is presented fraudulently or deceitfully to the staff, Board of Adjustment, Planning and Zoning Commission, or Town Council concerning a material fact or consideration relating to an application. Any work performed by or at the request of the applicant on the subject property shall be at the risk of the applicant. If the Planning and Zoning Commission or Town Council does amend, revoke, or void an application approval, the Planning and Zoning Commission Chairman shall void any type of approval or permit issued.

## **Section 12.12 Withdrawal of Applications**

Applications for rezoning, conditional use, special exceptions and variance requests must be withdrawn by the applicant or authorized agent in the manner set forth as follows:

(a) An applicant may withdraw an application by filing written notice of the withdrawal with the Planning and Zoning Commission seven (7) days prior to the public hearing. If the application will be before the Town Council a written notice shall be filed with the Mayor seven (7) days prior to the public hearing.

(b) When an applicant wishes to withdraw an application less than seven (7) days prior to the public hearing, it shall be at the discretion of the governing body to either grant the withdrawal or to hear the application as submitted.

## **Section 12.13 Concurrent Applications**

An application for rezoning of land, conditional use, special exception or variance on all or part of the same land may be made concurrently. In such cases, the effective date of the conditional use, special exception or variance shall be held in abeyance until action has been taken by the Town Council on the application for rezoning of such land.

## **Section 12.14 Limitations on Rezoning of Land**

**12.14.1** Whenever the Town Council has amended the zoning map and changed a zoning classification of land, another application shall not be considered for rezoning of any part or all of the same land for a period of one (1) year from the effective date of such amendment.

**12.14.2** Whenever the Town Council has denied an application for rezoning, no further application shall be filed for the same land for a period of one (1) year from the date of such action. In the event that two (2) or more applications for rezoning of any part or all of the same land has been denied, no further applications shall be filed for a period of two (2) years from the date of such action denying the last application filed.

## **Section 12.15 Application Fee**

**12.15.1** Application fees shall be determined based on the current fee schedule adopted by the Town Council.

**12.15.2** Fees shall be nonrefundable irrespective of the final action on the application. No fee shall be refunded after the submittal deadline.

## **Section 12.16 Public Notice and Hearings**

**12.16.1** Any proposed rezoning, amendment, supplement, modification, or repeal shall be submitted to the Planning and Zoning Commission for its consideration and recommendation to the Town Council.

**12.16.2** An application for rezoning must be submitted to the Planning and Zoning Commission. The application must be on official (County) Town forms and must be accompanied by data, maps, and plans which are adequate to support the application. The application shall be heard by the Planning and Zoning Commission at its next regular meeting after receipt of a correctly completed application. All dates and times shall be determined by the adopted meeting schedule of the Planning and Zoning Commission.

**12.16.3** Before acting on any proposed rezoning, amendment, supplement, modification or repeal, a public hearing shall be held by the Planning and Zoning Commission with proper legal notice published in a newspaper of general circulation at least two weeks prior to the hearing, and in the case of a rezoning, notice by certified mail at least 5 days prior to the hearing, to the applicant and to all adjacent property owners as their names appear in the County tax records.

**12.16.4** A conspicuously located sign, indicating the proposed amendment, shall be posted on the subject property no less than three weeks prior to the date of the hearing. The case number and contact information shall be listed.

**12.16.5** The Magnolia Springs Town Council shall fix a reasonable time for consideration of a proposed rezoning, amendment, supplement, modification, or repeal and give public notice thereof. The timeliness and manner of public notification shall be in accordance with pertinent Alabama Code Sections with publication method as determined by the Town Council. The public notice shall state that the proposed rezoning, amendment, supplement, modification, or repeal will be considered by the Magnolia Springs Town Council.

**12.16.6** *Copies available.* A copy of the proposed rezoning, amendment, supplement, modification, or repeal shall be made available for public inspection at the Magnolia Springs Town Office which location will be included in the notice. The notice shall also state the time, place, and location where persons may be heard in opposition to, or in favor of such proposed rezoning, amendment, supplement, modification, or repeal. No such amendment, supplement, modification, or repeal shall become effective until adopted by the Town Council after a public hearing where all citizens and parties in interest shall have an opportunity to be heard.

**12.16.7** The Town Council shall render a final decision on the proposed rezoning, amendment, supplement, modification, or repeal at the conclusion of the public hearing or within 60 days from the date of the public hearing if it is determined that action must be deferred in order to allow for additional input and review.

## **Section 12.17 Agricultural Land**

Undeveloped land or land zoned or used for agricultural purposes or timber growing, shall automatically be rezoned for single family use (ER) upon such request by the owner.

## **Article XIII Nonconformities**

### **Section 13.1 Intent**

In the Town, there exists uses, structures and combinations of such which were lawful before the adoption of these regulations or amendments thereto, but which would be prohibited, regulated or restricted under the terms of these regulations or amendments thereto. It is the intent of this section to permit them to continue with restrictions until they are removed or destroyed, but not to encourage their survival. It is further the intent of these regulations that such nonconformities shall not be enlarged, expanded or intensified, nor shall they be used as grounds for adding other structures. Changes in nonconformities other than their discontinuance shall be discouraged.

### **Section 13.2 Rules Applicable to Nonconformities**

**13.2.1 Incompatibility and enlargement.** Nonconforming uses are declared by these regulations to be incompatible with permitted uses within the districts involved. A nonconforming use of a structure or a nonconforming use of a structure and land or water in combination, shall not be extended, enlarged or intensified except in conformance with these regulations. No nonconforming use shall be moved in whole or in part to any

portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendments of the zoning regulations. Replacement of nonconforming structures shall be prohibited.

**13.2.2 *Work in progress.*** To avoid undue hardship, nothing in these regulations shall require a change in plans, construction or designed use of buildings on which a building permit has been properly issued prior to the adoption of these regulations or amendments thereto. If actual construction has not begun under a permit properly issued before the adoption of these regulations or amendments thereto, within six (6) months of the date of issuance of the permit, said permit shall become invalid and shall not be renewed except in conformity with the regulations.

**13.2.3 *Nonconforming use of open land.*** Where open land is being used for a nonconforming use, such nonconforming use shall not be extended or enlarged either on the same or adjoining property.

**13.2.4 *Nonconforming use of buildings.*** Except as otherwise provided herein, the lawful use of a building existing at the effective date of these regulations or amendments thereto may be continued although such use does not conform to the provisions contained herein.

**13.2.5 *Discontinuance of nonconforming use.*** No building or portion thereof, used in whole or in part, for a nonconforming use which is abandoned for more than one (1) calendar year or 365 consecutive days, shall be used except in conformity with these regulations. The intent to abandon shall be presumed from the cessation of business or the removal of equipment, goods, structures or other aspects of such nonconforming use of the property.

**13.2.6 *Destruction, repair or alteration of nonconforming use or structure.***

(a) No building or structure which has been damaged, repaired or altered by any means to an extent of more than fifty percent (50%) of the fair market value of the building or structure immediately prior to damage, repair or alteration, shall be restored except in conformance with these regulations, and all rights as a nonconforming use or structure are then terminated.

(b) If a building is damaged, repaired or altered by less than fifty percent (50%), such damage may be repaired to the size and use as before the time of damage, repair or alteration provided that such repair of reconstruction is complete within one (1) calendar year or 365 consecutive days of the date of such damage.

(c) Historic nonconforming structures or a nonconforming portion of an historic structure over 50 years old may be considered a valid nonconforming structure upon the determination of the Baldwin County Historical Development Commission that said structure is historic in nature and the respective Board of Adjustment confirms the valid nonconforming status. A valid nonconforming status shall permit reconstruction, repair, or alteration irrespective of the fifty percent (50%) rule as given in *Section 13.2.6(a)*.

(d) Upon the determination by the Town Council or its designee that a structure is potentially damaged, being repaired or altered by more than fifty percent (50%) of the fair market value, the following method shall be employed to make a final determination:

1. An appraisal by a licensed appraiser shall be submitted to the Town Administrative Staff.
2. A licensed contractor shall perform a cost estimate for repairs to the structure and submit it to the Town Administrative Staff.
3. The Town Administrative Staff shall prepare a report with the appraisal and cost estimate and submit it to the Planning and Zoning Commission for a final determination.



4. The Planning and Zoning Commission shall make a determination or may request additional information as deemed appropriate to make a final determination.

5. Nothing herein shall be construed to excuse any owner, occupant or contractor from compliance with building codes, zoning regulations or any other health or safety requirements imposed by local, state or federal laws, or regulations in effect at the time of the repair or rebuilding.

6. The applicant shall be responsible for all costs associated with a determination.

**13.2.7 Nonconforming lots.** A nonconforming lot or parcel is a lot or parcel which fails to meet the dimensional requirements (i.e. minimum lot area, width, frontage etc.) of the zoning regulations, but was lawfully created according to Alabama State Law and was a lot of record prior to the effective date of the zoning regulations or any amendments thereto and has been determined to be vested.

(a) Any nonconforming lot or parcel may be used as a building site.

(b) A nonconforming lot or parcel must comply with permitted uses and other standards as described in the zoning regulations.

**13.2.8 Subdivision of lots.** No portion of a lot shall be sold or subdivided in a manner which does not comply with the lot width and area requirements established by the zoning regulations. A nonconforming lot may be increased in size even if such increase does not allow the lot to meet the minimum lot width and lot area requirements established by the zoning regulations. Furthermore, the adjoining lot or lots, from which the land is removed to create the increase to the subject lot, shall not become nonconforming or does not increase in nonconformity.

**13.2.9 Special treatment due to these regulations or other government action.** Should a government agency obtain, after the effective date of this amendment, a portion of a conforming lot for public purposes and thereby create a nonconforming lot, it may be possible to erect or construct, on said lot, the principal and accessory structures otherwise authorized provided that all other requirements of these regulations are met.

**13.2.10 Repairs and maintenance.** On any nonconforming structure or portion of a nonconforming structure or any structure containing a nonconforming use, work may be done on ordinary repairs, only to replace or repair, provided that the cubic content of the structure shall not be increased. Ordinary repairs may include painting, roofing, siding, re-paving of access roads and parking/loading areas, replacement of landscape elements and other like activities.

**13.2.11 Nonconforming structures unsafe due to lack of maintenance.** Any portion of a nonconforming structure that becomes physically unsafe or unlawful due to lack of repairs and maintenance, and which is declared unsafe or unlawful by a duly authorized county official, but which the owner wishes to repair, restore or rebuild, must be repaired, restored or rebuilt in conformance with the provisions of this chapter.

**13.2.12 Nonconforming accessory uses and structures.**

(a) No nonconforming accessory use or structure shall continue after the principal use or structure is terminated by abandonment, damage or destruction unless such accessory use or accessory structure is made to conform to the standards for the zoning district in which it is located.

(b) Any nonconforming accessory use or accessory structure shall be brought into conformity with these regulations whenever a substantial improvement to, addition to or change in principal use or structure on the property is proposed or approved.

(c) Any part of a nonconforming accessory use or accessory structure which is destroyed to an extent of more than fifty percent (50%) of the fair market value of the building or structure immediately prior

to damage, shall not be restored except in conformity with these regulations, and all rights as a nonconforming use or structure are then terminated.

(d) No additional structure which does not conform to the requirements of these regulations shall be erected in connection with a nonconforming use of land.

**13.2.13 *Illegal uses and structures prohibited.*** All of the foregoing provisions relating to nonconforming uses and structures shall apply to all nonconforming uses or structures existing or created on the effective date of these regulations and to all uses and structures which become nonconforming by reason of any amendment thereof. The provisions shall not apply, however, to any use established, or structures erected or expanded, in violation regardless of the time of establishment or erection.

## **Article XIV Enforcement**

### **Section 14.1 Zoning Enforcement and Appeals**

#### **14.1.1 *Violations, penalties and remedies; generally***

**14.1.2** Whenever a violation of these regulations is identified or is alleged to have occurred, any person aggrieved may file a complaint. Such complaint shall fully state the cause and basis thereof, and shall be filed at the Town Office in Magnolia Springs.

Whenever the Town has knowledge of a violation or an alleged violation, a thorough investigation may be initiated. After such investigation, and upon the finding of a violation, the violation procedures contained in this Article shall be initiated.

**14.1.3** Violation of the provisions of these regulations, including violation of conditions and safeguards established in connection with a grant of a variance, special exception, conditional use, land use certificate or appeal, shall be addressed and punishable in accordance with sections contained herein.

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

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

### **Section 14.2 Violations**

**14.2.1 *Persons in violation.*** Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who: (a) violates any provision of these regulations, (b) permits, participates, assists, directs, creates or maintains any such violation, (c) fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, special exception, conditional use or the like, or (d) who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to these regulations, shall be in violation.

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

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

**14.2.4 *Structures and uses in violation.*** Any structure or lot erected, constructed, altered, occupied or used contrary to any provision(s) of these regulations or other applicable regulations, stipulation, condition, approvals and variance shall be declared to be unlawful.

### **Section 14.3 Notice of Violation**

**14.3.1 *Issuance.*** The Town shall issue a written notice of violation upon receipt of a complaint or knowledge of violation, to all persons in violation. The Notice of Violation may be served by certified mail, return receipt requested, or pursuant to Alabama Rules of Civil Procedure. The Notice of Violation shall allow a reasonable time to correct or abate such violation.

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

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

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

**14.3.4 *Noncompliance.*** When the Town determines that the violation has not been corrected or abated by end of the prescribed time period, Town Administrative Staff shall issue a written notice forwarding the matter to the Town Council for further action.

**14.3.5 *Compliance.*** Upon the submission by the violator of evidence of compliance deemed adequate, by the Town, compliance shall be deemed achieved.

**14.3.6 *Diligent efforts to comply.*** When, after issuance of a Notice of Violation but prior to commencement of any judicial proceedings, the Town determines that the person in violation is making a diligent effort to comply with the requirements of the Notice, the Town may issue a written stay of further enforcement actions pending full

compliance. The stay shall list the diligent efforts to comply and should be provided to the violator(s). No enforcement actions shall be stayed longer than ninety (90) days.

**14.3.7 Repeat violations.** When any Notice of Violation is issued to any person for substantially the same violation for which a previous Notice of Violation has been issued to such person, no period shall be allowed for correction or abatement of the violation. Rather, in such event, the Town shall immediately cause the matter to be forwarded to the Town Council for further action.

**14.3.8 Fines.** Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation (see 14.2.3, above). The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

## **Section 14.4 Additional Penalties**

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

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

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

## **Section 14.5 Appeals**

**14.5.1 Appeal of administrative enforcement decision.** Any person(s) aggrieved by a decision of the Town administrative staff in regards to zoning enforcement may file an appeal, made on forms provided by the Town, to the Board of Adjustment where the alleged violation has occurred. An appeal must be filed within fifteen (15) days of the date of the Notice of Violation. An appeal is deemed filed with a Board of Adjustment when received by the respective Board Chairman.

**14.5.2 Appeal of Board of Adjustment decision.** In exercising its authority, the Board of Adjustment may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as the Board deems proper and, to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the Board of Adjustment shall be necessary to reverse, affirm or modify any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to act.

**4.5.3 Appeal to Circuit Court from final decision of Board of Adjustment.** Any party aggrieved by a final judgment or decision of a board of adjustment may within 15 days thereafter, appeal to the Circuit Court of Baldwin County, Alabama, by filing with the circuit court and the board of adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken and specifying in sufficient detail the grounds for appeal so that the non-appealing party may reasonably frame a responsive pleading. For purposes of this section, an appeal shall be filed with the Board of Adjustment at the Town of Magnolia Springs Office and shall be deemed filed when received at Town Office regardless of the method of delivery.

## **Article XV Definitions**

### **Section 15.1 Usage**

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 "building" includes "structure." The words "shall" and "will" are always mandatory. The word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied."

### **Section 15.2 Words and Terms Defined**

As used in these regulations, the following words and terms shall have the meaning defined:

*zone.* (See Floodplain).

*Abutting/contiguous property.* Any property that is immediately adjacent to, touching, or separated from such a common border by a right-of-way, alley, or easement.

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

*Accessory structure.* A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

*Accessory structure compound.* A fenced, secured enclosure in which a wireless telecommunications facility and its equipment, buildings, access roads, parking area and other accessory devices / auxiliary structures are located.

*Accessory use.* A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

*Agriculture/agricultural uses.* The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and related accessory uses.

*Airport.* Any area of land or water designed and set aside for the landing and taking off of aircraft, and may include necessary facilities for the housing and maintenance of aircraft.

*Alteration.* Any change in structural parts, stairways, type of construction, kind of class of occupancy, light or ventilation, means of ingress and egress, or other changes affecting or regulated by the building code or these zoning regulations, including extension or expansion, except for minor changes or repairs not involving the aforesaid features.

*Alteration, structural.* 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.

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

*Amusement arcade.* A building or part of a building in which five (5) or more pinball machines, video games, or other similar player operated devices are maintained.

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

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

*Area and dimensional regulations.* Numerical standards established for a lot, yard or building in a particular zone.

*As of right.* Uses that are specifically authorized by the zoning regulations. (See also *Permitted use*).

*Attic.* An unfinished area below the roof and above the ceiling of the living or garage area of a single family or two family dwelling which is generally used for storage and/or the location of mechanical equipment but not for human habitation.

*Auto convenience market.* A retail establishment where motor vehicle fuel is retailed directly to the public on the premises in combination with retailing of items typically found in a neighborhood convenience store. An auto convenience market may include a drive-through car wash but may not include automobile service bays.

*Automobile repair.* The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

*Automobile service station.* Any building or land used for retail sale and dispensing of automobile fuels or oils; may furnish supplies, equipment and minor services to private passenger vehicles incidental to sale and dispensing of automobile fuels and oils.

*Automobile wrecking.* The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

*Bar or tavern.* An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises.

*Base flood.* The flood having a one (1) percent chance of being equaled or exceeded in any given year.

*Base flood elevation.* The elevation for which there is a one (1) percent chance in any given year that flood levels will equal or exceed it.

*Basement.* A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

*Bed and breakfast.* The renting of rooms in a private residence for brief periods of time together with the provision of breakfast for the guests by the home owner. All service is to be provided by the home owner.

*Board of Adjustment.* A board appointed by the Town Council to hear and decide appeals, special exceptions and variances from the terms of the zoning regulations.

*Boarding house, rooming house, lodging house, or dormitory.* A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

*Boathouse.* A structure constructed over water designed or intended to be used for the purpose of docking, storing and protecting one (1) or more watercraft.

*Boat repair.* Major overhauling or repair of small craft and pleasure boats that requires open air, partially covered or enclosed dry dock facilities and such heavy equipment, yard space and dock facilities as may be necessary.

*Boat slip.* A facility for the mooring of watercraft.

*Buffer.* Land which is maintained in either a natural or landscaped state and is used to screen and/or mitigate the impacts of development on surrounding areas, properties, or rights-of-way.

*Building.* Any structure attached to the ground and intended for shelter, housing, or enclosure for persons, animals, or chattels.

*Building height.* The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs. In A-zones building height will be measured from the finished floor elevation. In V-zones building height will be measured from the bottom of the lowest supporting girder.

*Building Official.* Individual appointed by the Town to carry out inspections required by the building code.

*Building line.* (See *Setback line*).

*Car wash.* An area of land and/or structure with machine or hand operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

*Cemetery.* Land used or intended to be used for the burial of the human and animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

*Certificate of occupancy.* Official certification that a premise conforms to provisions of the zoning regulations and building code, and may be used or occupied. Such certificate is granted for new construction or for the substantial alteration or additions to existing structures. A structure may not be occupied unless such certificate is issued by the Building Official.

*Child care facility.* A facility established for the care of children as defined in §38-7-2 of the *Code of Alabama, 1975*. For the purpose of these regulations, this definition includes the following:

(a) *Child care center.* This includes facilities licensed as day care centers and nighttime centers in accordance with §38-7-2 of the *Code of Alabama, 1975*. Day care centers and nighttime centers serve more than twelve (12) children.

(b) *Child care institution.* This includes facilities licensed as group homes and child care institutions in accordance with §38-7-2 of the *Code of Alabama, 1975*. These facilities provide full time care.

(c) *Day care home.* A child care facility which is a family home and which receives not more than six children for care during the day in accordance with §38-7-2 of the *Code of Alabama, 1975*.

*Church or similar religious facility.* A place where religious worship is conducted. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

*Clinic.* A place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical or surgical attention, but who are not provided with board.

*Club.* A building or portion thereof or premises owned or operated for a social, literary, political, educational, or recreational purpose but not operated or maintained for profit. Does not include casinos, night clubs, or other institutions operated for a profit.

*Cluster development.* A site planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, and/or preservation of features and/or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings may include, but shall not be limited to, reduction in lot areas, setback requirements, and/or bulk requirements, and with the resultant open space being devoted by deed restrictions for one or more reasons.

*Coastal construction line (CCL).* A line in coastal Alabama determined by the Alabama Coastal Area Management Plan (ACAMP) seaward of which no construction is permitted.

*Coastal high hazard areas (V-zones).* Areas that are subject to high velocity waters caused by, but not limited to hurricane wave wash.

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

*Commercial occupant.* A commercial use, i.e., any use other than residential or agricultural.

*Commercial vehicle.* Any vehicle designed and used for transportation of people, goods, or things, other than private passenger vehicles and trailers for private nonprofit transport of goods and boats.

*Commercially developed parcel.* A parcel of property on which there is at least one walled or roofed structure used, or designed to be used, for other than residential or agricultural purposes.

*Common open space.* Open space within a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use and/or enjoyment of the residents of the development.

*Concealment techniques.* Design techniques used to blend a wireless telecommunications facility, including any antennas thereon, unobtrusively into the existing surroundings so as to not have the appearance of a wireless telecommunications facility. Such structures shall be considered wireless telecommunications facilities and not



spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof 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 wireless telecommunications facility and surrounding development. Concealed towers on developed property must be disguised to appear as either a part of the structure housing, a principal use, or an accessory structure that is normally associated with the principal use occupying the property. Concealed towers developed on unimproved property must be disguised to blend in with the existing vegetation. *Example:* a tower of such design and treated with architectural material so camouflaged to resemble a woody tree with a single trunk and branches on its upper part (also known as a “monopole”).

*Conditional use.* A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a zoning district subject to approval by the Planning and Zoning Commission, and subject to special requirements, different from those usual requirements for the zoning district in which the conditional use may be located.

*Condominium.* A development where all land, including that under the buildings in the development, is held in single ownership for the common use of unit owners or tenants; also a living unit within such a development.

*Conservation easement.* An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, wildlife; or maintaining existing land uses.

*Construction sign.* Any sign giving the name or names of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

*Convalescent or nursing home.* A building, or portion thereof, wherein for compensation, living accommodations and care are provided for persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for persons requiring further institutional care after being discharged from a hospital other than a mental hospital; includes extended care facilities.

*Copy.* The linguistic content of a sign.

*Copy shop.* A retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include collating and binding of booklets and reports.

*County.* Baldwin County, Alabama.

*County Commission.* The Baldwin County Commission.

*Deck.* A flat uncovered area generally adjoining a house, building, or pool which may be used as an outdoor sitting or recreation area.

*Density.* The number of dwelling units per acre of land.

*Department.* The Magnolia Springs Planning and Zoning Commission.

*Development.* The construction, reconstruction, repair, demolition, conversion, structural alteration, relocation, removal, or enlargement of any building or structure; any extension of utilities; any construction of streets; any construction of drainage structures; any mine, excavation, land fill, or land disturbance; and/or any change in use, or alteration or extension of the use, of land.

*Dwelling.* A building or portion thereof used exclusively for residential purposes, including single-family, two-family, and multiple-family dwellings, but not including hotels, boarding houses, rooming houses, lodging houses or dormitories.

*Dwelling, multiple-family.* A building designed for or occupied by three or more families, with separate toilets and facilities for cooking and sleeping for each dwelling unit.

*Dwelling, single-family.* A detached building designed for and occupied by one family as a home, with toilets and facilities for cooking and sleeping.

*Dwelling, two-family.* A building designed for or occupied by two families only, with separate toilets and facilities for cooking and sleeping for each dwelling unit, separated by a common wall and sharing a common roof and foundation.

*Dwelling unit.* Any building, portion thereof, or other enclosed space or area used as or intended for use as the home of one family, with separate toilets and facilities for cooking and sleeping, either permanently or temporarily.

*Electric sign.* Any sign containing electric wiring.

*Erect a sign.* To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish a sign. It shall not include any of the foregoing activities when performed as an incident to the change of message, or routine maintenance.

*Erected.* The word "erected" includes built, constructed, reconstructed, moved upon or any physical operations on the premises required for building. Excavations, fill, drainage, and the like shall be considered a part of erection.

*Excavation.* Any mechanical removal of rock, sand, gravel, or other unconsolidated materials from a location.

*Expansion, building or use.* The addition of enclosed or unenclosed rooms or storage spaces, porches, or parking area, to an existing building or use on a parcel of land.

*FAA.* Federal Aviation Administration.

*Family.* One or more persons living together as a single housekeeping unit and using common cooking facilities, as distinguished from a group occupying a boarding or rooming house or hotel.

*FCC.* Federal Communications Commission.

*Flea market.* An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) the overflow of inland or tidal waters.
- (b) the unusual and rapid accumulation of runoff of surface waters from any source.

*Flood insurance rate map (FIRM).* An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to a community.

*Floodplain.* Those areas defined by the U.S. Geological Survey or the U.S. Army Corps of Engineers as subject to flooding once in 100 years, based on topography.

*Floodway.* That portion of the floodplain, including the channel, which is reasonably required to discharge the bulk of the regional flood waters. Floods of less frequent recurrence are usually contained completely within the floodway. For the purpose of these regulations, floodways shall be defined as follows:

- (a) The floodways as identified or delineated in the *Flood Insurance Study* for Baldwin County, Alabama.
- (b) Along Small Streams and Watercourses. All lands lying within 25 feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the Town that a lesser distance (but not less than 15 feet) is adequate based on the watershed characteristics and probable storm runoff for the base flood.

*Floor area, gross.* The sum of the gross enclosed horizontal area of all the floors of a building, except a basement or area under the first habitable story, measured from the exterior faces of exterior walls and/or supporting columns.

*Food processing.* The preparation, storage, or processing of food products on a large scale. Examples of these activities include bakeries, dairies, canneries, and other similar activities or businesses.

*Frontage.* The length of the property line of any one parcel along a street on which it borders.

*Funeral home.* A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial or cremation; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel is also permitted.

*Garage, private.* A building or part thereof designed and/or used for inside parking of self propelled private passenger vehicles by the occupants of the house or other principal structure on the premises or by the occupants of or employees of a particular firm.

*General commercial uses.* This land use includes those commercial activities which require outdoor storage, have higher trip generations than local commercial uses, or have potential for greater nuisance to adjacent properties due to noise, light and glare, or typical hours of operation.

*General industrial uses.* This land use includes those industrial, manufacturing, processing, warehousing, or research and testing operations that, due to employment of heavy equipment or machinery or to the nature of the materials and processes employed, require special location and development safeguards to prevent pollution of the environment by noise, vibration, odors or other factors.

*Generalized Wetland Map.* Refers to the National Wetland Inventory (NWI) Maps, the Baldwin county Digital Wetland layer, and/or any other digital data depicting the general locations of wetlands or hydric soils and their degree of functionality within the jurisdiction of Baldwin County.

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

*Home improvement center.* An establishment which sells various household goods, tools, building materials, household appliances, garden supplies, nursery products, paint, glass, etc. Retail stock may be kept outdoors.

*Home occupation.* Any occupation for gain or support customarily conducted entirely within a residential dwelling unit and carried on solely by the inhabitant thereof, and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof.

*Home occupation, rural.* An accessory use to a customary farming operation or a nonfarm household located in a rural area designed for gainful employment involving the sale of goods and/or services that is conducted either from within the dwelling and/or from accessory buildings located on the same lot as the dwelling unit occupied by the family conducting the home occupation.

*Hospital.* An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

*Hotel.* A transient commercial lodging establishment consisting of one or more buildings used for this purpose, including accessory uses such as eating and drinking facilities, recreation facilities and parking. This category includes motels and motor hotels. Lodgings may consist of sleeping rooms only or may include cooking facilities also, but are not intended for permanent occupancy.

*Illuminated sign.* A sign which contains a source of light or which is designed to reflect light from an artificial source including indirect lighting, neon, incandescent lights, back-lighting, and shall also include signs with reflectors that depend upon automobile headlights for an image.

*Impervious surface.* Any hard-surfaced, man-made area that does not readily absorb water, including but not limited to: building roofs; streets; sidewalks; parking and driveway areas paved with asphalt, concrete, gravel, limestone, oyster shells, sand, clay or similar materials; and paved recreation areas.

*Impervious surface ratio (ISR).* A ratio derived by dividing the total of all impervious surfaces on a lot by the lot area.

*Institutional uses.* This group of uses includes: educational facilities (public or private); pre school and child care facilities; churches, temples, and similar religious facilities; nursing homes, residential care facilities, and halfway housing; cemeteries with or without funeral homes; hospitals; clubs; libraries; museums; emergency service activities such as buildings, garages, parking, and/or dispatch centers for ambulances, fire, police and rescue; and all other similar institutional uses.

*Junk vehicle.* Any vehicle that does not have a current license tag and that the owner has abandoned or left to deteriorate.

*Junk yard.* Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, baled, packed, disassembled, or handled, including auto wrecking yards, used lumber yards, housewrecking yards, and yards or places for storage or handling of salvaged house wrecking and structural steel materials. This definition shall not include pawn shops and establishments for the sale, purchase, or storage of usable secondhand cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and appliances. Nor shall it apply to the processing of used, discarded, or salvaged materials as part of manufacturing operations.

*Jurisdictional determination.* An official, written statement or map signed by the U.S. Army Corps of Engineers.

*Jurisdictional wetland.* A wetland area that is regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. It can meet the definitional requirements for wetlands (i.e. hydrophytic vegetation, hydric soils and hydrology) as determined by the U.S. Corps of Engineers, 1987 Federal Wetland Delineation Manual.

*kennel.* A facility which houses dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. This definition does not include the raising of a litter by an owner who intends to sell or give away the puppies as soon as they are old enough.

*Land area.* (See *Lot area*).

*Land use certificate.* Certificate issued by the Town indicating that a proposed use of land is in conformity with the zoning regulations, a prerequisite to issuance of a building permit.

*Land use plan.* A map and supporting written documentation indicating the projected or proposed utilization of land resulting from planning and zoning studies.

*Landfill.* A disposal site for the controlled burial of solid waste according to applicable governmental rules and regulations.

*Lateral riparian rights.* The apportionment of riparian rights between adjoining riparian owners is made by extending lines from the ends of the side lines at right angles to the line of the water front if the latter is straight or substantially so, subject to variation where the line of navigation is not parallel with the shore line, without regard to the direction of the dividing line of the upland parcels. In case of a decided convexity or concavity of the shore, riparian rights are apportioned ratably between the riparian owners, as by straight lines drawn out to the line of navigability at such points as will divide the latter proportionately to the several frontages on the shore, or by line perpendicular to a tangent drawn on a circular shore.

*Licensed Engineer.* An engineer properly licensed and registered in the State of Alabama.

*Light industrial uses.* This land use includes manufacturing, research and wholesale establishments which are clean, quiet, and free of hazardous or objectionable emissions, and generate little industrial traffic.

*Local commercial uses.* This land use includes limited retail convenience goods and personal service establishments as well as professional service and office uses.

*Lot.* A piece, parcel, or plot of land occupied or intended to be occupied by one main building, accessory buildings, uses customarily incidental to such main buildings and such open spaces as are provided in these zoning regulations, or as are intended to be used with such piece, parcel, or plot of land.

*Lot area.* The total horizontal area within the lot lines of a lot.

*Lot, corner.* A lot abutting upon 2 or more streets at their intersection or upon 2 parts of a street which form an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

*Lot depth.* The mean (average) horizontal distance between the front and rear lot lines, measured at right angles to the street lines.

*Lot, flag.* A lot with access provided to the bulk of the lot by means of a narrow corridor.

*Lot, interior.* A lot other than a corner lot.

*Lot line.* The boundary line of a lot.

*Lot line, front.* On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing the primary means of access to the lot; on a flag lot, the

interior lot line most parallel to and nearest the street from which access is obtained; or on a waterfront lot, the lot line abutting the water.

*Lot line, rear.* The lot line opposite and most distance from the front lot line.

*Lot line, side.* Any lot line other than a front or rear lot line. A side lot line of a corner lot separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior lot line.

*Lot of record.* A lot which is a part of a recorded plat or a plot described by metes and bounds, the map and/or description of which has been recorded according to Alabama Law.

*Lot of record, substandard.* A lot of record which has less than the required minimum area or width as established by the zoning district in which it is located and provided that such lot was of record as a legally created lot on the effective date of these zoning regulations.

*Lot, through.* A lot, but not a corner lot, that abuts upon two streets, the two frontages being noncontiguous.

*Lot width.* The horizontal distance between side lot lines, measured at the required front setback line.

*Major project.* Any multifamily residential use, residential subdivision, institutional use, professional service and office use, local commercial use, general commercial use, outdoor recreation use, marine recreation use, transportation, communication and utility use, light industrial use, or general industrial use.

*Manufactured housing park.* A parcel of land under single ownership that has been planned and improved for the placement of 5 or more manufactured homes for dwelling purposes and for the production of income. Home sites within the manufactured housing park are leased to individual homeowners.

*Marina.* A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for boat owners, crews, and guests, servicing and repair of boats, and sale and charter of boats. Dry boat storage may also be provided. A yacht club shall be considered a marina, but a hotel or similar use, where docking of boats and provision of services thereto is incidental to other activities, shall not be considered a marina, nor shall boat docks accessory to a multifamily structure where no boat related services are rendered.

*Marine recreation uses.* This land use includes areas where water related recreational activities are the primary use. Activities may include all activities allowed as outdoor recreation activities as herein defined. In addition, permitted activities may include marinas, boat sales, boat servicing, boat storage, sale of fuel and supplies, and provision of lodging, food, beverages and entertainment.

*Marquee.* A structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a sidewalk, public entrance or other pedestrian way.

*Master plan.* The master plan for the physical development of the Town of Magnolia Springs as adopted by the Planning and Zoning Commission.

*Mini-warehouse.* A building or group of buildings in a controlled access compound that contain varying sizes of individual, compartmentalized and controlled-access stalls, cubicles and/or lockers used for storage only.

*Minor project.* Any agricultural use or single family or two family residential structure and related accessory structures.

*Mobile home.* (See *Manufactured housing*). A transportable, factory built home, designed to be used as a year

round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

*Monument sign.* A monument sign is a freestanding sign, a wall with a permanently attached, or a decorative wall that incorporates a sign. Monument signs are typically constructed low to the ground from natural materials such as stone, brick, or wood and surrounded with additional landscape plantings. A monument sign shall be no more than **10** feet in height except where further restricted and shall have the lowest portion of its sign face no more than 3 feet above the ground.

*Motel.* (See *Hotel*).

*Multiple occupancy sign.* A parcel of property, or parcels of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant.

*Neighborhood convenience store.* Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet. Neighborhood convenience stores shall not include fuel pumps or the selling of fuel for vehicles.

*Nightclub.* A restaurant, dining room, bar, or other similar establishment providing food or refreshments wherein floor shows or other forms of entertainment by persons are provided for guests.

*Nonconforming structure.* A structure lawfully occupying a site that does not conform with the standards of the zone in which it is located, including, but not limited to, front setback, side setbacks, rear setback, height, coverage, distances between structures and parking facilities.

*Nonconforming uses.* The use of a structure or premises, existing at the effective date of these regulations, or any amendment thereto, for any purpose not permitted for a new use in the district in which it is located.

*Nursery.* Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for wholesale or retail sale on the premises including products used for gardening or landscaping.

*Nursing home.* (See *Convalescent or nursing home*).

*Offices.* Space or rooms used for professional, administrative, clerical, and similar uses.

*Open space.* An area open to the sky that is intended to provide light and air, and is designed for either environmental, scenic or recreation purposes. Open space may include, but is not limited to, lawns, landscaped areas, buffers, natural areas, wooded areas, unenclosed walkways, decks, patios, fountains and outdoor recreation uses. Streets, driveways, parking lots, buildings and structures that are roofed shall not be included as open space.

*Open space, common.* (see *Common open space*).

*Outdoor recreation uses.* This land use includes areas where outdoor recreational activities are the primary use such as public parks or other recreational areas whether public or private. Activities may include picnicking, jogging, cycling, arboretums, hiking, golf courses, play grounds, ball fields, outdoor ball courts, stables, outdoor swimming pools, and water-related or water-dependent uses such as boat ramps, fishing docks and piers, and similar outdoor recreational uses. Specifically excluded from this group of uses are amusement parks, firing ranges, marinas, miniature golf courses, golf driving ranges, race tracks, and similar commercial or quasi-recreational activities inconsistent with the allowable outdoor recreation uses described.

*Overlay district.* A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

*Parcel.* A unit of land within legally established property lines. If, however, the property lines are such as to defeat the purposes of these sign regulations or lead to absurd results, a "parcel" may be designated for a particular site by the Town Council.

*Parking garage.* A building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

*Parking lot.* An area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking.

*Parking space, off-street.* An area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be totally outside of any street or alley right-of-way.

*Pennant.* Any lightweight plastic, fabric, or other material, whether containing a message or not, suspended from rope, wire, string, or other material, whether containing a message or not, suspended from a rope, wire, string, or other similar device, designed to move in the wind.

*Permitted use.* A use by right that is specifically authorized in a particular zoning district. It is contrasted with special exceptions and conditional uses that are authorized only if certain requirements are met and after review and approval by the Board of Adjustment and Planning Commission respectively.

*Pier.* An elevated deck structure, usually pile supported, extending out into the water from the shore.

*Planned development.* A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages.

*Planning Commission.* The Magnolia Springs Planning and Zoning Commission.

*Porch.* A roofed-over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior wall(s) to which it is attached. Open mesh screening shall not be considered an enclosure. Porches shall be considered as a part of the main building and shall not project into a required front yard.

*Portable sign.* Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A-frames or T-frames; menu or sandwich board signs; balloons or other inflatable devices used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day to day operations of the business.

*Principal structure.* A building in which the primary use of the lot on which the building is located is conducted.

*Printing and publishing.* Includes printing and publishing of newspapers, books and periodicals by letterpress, lithography, offset, gravure, or screen methods. May also include book binding.

*Professional service and office uses.* This group of uses includes business and professional offices, medical offices or clinics, financial institutions without drive-up windows, and personal service businesses where the service is performed on an individual-to-individual basis as opposed to services which are performed on objects or personal property. Examples of personal service businesses are barber shops, beauty shops, or photography studios. This



group of uses may include a dispatching/communications/office center for the distribution of goods, but specifically excludes the warehousing or actual distribution of goods.

*Projecting sign.* A sign affixed to a building or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of the building or wall.

*Race track.* Facility for the racing of horses, dogs, motor vehicles and motorcycles.

*Recreational vehicle.* A self-propelled vehicle used for temporary housing of individuals and families during travel. This category also includes travel trailers, campers, camping trailers, motor homes, small mobile homes used for vacation purposes and similar transient residential vehicles.

*Recreational vehicle park.* A lot of land upon which one or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

*Residential district.* Includes the following zoning districts: ER, R-1(a), R-1(b), R-2(a), and R-2(b)

*Residential dock or pier.* A dock or pier constructed adjacent to a residential lot for gratis recreational purposes and/or mooring of private boats.

*Restaurant.* An establishment which primarily serves food and refreshments for consumption on the premises to its patrons.

*Restaurant, drive-in.* A restaurant or public eating business so conducted that food, meals or refreshments are brought to the motor vehicles for consumption by the customer or patron.

*Restaurant, fast-food.* Any establishment whose principal business is the sale of foods and refreshments in ready to consume individual servings, for consumption either within the restaurant building or for carryout, and where either: 1) foods and refreshments are usually served in paper, plastic, or other disposable containers, and where customers are not served their food and refreshments by a restaurant employee at the same table or counter where the items are consumed; or 2) the establishment includes a drive-up or drive-through service facility or offers curbside service.

*Rezoning.* An amendment to the zoning district boundaries as delineated on the zoning map.

*Right-of-way.* A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

*Roof line.* A horizontal line intersecting the highest point or points of a roof.

*Satellite receiving dishes.* A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communications satellites. This definition also includes satellite earth stations, or television dish antennas.

*School.* A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

*Setback line.* A line defining the limits of a yard in which no building or structure, other than an accessory structure, may be located.

*Shopping center.* A group of commercial establishments planned, constructed and managed as an entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, and designed to serve a community or neighborhood.

*Sign.* Any writing, pictorial presentation, number, illustration, decoration, flag, banner, pennant, or other device which is used to announce, direct, attention to, identify, advertise or otherwise make anything known. The term sign shall not be deemed to include the terms "building" or "landscaping" or any architectural embellishment of a building not intended to communicate information.

*Sign face area.* The area of any regular geometric shape which contains the entire surface area of a sign upon which copy may be placed.

*Sign structure.* Any construction used or designed to support a sign.

*Silviculture.* The care and cultivation of forest trees.

*Site plan.* The development plan for one or more lots on which is shown the existing and/or proposed conditions of the lot(s).

*Special exception.* A land use permitted that is not similar in nature to the uses permitted in the district but that is desired in the community and for which a suitable district is not available. Such use may be permitted upon approval of the Board of Adjustment and in compliance with any special conditions which may be required.

*Special flood hazard areas.* Land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

*Stable, public.* A building where horses are kept for commercial use including boarding, hire, and sale.

*Stable, private.* An accessory building in which horses are kept for the use of the occupants of the principal building.

*Stormwater management.* The process of ensuring that the magnitude and frequency of stormwater runoff do not increase the hazards associated with flooding and that water quality is not compromised by untreated stormwater flow.

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

*Story, habitable.* A story having its floor elevated at or above base flood elevation as determined from the flood insurance rate maps, regardless of the intended use of the story or its floor area.

*Story, half (½).* A space under a sloping roof which has the line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than one-half (½) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

*Street.* The full right-of-way of a thoroughfare which affords the principal means of access to abutting property.

(a) *Expressway or freeway.* A facility which has the main function to accommodate a high volume of traffic for a considerable distance through the prohibiting of ingress and egress except at controlled intervals. A freeway involves complete control of access while an expressway permits access at grade intersections at infrequent intervals.

(b) *Arterial*. A street that connects areas which produce large numbers of trip generations. An arterial functions to move traffic and to provide access to land uses, particularly high trip generating commercial activities.

(c) *Collector*. A collector has the primary function of collecting traffic from an area and moving it to the arterial street system while also providing substantial service to abutting land use.

(d) *Minor street*. A minor street is one whose primary function is to service abutting land use. This includes cul-de-sacs, marginal access streets, residential access streets and country lanes.

(e) *Marginal access street*. A minor street separating abutting land areas from arterial streets. A service road in commercial areas intended to remove terminal traffic from arterials and allow them to fulfill their high volume, high speed function. An access street in residential areas intended to remove local traffic from arterials and to buffer abutting residential lots from the detrimental effects of highway traffic use by park strips, screen plantings, or other measures, as well as to limit the number of direct driveway accesses to arterials for safety purposes.

(f) *Cul-de-sac*. A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

*Structure*. Any object, the whole or parts of which are constructed, erected or arranged by human agency, the use of which requires a location on the ground or attached to something having a location on the ground, including, but not limited to, a house, building, deck, pool, parking lot, gazebo or other object.

*Subdivision*. The division or redivision of a parcel of land into two or more parcels as provided for in the Magnolia Springs Subdivision Regulations.

*Tourist home*. A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, with or without meals, and which also serves as the residence of the operator.

*Tower*. Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including self supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and the like. (see also *antenna support structure*)

*Town*. Town of Magnolia Springs

*Townhouse*. An attached dwelling unit having a separate ground floor entrance and separate private yard space, with common walls on one or both sides of the dwelling unit.

*Transportation, communication, and utility uses*. This group of activities includes those uses which provide essential or important public services, and which may have characteristics of outdoor storage, or potential nuisance to adjacent properties due to noise, light and glare, or appearance. Uses include the following, and substantially similar activities, based upon similarity of characteristics:

(a) Broadcasting stations and radio, television and telephone transmission towers.

(b) Utility facilities, such as water plants, wastewater treatment plants, sanitary landfill operations and electric power substations.

- (c) Maintenance facilities and storage yards for schools, government agencies, and telephone and cable companies.
- (d) Airports, airfields, and truck or bus terminals.
- (e) Railroad stations, terminals, yards and service facilities.

*Unit.* That part of a multiple occupancy complex housing one occupant.

*Use.* The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

*V-zone.* (See *Coastal high hazard areas*).

*Variance.* A departure from the provisions of these regulations relating to building and other structural setbacks, lot dimensions such as width, depth, or area, structure, or building height, open space, buffers, parking or loading requirements, lot coverage, impervious areas, landscaping, and similar type regulations. A variance may not involve the actual use of the property, building or structures, procedural requirements, or definitions.

*Vehicle sign.* Any sign affixed to a vehicle.

*Waterway.* Any body of water, including any creek, canal, river, lagoon, lake, bay or gulf, natural or artificial.

*Wetlands.* Wetlands are areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

*Wholesale establishment.* Business establishments that generally sell commodities in large quantities or by the place to retailers, jobbers, other wholesale establishments, or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

*Window sign.* Any sign, picture, symbol, or combination thereof designed to communicate information about a business, commodity, event, sale, or service that is placed inside or upon a window and is visible from the exterior of the window.

*Wireless telecommunications facility.* A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunications towers, broadcasting towers, radio towers, television towers, telephone transmission towers or similar structures supporting said equipment, equipment buildings, parking area, access roads and other accessory structures.

*Yard.* A space on the same lot with a principal 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 and complying with applicable building codes.

*Yard, front.* An open, unoccupied space on the same lot with the principal 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 front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. On waterfront lots the front yard shall be considered from the front line of the principal building to the waterfront property line.

*Yard, rear.* An open space on the same lot with the principal building, such space being unoccupied except possibly by an accessory building, extending the full width of the lot between the rear line of the principal building projected to the side lines of the lot and the rear lot line. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.

*Yard, side.* An open, unoccupied space on the same lot with a principal 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.

*Zoning Administrator.* The Magnolia Springs Town Council or its designee. The Zoning Administrator shall be responsible for administering these zoning regulations.

*Zoning amendment.* A change or revision of the zoning regulations or zoning map.

*Zoning district.* A section of the Town delineated on the zoning map wherein all requirements for use of land and building and development standards are uniform.

*Zoning map.* The map which is a part of these zoning regulations and which delineates the boundaries of various zoning districts within the Town of Magnolia Springs.

## **Appendix A    Billboard Regulations**    (Bill boards are not permitted within the Magnolia Springs Town limits)

## **Appendix B    Conduct Prohibited in Licensed Establishments**

This section is derived from Article 2 Alcoholic Beverages, Part 1 Conduct Prohibited in Licensed Establishments of the *Code of Alabama 1975*, Volume 22B, 2005 Volume, and is applicable within the Town of Magnolia Springs.

### **§ 45-2-20. Legislative findings**

The Legislature finds that nudity, sexual conduct, and the depiction or simulation thereof in conjunction with the furnishing of alcoholic beverages in public places in contrary to the safety, health, and morals of the inhabitants of the Town of Magnolia Springs, Alabama, and is desirous of prohibiting such conduct. This part is therefore enacted pursuant to the authority granted in Article IV, Section 104 of the Constitution of Alabama of 1901, that allows local legislation to regulate or prohibit alcoholic beverage traffic and as otherwise granted in the Constitution of Alabama of 1901. (Act 96-458, p. 572 § 1.)

### **§ 45-2-20.01. Definitions**

The following words, terms, and phrases shall have the following meanings:

(a) *Person.* Any natural person, firm, association, joint venture, partnership, corporation, or any other entity.

(b) *Licensed Establishment.* Any business operating pursuant to a license issued by the Alabama Alcoholic Beverage Control Board within an unincorporated area of Baldwin County, Alabama, which sells, serves, or dispenses alcoholic beverages or otherwise allows the consumption of alcoholic beverages on the premises. (Act 96-458, p. 572, § 2.)

## **§ 45-2-20.02. Prohibited entertainment, attire, and conduct**

The following types of entertainment, attire, and conduct are prohibited upon any premises of a licensed establishment within the Town of Magnolia Springs.

(a) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while the person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva, or genitals.

(b) Live entertainment where any person appears in the manner described in subdivision (a) or where the persons perform, or the person performs, acts of or acts which simulate any of the following:

- 1.) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act which is prohibited by law.
- 2.) The caressing or fondling of the breasts, buttocks, anus, or genitals.
- 3.) The displaying of the male or female pubic hair, anus, vulva, or genitals.

(c) The holding, promotion, sponsoring, or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subdivisions (a) and (b); provided, however, that nothing contained in this section shall apply to the premises of any performance house, museum, or theater which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages (Act 96 -458, p. 572 § 3.)

## **§ 45-2-20.03 Violations**

(a) Any person violating any provision of this part shall upon conviction be punished by a fine of not less than one dollar (\$1) nor more than five hundred dollars (\$500) and may also be imprisoned in the county jail for a period of not more than six months at the discretion of the court trying the case.

(b) Any licensed establishment which knowingly allows any person to violate any provision of this part on the premises of a licensed establishment shall also be subject to being prosecuted and punished under the general statutes of this state as if the violator were operating without a valid Alcoholic Beverage Control Boards license. (Act 96 -458, p. 572 § 4.)

## **Appendix C Political Campaign Signs**

This section is derived from Article 18 Highways and Bridges, Part 1 Billboards, Signs, and Advertising of the *Code of Alabama 1975*, Volume 22B, 2005 Volume, and is applicable within the Town of Magnolia Springs.

### **§ 45-2-180.20. Political signs on public rights-of-way**

(a) Signs, markers, and advertising, pertaining to political campaigns, on the rights-of-way are prohibited in the Town of Magnolia Springs except those official signs or markers placed thereon by the State Department of Transportation, by Baldwin County or the Town of Magnolia Springs under the authority of any governmental entity. No sign, marker, or political poster may be attached to any

official sign or marker placed by the highway department, by the county or by the Town on any utility pole or tree on the rights-of-way in the Town of Magnolia Springs.

(b) Any person violating the provisions of this section shall upon conviction be guilty of violating Section 23-1-6. (Act 88-766, 1<sup>st</sup> Sp. Sess., p. 175, §§ 1, 2)

## Appendix D Highway Setbacks

This section is derived from Article 26 Zoning and Planning, Part 1 Construction Setbacks of the *Code of Alabama 1975*, Volume 22B, 2005 Volume, and is applicable within the Town of Magnolia Springs.

### § 45-2-260. Regulation of setbacks

(a) The provisions of this section do not apply to poles, facilities, structures, water, gas, sewer, electric, telephone, bill boards, or utility lines or other facilities of public utilities.

(b) The functional classifications and the construction setbacks required for each classification are established as follows:

- 1.) Principal arterials require a 125 foot setback from the centerline of the right-of-way.
- 2.) Minor arterials require a 100 foot setback from the centerline of the right-of-way.
- 3.) Major collectors require a 75 foot setback from the centerline of the right-of-way.
- 4.) Minor collectors require a 50 foot setback from the centerline of the right-of-way.

(c) No permanent structure shall be erected or constructed within the designated construction setback.

(d) Any landowner or other aggrieved party may appeal any decision made pursuant to this section by filing notice with the Planning and Zoning commission within a reasonable time after such decision. On such appeal, the Planning and Zoning Commission shall have authority to grant such relief as it may deem appropriate to remedy a gross inequity or extreme economic hardship as may be occasioned by strict enforcement of this section or any determination made pursuant to it. From the decision of the Planning and Zoning Commission, and within 30 days thereof, any party may appeal the decision to the Circuit Court of Baldwin County, Alabama, for trial, de novo.

(e) The Town of Magnolia Springs may institute an appropriate civil action to prevent an unlawful setback or to otherwise enforce this section.

APPROVED AND ADOPTED this the 20<sup>th</sup> day of February, 2007

ATTEST:

  
Karen S. Biel - Town Clerk

  
Charles S. Houser - Mayor

