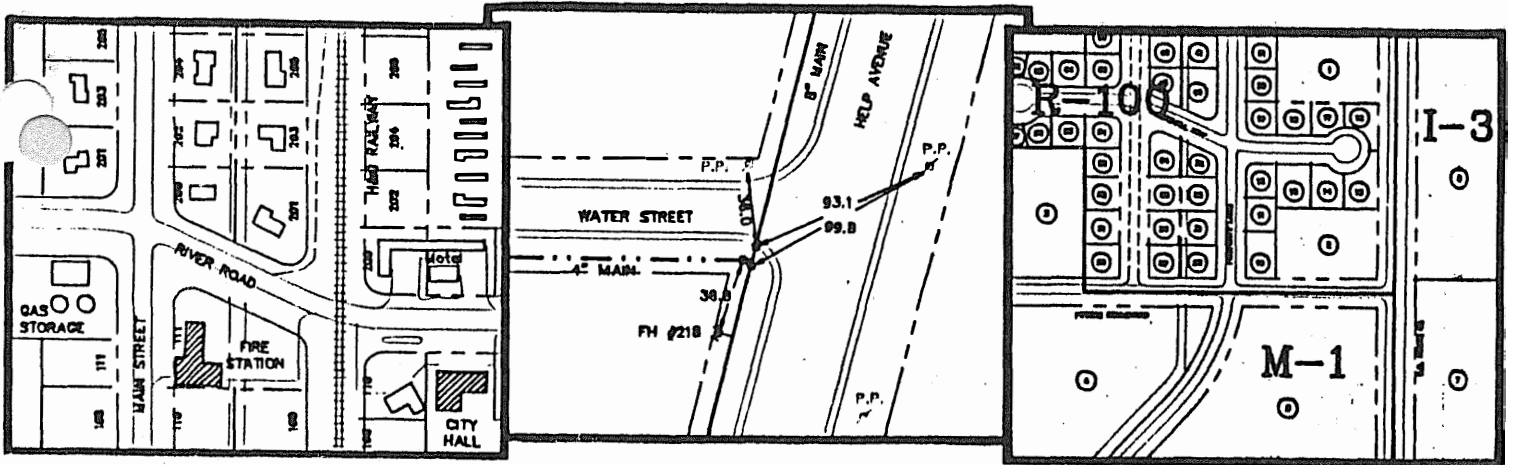


ZONING ORDINANCE

FOR

THE TOWN OF MIDLAND CITY, ALABAMA



ZONING ORDINANCE FOR THE TOWN OF MIDLAND CITY

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CERTIFICATION AND ATTESTATION

ZONING ORDINANCE OF THE TOWN OF MIDLAND CITY, ALABAMA

ORDINANCE NUMBER 88-08-01

An Ordinance of the Mayor and Town Council of Midland City, Alabama, pursuant to the authority granted by the laws of the State of Alabama providing for the establishment of zoning districts within the corporate limits of the Town of Midland City, Alabama, and to regulate the uses of land therein: adopting general zoning regulations; adopting a map for the purpose of defining boundaries of said districts; describing zoning regulations in said districts, providing for rezoning and granting of special exemptions and variances; specifying the density of population and the location and use of buildings, structures, and land for trade, industry, residences, and other purposes, and regulating the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces; establishing a Board of Adjustment; providing penalties for violation; providing remedies for enforcement hereon; and to repeal all conflicting ordinances.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIDLAND CITY IN COUNCIL CONVENED AS FOLLOWS:

ARTICLE I. CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS

101. TYPES OF DISTRICTS.

For the purposes of this ordinance, the Town of Midland City is hereby divided into the following types of districts:

A-C Districts: Agricultural Districts
R-D Districts: Residential Development Districts
R-1 Districts: Low Density Single Family Residential Districts
R-2 Districts: One-to-four Family Residential Districts
R-3 Districts: Multi-family Residential Districts
M-H Districts: Mobile Home Districts
C-1 District: Central Business District
C-2 Districts: Highway Business Districts
M-1 Districts: Industrial-Manufacturing Districts
D-D Districts: Development Districts

ARTICLE II. OFFICIAL ZONING MAP.

201. ADOPTION AND ATTESTATION

The various zoning districts and the boundaries of such districts are shown upon the Official Zoning Map of the Town of Midland City, 1988, which map together with all information shown thereon, is adopted by reference and hereby made a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Map referred to in Article II of

Ordinance Number ~~88-08-01~~ of the Town of Midland City, Alabama" together with the date of the adoption of this ordinance.

202. AMENDING THE OFFICIAL ZONING MAP

When, in accordance with the provisions of this Ordinance and Title 37 of the Alabama Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the ammendment has been approved by the Town Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the Town Council, the following change(s) were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

The Official Zoning Map, properly attested shall be kept on file at the office of the Town Clerk and made accessible to the public during normal office hours. Regardless of any copies of the Official Zoning Map which may exist, the Official Zoning Map is the final authority as to the current zoning status of all land and water areas, buildings and other structures in the Town.

203. REPLACING THE OFFICIAL ZONING MAP

When, because of the number of changes and additions, or because of damage or loss of the Official Zoning Map, it becomes necessary, the Town Council may adopt by resolution, a new Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the Town under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 88-08-01 of the Town of Midland City, Alabama.

The prior Official Zoning Map or any significant parts remaining if it has been partially damaged, shall be preserved, together with all records pertaining to its adoption or amendment.

ARTICLE III DISTRICT BOUNDARIES.

301. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

301.1 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

301.2 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

301.3 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

301.4 Boundaries indicated as approximately following City Limits shall be construed as following such City Limits;

301.5 Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

301.6 Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

301.7 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

301.8 Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

ARTICLE IV. NEWLY ANNEXED TERRITORY.

401. Any territory hereafter annexed by the Town of Midland City shall be zoned A-C until changed by an amendment to this ordinance as provided by law.

ARTICLE V. APPLICATION OF REGULATIONS

501. REQUIREMENT FOR CONFORMANCE

Except as hereinafter provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.

No building shall hereafter be erected or altered to house a greater number of families, or to have narrower or smaller front, side, and rear yards than are specified for the district in which such building is located.

502. YARD REQUIREMENTS MUST BE MET BY EACH INDIVIDUAL LOT

No part of a yard required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard similarly required for another building.

503. REQUIREMENT FOR USE OF PUBLIC WATER & SEWER IF AND WHEN AVAILABLE

All structures requiring water service and producing wastewater in any degree shall be required to use public water and sewer facilities if and when such facilities are available.

In any instance where public water and sewage facilities are not available, private wells and septic tanks may be used provided that they conform with the requirements of the Dale County Health Department as to depth, construction requirements and lot size required. Evidence of Health Department approval will be required in all such instances prior to issuance of a Certificate of Zoning Compliance or Building Permit.

ARTICLE VI. RESIDENTIAL DISTRICTS

601. A-C DISTRICTS: AGRICULTURAL CONSERVATION DISTRICTS

These districts are composed of unsubdivided lands that are vacant or in agricultural or forestry uses, with some dwellings and some accessory uses. The regulations are designed to protect the essentially rural and agricultural character of these districts by prohibiting the establishment of scattered uses that are unrelated to the general agricultural nature of the district and will take out of production the most fertile and productive farmland. Land in these districts is required to be reclassified to the appropriate development, residential, commercial, or manufacturing category in accordance with the Amendment Procedure set forth herein whenever such land is subdivided into building sites, whether residential, commercial, or manufacturing.

602. R-D DISTRICTS: RESIDENTIAL DEVELOPMENT DISTRICTS

These districts are in areas immediately adjacent to developed residential areas of Midland City. They are the areas most accessible to utility service and most cost effective to develop as future residential locations. A variety of housing types and densities may be allowed in these areas provided that they meet the performance standards and design criteria outlined in Article VIII. The district regulations are designed to protect the residential character of these areas by prohibiting all commercial and industrial activities; to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools and churches. These districts are designed to give maximum flexibility for development and thus should not be rezoned to another designation without clear and convincing evidence that development conditions have changed in the district in question.

603. R-1 DISTRICTS: SINGLE-FAMILY RESIDENTIAL DISTRICTS.

These districts are composed of areas containing single-family dwellings and open areas where similar residential development is planned to occur. The district regulations are designed to protect the residential character of these areas by prohibiting all commercial and industrial activities; to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools and churches, and to preserve the openness of the areas by requiring certain minimum yard and area standards to be met.

604. R-2 DISTRICTS: ONE-TO-FOUR FAMILY RESIDENTIAL DISTRICTS.

These districts are composed of areas containing a mixture of one-family to four-family dwellings and open areas where similar residential development is planned to occur. The district regulations are designed to protect the residential character of the areas by prohibiting all commercial and manufacturing activities, to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools and churches; and to preserve the openness of the areas by requiring certain minimum yard and area standards to be met. The standards for R-2 districts are minimum standards, and should not be construed as prohibiting single-family residential dwellings which fulfil the requirements of a R-1 district.

605. R-3 DISTRICTS: MULTIPLE-FAMILY RESIDENTIAL DISTRICTS.

These districts are composed of areas containing or planned to contain only multiple-family rental dwellings with five or more dwelling units. The district regulations are designed to protect the residential character of the areas by prohibiting all commercial and manufacturing activities, to encourage a suitable neighborhood environment for family life by including among the permitted uses such facilities as schools and churches; to prevent overcrowding of the land by requiring certain minimum yard and other open spaces for all buildings; and to avoid excessive population density by requiring a certain minimum lot area for each dwelling unit.

606. M-H Districts: Mobile Home Districts

These districts are composed of areas which contain, or are planned to contain only mobile homes, whether in mobile home subdivisions on individually owned lots or in mobile home parks on rented lots. Mobile homes can only be located in M-H districts unless a temporary exception is allowed by the Board of Adjustment.

ARTICLE VII. BUSINESS DISTRICTS

701. C-1 DISTRICT: CENTRAL BUSINESS DISTRICT.

This district consists of the central, almost entirely built-up downtown section of the Town. Few buildings have front yards and many cover their entire sites. The primary purposes of structures in this district will be retail sales, personal and professional services, entertainment, and public services and facilities. Wholesaling and warehousing is limited to that which is accessory to a principal retail use. The district regulations are designed to permit the development and redevelopment of the district as the focus of the commercial activities of the Midland City trade area.

702. C-2 DISTRICTS: HIGHWAY BUSINESS DISTRICTS

These districts are composed of land and structures occupied by or suitable for furnishing the retail goods, such as groceries and household needs of the surrounding residential neighborhoods. Restaurants and personal and professional service businesses are permitted in these areas. The district regulations are designed to permit the development of the districts for their purpose and to protect the abutting and surrounding residential areas by requiring certain minimum yard and area standards to be met, standards that are comparable to those called for in residential districts.

703. M-1 DISTRICTS: INDUSTRIAL-MANUFACTURING DISTRICTS

These districts are composed of land and structures used for manufacturing, processing, assembly, and related activities, or warehouse and wholesale establishments, or suitable and planned for such use. Located for convenient access from existing and future arterial thoroughfares and railway lines, these districts are in many instances separated from residential areas by commercial areas or by natural barriers; where they are adjacent to residential areas, some type of artificial separation will be required. The district regulations are designed to permit the development of the district for all industrial uses, subject to the minimum regulations necessary for the mutual protection of the various uses.

704. D-D DISTRICTS: DEVELOPMENT DISTRICTS

These districts consist of primarily undeveloped property adjacent to major highways. They are intended to provide an opportunity for a variety of land uses which will be controlled through performance zoning to protect adjoining land uses while encouraging development of land to its highest and best use. These districts can be developed for commercial, light industrial, or residential uses with varying controls on each type of use. A breakdown of the various land use intensities and performance criteria can be found in Article VIII. These districts are designed to give maximum flexibility for development and thus should not be rezoned to another designation without clear and convincing evidence that development conditions have changed in the district in question.

ARTICLE VIII. SPECIFIC DISTRICT REGULATIONS

801. District regulations shall be as set forth in the schedule of district regulations as seen in tabular form on the following pages. Additional guidance as to the uses which may be allowed in specific districts may be found in Appendix I.

RESIDENTIAL DISTRICTS

Requirement	R-1	R-2	R-3
Classes of uses permitted			
By Right	Single-family	One-to-four family	Multi-family only
By Exception	Schools Churches Non-commercial recreational facilities & clubs	Schools Churches Non-commercial recreational facilities & clubs	Schools Churches Non-commercial recreational facilities & clubs
Classes of uses prohibited	Mobile homes Any commercial or industrial use except home-based business where no noise, odor, or excessive traffic is generated	Mobile homes Any commercial or industrial use except home-based business where no noise, odor, or excessive traffic is generated	Mobile homes Any commercial or industrial use except home-based business where no noise, odor, or excessive traffic is generated
Minimum Lot Size	15,000sq.ft.	10,000 sq.ft.-1 family, 2500 sq.ft. each thereafter	
Floor Area Ratio			0.50
Minimum Setback			
Front	30 ft.	25 ft.	25 ft.
Rear	10 ft.	8 ft.	20 ft.
Side	10 ft.	8 ft.	8 ft.
Maximum Lot Coverage	25%	40%	60%
Off-street Parking Required	2/unit	2/unit	1 1/2/unit

Note:

Floor area ratio=total floor area/lot area Impervious surface ratio=area covered by buildings and paving/lot area

RESIDENTIAL DISTRICTS

Requirement	M-H	A-C
Classes of uses permitted		
By Right	Mobile Homes	Single-family Agriculture & Forestry
By Exception	Non-commercial recreational facilities & clubs	Schools Churches Non-commercial recreational facilities & clubs
Classes of uses prohibited	Any commercial or industrial use except home-based business where no noise, odor, or excessive traffic is generated	Mobile homes Any commercial or industrial use except home-based business where no noise, odor, or excessive traffic is generated
Minimum Lot Size	Individual lot - 5,000 sq.ft. Mobile home park- 3,500 single wide 4,500 double wide	3 acres
Minimum Setback		
Front	15 ft.	30 ft.
Rear	10 ft.	10 ft.
Side	8 ft.	10 ft.
Maximum Lot Coverage	60%	5%
Off-street Parking Required	1 1/2/unit	2/unit

Note:

Floor area ratio=total floor area/lot area Impervious surface ratio=area covered by buildings and paving/lot area

COMMERCIAL AND MANUFACTURING DISTRICTS

Requirement	C-1	C-2	M-1
Classes of facilities permitted	Retail trade Personal services Professional svcs. Entertainment	Retail trade Personal services Professional svcs. Entertainment Service Stations Auto repair shops Auto Sales & Service	Manufacturing Assembly Processing Warehousing Wholesaling Service Stations
Classes of facilities prohibited	Service stations Auto repair shops Auto sales & service		
Prior approval of development plans by Planning Commission required before property developed or altered.	required	required	required
Minimum setback			
Front	none	25 ft.	30
Rear	20 ft.	20 ft.	30
Side	none	none	20
Maximum lot coverage	80%	60%	25%
Minimum lot area	2,500 sq.ft.	2,500 sq.ft.	1 acre
Floor area ratio	1.6	0.6	0.25
Impervious surface ratio	1.0	0.8	0.8
Off street parking required (Per 200 sq.ft. of gross area) (Per worker-manufacturing only)	1.0	2.0	.5
Off street loading area required	yes	yes	yes
Buffer or visual screening required if adjoining any residential use	yes	yes	yes, required for all junkyards-regardless of adjoining district

Note:

Floor area ratio=total floor area/lot area Impervious surface ratio=area covered by buildings and paving/lot area

DEVELOPMENT DISTRICTS

Requirement	D-D	R-D
Classes of facilities permitted By Right	Retail trade Personal services Professional svcs. Entertainment Service stations Auto sales & service Light Manufacturing Assembly Warehousing Wholesaling Performance Residential	Performance Residential
By Exception	Heavy Manufacturing Processing Auto Repair Shops Mobile Home Parks & Subdivisions	Individual homes not part of a platted subdivision Mobile Home Parks & Subdivisions
Classes of facilities prohibited	Junk & Salvage Yards	Any Commercial or industrial use except home-based business where no noise, odor, or excessive traffic is generated
Prior approval of development plans by Planning Commission required before property developed or altered.	Required	Required
Minimum setback from major highway ROW All except residential uses Residential uses (Note: a landscaped entryway up to 100 ft. wide may abut ROW)	50 ft. 200 ft.	N/A 50 ft.
Off street parking required		
Non Residential (Per 200 sq.ft. of gross area) (Per worker-manufacturing only)	1.0 0.5	
Residential	2.0	2.0
Off street loading area required	yes	N/A
Buffer or visual screening required if adjoining any residential district	yes	N/A
Note: Floor area ratio=total floor area/lot area		

LAND USE INTENSITY CLASS STANDARDS
FOR D-D AND R-D DISTRICTS

LAND USE/MAXIMUM PERFORMANCE STANDARDS	II	III	CLASS IV	V	VI	VII
AGRICULTURE						
Gross density (dwelling units/acre)	0.33					
Impervious surface ratio	0.75					
Landscape requirements	R					
Height, inhabited	35'					
Height, uninhabited	80'					
PERFORMANCE SUBDIVISION						
Gross density	3.00	12.00	25.00			
Impervious surface ratio	0.35	0.50	0.80			
Landscaping requirements	R	R	C			
Height	30'	30'	30'			
Maximum lot coverage	0.25	0.40	0.70			
OFFICE/COMMERCIAL						
Impervious surface ratio				0.50	0.80	
Floor area ratio				0.50	1.00	
Landscaping requirements				O	C	
Average daily trips/acre				200	500	
Height				30'	50'	
Hours of operation				7am-9pm	24 hours	
Off street parking/200 sq.ft. gross area				1.0	2.0	
LIGHT INDUSTRY						
Impervious surface ratio					0.60	
Floor area ratio					0.60	
Landscape requirements					I	
Average daily trips/acre					400	
Height					50	
Hours of operation					7am-11pm	
Off street parking/worker					0.5	
HEAVY INDUSTRY						
Impervious surface ratio						0.80
Floor area ratio						1.60
Landscape requirements						H
Average daily trips/acre						500
Height						30'
Hours of operation						24 hours
Off street parking/worker						0.5

LANDSCAPE REQUIREMENTS FOR D-D AND R-D DISTRICTS

LANDSCAPE CATEGORY	R	O	C	I	H
Number of Landscaping Units Required (per 300 ft. of building perimeter or 10 dwelling units)					
Canopy Trees					
Minimum size: 10 feet	5	5	3	2	1
Understory Trees					
Minimum size: 6 feet	5	5	3	2	1
Shrubs					
Minimum size: 18 inches	10	15	25	15	10
Landscaped Bufferyard Required					
Abutting any Residential Use.	N/A	10 feet	10 feet	15 feet	20 feet
Abutting Any Office or Commercial Use	10 feet	N/A	N/A	10 feet	10 feet
Abutting any Industrial Use	20 feet	10 feet	10 feet	N/A	N/A

Note: These are only minimum requirements designed for residential developments and commercial uses. Residential developments should use the prescribed number of landscaping units (plants) per 10 dwelling units while other uses should use the prescribed number of landscaping units per 300 feet of building perimeter. When figuring requirements for less than 10 residential units or 300 feet of building perimeter, use a proportional figure and round up, but never less than one in any case. (i.e. A commercial building with 150 feet of perimeter will require 2 canopy trees, 2 understory trees, and 13 shrubs.)

ARTICLE IX. TRANSITION ZONES

901. ESTABLISHMENT OF ZONES.

Whenever the boundary of a residential district (R-1, R-2, R-3, M-H, R-D or D-D (residential)) is contiguous with the boundary of a business or industrial district, there is hereby established a transition zone extending into the residential district for one hundred (100) feet at the street line, provided, however, such transition zone shall not extend across any public street.

902. REGULATIONS.

Within such transition zones all the regulations of the R-2 districts shall apply, and in addition, public parking lots shall be permitted.

ARTICLE X. SUPPLEMENTARY USE REGULATIONS

1001. FLOOD HAZARD AREAS.

No building or portion thereof which is designed for dwelling use or as a place of public assembly shall be erected or altered for such uses within a flood hazard area unless evidence that flood hazard insurance has been obtained is presented to the Municipal Building Inspector.

1002. PROTECTION STANDARDS.

The following standards of protection shall govern all uses.

1002.1. Noise.

There shall be no production by any use of noise which at any boundary of the lot is in excess of the average intensity of street and traffic noise at the boundary.

1002.2. Heat, Glare, and Vibration.

There shall be no emission by any use of objectionable heat, glare, or vibration which is perceptible beyond any boundary of the lot on which the use is located.

1002.3. Dust, Dirt, Odors, Gases, Smoke, and Radiation.

There shall be no emission by any use of dust, dirt, odors, gases, smoke, or radiation which is in any obnoxious or dangerous amount or degree beyond any boundary of the lot on which the use is located.

1002.4. Hazard.

There shall not be created or maintained by any use any unusual fire, explosion, or safety hazard beyond the boundary of the lot on which the use is located.

1002.5. Wastes. No materials or wastes shall be stored in such a manner that they may be transferred off the lot by natural forces or causes.

1003. SATELLITE DISHES AND RECEIVERS

All satellite dishes and receivers shall be located within the prescribed rear yard, in a location not readily visible from the street.

ARTICLE XI. SUPPLEMENTARY AREA REGULATIONS

1101. SMALL LOTS.

Where a lot has an area less than the area required under this ordinance, and was a lot of record of the effective date of this ordinance, such lot, if used for residential purposes, shall only be used for a single-family dwelling.

1102. REDUCED LOT AREA.

No lot shall be so reduced in area that any required yard will be smaller than prescribed for the district in which such lot is located.

1103. VISIBILITY AT INTERSECTIONS.

No fence, wall, hedge, or other structure or planting more than three (3) feet in height shall be erected, placed or maintained on a corner lot in a residential district within the triangular area formed by the intersecting street lines and a straight line joining such street lines at points which are thirty (30) feet distant from the point of intersection, measured along such street lines.

1104. PORCHES.

Any enclosed or unenclosed porch shall be considered a part of the building in the determination of the size of any yard and shall not project into any required front, side, or rear yard.

1105. PROJECTING ARCHITECTURAL FEATURES.

The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves, bay windows and other architectural features, provided such features shall not project more than two (2) feet into any required yard.

1106. FIRE ESCAPES.

Open fire escapes may extend into any required yard not more than three and one-half (3 1/2) feet.

1107. FUTURE STREET LINES.

Front yard depth and, in the case of corner lots, side yard width shall be measured from the future street right-of-way line where such line has been established to define a mapped street.

1108. CARPORT.

For the purpose of this ordinance, a carport shall be defined as a roof extension from the dwelling portion of the building used exclusively for the shelter of chattels. Such carport may project in a required front, side, or rear yard a distance not to exceed five (5) feet, provided such carport shall be no closer than five (5) feet to the side property line and further provided that no building may have such projection into more than one required side yard.

ARTICLE XII. SIGNS.

1201. GENERAL PROVISIONS.

The following regulations shall apply to signs in all districts:

1201.1 All signs shall be located at least ten (10) feet behind the public right-of-way.

1201.2 No sign shall be less than ten (10) feet above any sidewalk or pedestrian thoroughfare, or less than sixteen (16) feet above any public driveway, alley, or street.

1201.3 No sign shall be located within twenty five (25) feet of any street and/or railway intersection.

1201.4 No sign shall use the words, "stop", "danger", "go", "slow" or any other word which approximates or imitates any traffic direction or control sign.

1201.5 No sign may have any flashing or intermittent red, green, blue, or amber illumination.

1201.6 No sign shall be erected, relocated, or maintained so as to prevent free ingress from any door, window, or fire escape.

1201.7 No sign, except for non-illuminated temporary real estate, political, or construction signs not exceeding thirty-two square feet shall be erected without a permit from the Municipal Building Inspector.

1201.8 Any sign maintained in unsafe or unsightly condition, shall upon notice from the Building Inspector, be put in a safe, secure condition, or removed.

1202. SIGNS IN RESIDENTIAL DISTRICTS .

Except for temporary signs as described in "1201.7" above, signs identifying a subdivision or housing development, and for signs of no more than four (4) square feet identifying home occupations, no signs shall be placed or erected on a R-1, R-2, R-3, R-D, or D-D residential lot.

ARTICLE XIII. NON-CONFORMITIES

1301. INTENT

Within the districts established by this ordinance or amendments that may later be adopted, there exist

- (a) lots,
- (b) structures
- (c) uses of land and structures, and
- (d) characteristics of use

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of

this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this ordinance, with the exception that a nonconforming residential use may be enlarged by up to 25% of the original habitable area provided that all other requirements of the district are met. Further, attachment on a building or premises of additional signs intended to be seen from off the premises, or addition of other uses, of a nature which would be prohibited generally in the district involved are specifically prohibited.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which a building permit has been issued by the Town of Midland City or for which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

1302. NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combinations of lots and portions of lots with continuous frontage with single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no

portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

1303. NON-CONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY)

Where at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1303.1 No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

1303.2 No such non-conforming 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 amendment of this ordinance;

1303.3 If any such non-conforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

1303.4 No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

1304. NON-CONFORMING STRUCTURES

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

1304.1 No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

1304.2 Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than 50 per cent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;

1304.3 Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

1305. NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION

If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1305.1 No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

1305.2 Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;

1305.3 Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;

1305.4 When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period (except when government action impeded access to the premises), the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

1305.5 When non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 per cent of the replacement cost at the time of destruction.

1306. REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 10 per cent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased with the exception that a nonconforming residential use may be enlarged by up to 25% of the original habitable area provided that all other requirements of the district are met.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall be restored to a safe condition or rebuild in conformity with the regulations of the district in which it is located.

1307. USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NON-CONFORMING USES

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

1308. CESSATION.

Notwithstanding any other provision of this ordinance, any junk yard existing in any district other than an M-1 District on the effective date of this ordinance shall, after three (3) years from such date, conform to all buffer and screening requirements or shall be discontinued.

ARTICLE XIV. DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

Words used in the present tense include the future.

The singular number includes the plural.

The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The word "shall" is mandatory.

The word "may" is permissive.

The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

The word "lot" includes the words "plot" or "parcel".

ACCESSORY USE OR STRUCTURE A use or structure, on the same lot with, and of a nature incidental and subordinate to, the principal use or structure.

ALTERATION Shall be interpreted to mean any of the following:

A. Any addition to the height or depth of a building or structure,

B. Any change in the location of any exterior walls of a building or structure,

C. Any increase in the interior accommodations of a building or structure,

D. Any repair, renovation, remodeling, or rebuilding at a cost in excess of fifty (50%) per cent of its value prior to the commencement of such repairs, renovation, remodeling, or rebuilding.

AMENDMENT Any change in the boundaries of a zoning district, or change in designation of an area from one district to another (rezoning). Amendments are initiated through the Planning Commission and must be passed by the Town Council.

APARTMENT HOUSE A building which is used as a residence for five (5) or more families living in separate dwelling units.

AUTOMOBILE FILLING & SERVICE STATION Any place of business having pumps and storage tanks, whose primary business is the retail sale of fuel for motor vehicles; and where minor repairs, services and inspections may be carried out and rendered incidental to the sale of such fuels and oils. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

BUFFER STRIP OR VISUAL SCREEN A structure or device, maintained in sound and attractive condition at all times put in place for the purpose of concealing certain business and industrial areas from view of residential areas. A buffer shall consist of:

A. Decorative wall: a continuous nonperforated wall not less than six (6) nor more than eight (8) feet in height, constructed of masonry or other appropriate material with a life expectancy of not less than ten (10) years.

B. Vegetative or landscaped: a landscaped area not less than ten (10) feet in width consisting of at least one row of decorative or ornamental trees or shrubs, suited to the climate and soils of Midland City, Alabama designed and placed to render the screen at least eighty (80%) per cent opaque from the ground to not less than six (6) feet in height within a period of five (5) years after such screen is provided.

BUILDABLE AREA The portion of a lot remaining after required yards have been provided.

DWELLING UNIT A building or portion of a building used as the living quarters for one family, with independent kitchen and sleeping facilities for the exclusive use of the one family.

A. One-family. A detached residential dwelling unit other than a mobile home designed for and occupied by one family only.

B. Two-to-four family. A detached residential building containing two (2) to four (4) separate dwelling units designed for and occupied by two to four families with the number of families in residence not exceeding the number of dwelling units provided.

C. Multi-family. A residential building containing five (5) or more separate dwelling units designed for and occupied by five or more families with the number of families in residence not exceeding the number of dwelling units provided.

EXCEPTION A review and permitting process to determine whether an allowable land use which has a special impact on the surrounding environment that cannot be determined in advance of the use being proposed in a certain location is necessary or desirable in the interest of public convenience or will contribute to the welfare of the area or the Town of Midland City. Exceptions must be approved by the Board of Adjustment.

FAMILY One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

FLOOD HAZARD AREA Any area shown on the flood hazard maps as being located within the boundaries of flooding under regulatory flood conditions (100 year frequency flood).

HOME OCCUPATION A use conducted entirely within a dwelling and carried on solely by the inhabitant(s) thereof, using no more than twenty-five (25%) per cent of the total floor area, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and does not change the outside appearance or character thereof, and in which any signs advertising said home occupation are limited to one (1) sign not over four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

ILLEGAL NONCONFORMING BUILDING OR USE Any structure or use erected, altered or operating outside the provisions of a prior zoning ordinance.

JUNKYARD Any land or structure used for a salvaging operation including but not limited to the storage and sale of waste paper, rags, scrap metal, and discarded materials, or the collection, dismantlement, storage, or salvage of two (2) or more unlicensed, inoperative vehicles.

LIVING QUARTERS Housing providing facilities for sleeping and bathing.

LOT A parcel or plot of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- a. A single lot of record.
- b. A portion of a lot of record.
- c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or portions of lots of record;
- d. A parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

MAJOR THOROUGHFARE Any portion of U.S. Highway 231, or State Highway 134.

MOBILE HOME A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.

MOBILE HOME PARK Any site or lot privately or publicly owned upon which two (2) or more mobile homes used for living, eating, or sleeping quarters are, or are intended to be located; such establishments being open and designated to the public as places where residential accommodations are available whether operated with or without compensation.

PARKING SPACE The space necessary to park an automobile. Not less than an area nine (9) feet wide and eighteen (18) feet long shall be provided for each parking space, and all parking spaces provided with necessary lanes and maneuvering areas. For purposes of computation, an off-street parking space with necessary access and maneuvering room may be estimated at 300 square feet.

SEMI-PUBLIC BUILDINGS Structures for the use of a group, the membership of which is open to the public, such as churches, YMCA's, YWCA's, Salvation Army, orphanages, humane societies, private welfare organizations, nonprofit lodges and fraternal orders, hospitals, Red Cross, and other charitable institutions.

STRUCTURE Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including among other things, signs, billboards, fences and walls, but not including telephone poles, overhead wires, retaining walls or terraces.

TRAVEL TRAILER A vehicular portable structure designed as a temporary dwelling unit for travel, recreation, and vacation uses which is identified on the unit by the manufacturer as a "camper", "travel trailer", or "motor home", is not more than eight (8) feet in body width and does not exceed forty (40) feet in length.

USE The purpose for which land or a building or other structure is designed, arranged or intended, or for which it is or may be occupied or maintained.

VARIANCE A relaxation of the terms (i.e. setback, lot size, etc.) of the zoning ordinance where such variance is shown by the applicant not to be contrary to the public interest and where, due to conditions peculiar to the property, and not the result of the actions of the applicant, to enforce the letter of the law would result in undue hardship.

YARD A required open space left open, unoccupied and unobstructed by structures from the ground up to the sky. Yards are measured from the wall of the structure to the property line, unless an overhang exceeds thirty (30) inches, in which case, the yard shall be measured from the overhang plus 30 inches.

A. FRONT YARD The yard extending the full width of the lot situated between the street line and the front line of the building, including covered porches. On corner lots, the narrower side shall be considered the front.

B. REAR YARD The yard extending the full width of the lot situated between the rear line of the lot and the rear line of the building, excluding accessory structures.

C. SIDE YARD The yard extending along the side lot line from the front yard to the rear yard between the main structure, excluding accessory structures and the side lot line.

ARTICLE XV. ZONING ADMINISTRATION AND ENFORCEMENT

1501. ADMINISTRATION AND ENFORCEMENT OFFICIALS.

This ordinance shall be administered and enforced by the Zoning Enforcement Officer and the Town Clerk.

1502. DUTIES AND POWERS OF THE ZONING ENFORCEMENT OFFICER.

The Zoning Enforcement Officer shall be the Municipal Building Inspector. The Zoning Enforcement Officer is authorized and empowered on behalf and in the name of the Town Council to administer and enforce the provisions of this Ordinance to include:

- A. Receiving applications.
- B. Inspecting premises.
- C. Issuing Certificates of Zoning Compliance and Certificates of Occupancy for uses and structures which are in conformance with the provisions of this ordinance.

1502.1 Permits and Certificates.

Permits and Certificates shall be issued in accordance with the following provisions:

1502.1.1 Certificate of Zoning Compliance.

The Zoning Enforcement Officer shall issue a Certificate of Zoning Compliance in conjunction with the Building Permit required for any permitted use, construction, or structural alteration provided such proposed use of the land or structure, or structural alteration is in conformance with the provisions of this Ordinance.

An application for a Certificate of Zoning Compliance shall be accompanied by a plat or plan showing the dimensions of the lot to be built upon and the shape, size, and location of the proposed building, structure, or use to be placed thereon, together with such other information as the Zoning Enforcement Officer may deem necessary to enforce properly the provisions of this Ordinance. No building or structure shall be erected or altered unless the Municipal Building Inspector has first issued a Building Permit and Certificate of Zoning Compliance therefor.

If the plat or plan describes work which does not conform to the requirements of this Ordinance, the Zoning Enforcement Officer shall not issue a Certificate of Zoning Compliance or Building Permit. The application shall be returned, along with a signed refusal stating the reasons for refusal, and citing applicable portions of this Ordinance with which the work application does not comply.

A Certificate of Zoning Compliance shall automatically expire six (6) months from the date of issuance if the applicant has not begun the construction, alteration, or use for which the permit was issued, or if the work authorized is suspended or discontinued for one (1) year.

The Certificate of Zoning Compliance and Building Permit shall be conspicuously posted on the premises described in the permit during the period of construction, or alteration.

1502.1.2 Certificate of Occupancy.

A Certificate of Occupancy is required in advance of occupancy of use of a building hereafter erected; a building hereafter altered so as to in any way change exterior dimensions; or a change of type of occupancy or use of any building on premises.

A Certificate of Occupancy shall not be issued unless the proposed use and configuration conforms with the requirements of this Ordinance for the district in which it is located.

1503. DUTIES OF THE TOWN CLERK UNDER THIS ORDINANCE.

No business or occupational license shall be issued by the Town Clerk for any purpose except in compliance with the provisions of this Ordinance.

1504. INTERPRETATION OF ORDINANCE.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, or general welfare. Wherever the requirements of this Ordinance impose a greater restriction upon the use of a building or land than imposed by other Ordinances, rules, or regulations, the provisions of this Ordinance shall govern.

ARTICLE XVI. AMENDMENTS

1601. AMENDMENT POLICY.

1601.1 REASON FOR AMENDMENT.

This Ordinance, including the Zoning Map, is based upon comprehensive planning studies and is intended to carry out the objective of a sound, stable and desirable development of the Town. It is recognized that casual change or amendment to the Ordinance would be detrimental to the achievement of the objective, and it is therefore declared to be the public policy to amend this Ordinance only when one or more of the following conditions prevail:

1601.1.1 Error. There is a manifest error in the Ordinance.

1601.1.2 Change in Conditions. Materially changed or changing conditions in a particular area, or in the Town generally, make a change in the Ordinance necessary and desirable.

1601.1.3 Increase in Need for Sites for Business or Industry. Increased or increasing needs for business or industrial sites, in addition to sites that are available, make it necessary and desirable to re-zone an area or to extend the boundaries of an existing district.

1601.1.4 Subdivision of Land. The subdivision or imminent subdivision or open land into urban building sites makes re-classification necessary and desirable.

1602. LIMITATIONS ON PROPOSED AMENDMENTS.

All proposed amendments to this Ordinance shall be subject to the following limitations:

1602.1 Minimum Sizes for New Districts. The Town may at its discretion, rezone districts of any size if minimum setbacks, lot sizes and all other requirements are fulfilled, however, recommended minimum areas for new districts are as follows: A proposed new residential (R-1, R-2, R-3, T-H, or M-H) or industrial district shall contain at least three (3) acres of gross area. A proposed new C-2 district shall contain at least one (1) acre of gross area.

1602.2 Need for Uses. No amendment creating a commercial or industrial district shall be adopted unless there is a clear and demonstrated need in the area for those uses permitted in the proposed district.

1603. AMENDMENT PROCEDURE.

1603.1 BY WHOM INITIATED. Amendments to this Ordinance may be initiated by the Town Council on its own motion or by the Planning Commission; amendments may also be initiated by any person, firm or corporation by filing a written application for amendment with the Planning Commission. The cost of publication, erection of notices, and any incidental expenses related to an amendment application shall be borne by the applicant.

1603.2 AMENDMENT APPLICATION. An application for amendment to this Ordinance shall contain at least the following:

1603.2.1 Interest and Ownership. The applicant's name, address, and interest in the application, and the name, address, and interest of every person, firm, or corporation represented by the applicant in the application, the name of the owner or owners of the entire land areas to be included within the proposed district, the owner or owners of all structures then existing thereon and all encumbrances of such land area and structures, and additionally, sufficient evidence to establish that the applicants have the right of possession to the land area and structures and intend actually to develop the designated area; and the names and addresses of all owners of adjacent property.

1603.2.2 Plot Plan. If the proposed amendment would require a change in the Zoning Map, a plot plan at a minimum scale of one hundred (100) feet to one inch, completed by a licensed surveyor showing the land area affected, easements bounding and intersecting the designated area, the location of existing and proposed structures with supporting open facilities, all surrounding zoning, current and proposed rezoning of the designated area, a vicinity map showing the exact location of the property, and a written legal description.

1603.2.3 Development Schedule. The time schedule for the beginning and completion of the development planned by the applicant in the area; if the development is planned in stages, the time schedule shall indicate the successive stages and the development planned for each stage.

1603.3 ADMINISTRATIVE EXAMINATION.

Upon receipt of an application for amendment with all required information, the Zoning Enforcement Officer shall examine the application and shall make such investigation as is necessary. Within thirty (30) days of the receipt of an application, the Zoning Enforcement Officer shall transmit the application, together with his/her report and recommendation to the Planning Commission.

1603.4 PUBLIC HEARING BY PLANNING COMMISSION.

The Planning Commission shall fix a reasonable time for a public hearing and shall give public notice thereof, as required by law, as well as notice to the applicant; and shall post a notice of such hearing on the property included within the proposed district. The notice shall be at a minimum eight (8) square feet, and the cost of the placement shall be borne by the applicant. If it deems necessary, the Commission may also notify the owners of the surrounding property by mail. The Commission shall prepare a record of its proceedings for each case showing the grounds of its recommendation. The record of the proceedings shall be filed in the office of the Town Clerk, and shall be a public record; a certified copy of the record of proceedings shall be transmitted to the Town Council.

1603.5 LEGISLATIVE DISPOSITION.

The Town Council shall examine all such applications and reports submitted to it and shall take such further action as it deems necessary and desirable. Before enacting any amendment, the Town Council shall hold a public hearing thereon and shall give public notice thereof, as required by law.

1603.5.1 Conditions. If an application for an amendment to the Zoning Map contains representation that a specified area will be developed in accordance with a given plan and time schedule, and if the area is re-zoned substantially as proposed in the application, the Town Council shall fix conditions in the amendment so as to require performance of the development in accordance with such plan and time

schedule. Such conditions, among other things, shall provide that, upon failure to develop the area within the specified time and in accordance with the conditions fixed, no permit for the construction of any structures within the area shall be issued until the area has been examined and zoned or re-zoned for its most appropriate use. Conditions fixed in amendments relating to re-zoning shall run with the land in the area involved and shall be binding upon applicants for amendments, their heirs, successors, and assigns.

1603.5.2 Reconsideration No land for which an application for re-classification has been denied by the Town Council shall be considered again by the Planning Commission or the Town Council for the same classification for at least six months from the date such application was denied.

ARTICLE XVII. BOARD OF ADJUSTMENT.

1701. ESTABLISHMENT.

A Board of Adjustment is hereby established.

1702. MEMBERSHIP.

The Board of Adjustment shall consist of five regular members and two alternate members appointed by the Town Council, each to serve for a staggered term of up to three (3) years. Vacancies occurring in such Board shall be filled in a like manner. Vacancies for the unexpired term of any member shall be filled for such unexpired term only. Members of the Board of Adjustment shall be citizens not holding any other public office, except that one member may also be a member of the Town Planning Commission.

1703. RULES.

The Board of Adjustment shall adopt rules in accordance with the provisions of this Ordinance and shall choose its own Chairman, and in his/her absence, an Acting Chairman. Such Chairman or Acting Chairman may administer oaths and compel the attendance of witnesses.

1704. MEETINGS.

Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board may determine. Meetings of the Board shall be open to the public, and the minutes of the proceedings, showing the vote of each member on every question, shall be kept; if any member is absent or fails to vote, the minutes shall indicate such fact. Public notice shall be given at least one week in advance of all meetings of the Board of Adjustment.

1705. DECISIONS.

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

1706. POWERS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall have the following powers which shall be exercised in accordance with the rules stated herein:

1706.1 REVIEW.

The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official charged with the enforcement of the regulations established by this Ordinance.

1706.2 EXCEPTIONS.

The Board shall hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance. A special exception shall not be granted by the Board of Adjustment unless and until:

1706.2.4 The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

1706.2.5 Before any special exception may be granted, the Board may prescribe appropriate conditions and safeguards to insure that satisfactory provision and arrangement has been made concerning the following, where applicable and any other criteria deemed necessary:

1706.2.5.1 Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

1706.2.5.2 Off-street parking and loading areas where required, with particular attention to the items in 1706.2.5.1 above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

1706.2.5.3 Refuse and service areas, with particular reference to the items in 1706.2.5.1 and 1706.2.5.2 above;

1706.2.5.4 Utilities, with reference to locations, availability, and compatibility;

1706.2.5.5 Screening and buffering with reference to type, dimensions, and character;

1706.2.5.6 Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

1706.2.5.7 Required yards and other open space;

1706.2.5.8 General compatibility with adjacent properties and other property in the district.

1706.3 VARIANCES.

The Board shall have the power in to grant variances, where there are serious practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations. The Board may vary or modify the application of the terms of this Ordinance insuring, however, that the spirit of the ordinance shall be observed, public health, safety and welfare secured, and substantial justice done.

1706.3.1 No variance shall be granted unless the Board of Adjustment finds that the applicant has proved beyond reasonable doubt:

1706.3.1.1 That there are exceptional conditions applicable to the property involved or to the intended use of the property, that do not apply generally to the property or class of uses in the same district, and

1706.3.1.2 That literal interpretation of the provisions of this ordinance would deprive the applicant of rights enjoyed by other properties in the same district under the terms of this Ordinance;

1706.3.1.3 That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the district in which the property is located, and

1706.3.1.4 That the special conditions and circumstances do not result from the actions of the applicant;

1706.3.1.5 That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

1706.3.2 No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

1706.3.3 In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards, in conformity with this Ordinance. Violation of such conditions and safeguard, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article XIX of this Ordinance.

1706.3.4 Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

1707. PROCEDURE FOR REQUESTING A HEARING BEFORE THE BOARD OF ADJUSTMENT.

Applicants for a hearing before the Board for Administrative Review, Special Exception, or a Variance, shall observe the following procedures:

1707.1 REQUEST IN WRITING

Request for Hearing before the Board of Adjustment for review, exception, or variance shall be submitted in writing to the Zoning Enforcement Officer and the Board of Adjustment. The request shall specify the grounds of the administrative appeal or request for exception or variance. The Zoning Enforcement Officer shall transmit forthwith to the Board all papers constituting the record pertaining to the property in question.

1707.2 HEARING.

1707.2.1 The Board of Adjustment shall fix a reasonable time for the public hearing of the request. Any party may appear in person, or by agent or attorney;

1707.2.2 Notice shall be given at least 15 days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which the appeal, variance or special exception is sought, at the Town Hall, and in one other public place at least 15 days prior to the public hearing.

1707.3 APPEAL FROM DECISION OF THE BOARD.

Any person or persons, or any board, taxpayer, department, board, or bureau of the Town aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision in the manner provided by the laws of the State and particularly by Title 37 Alabama Code.

ARTICLE XVIII. SEPARABILITY

Should any article or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE XIX. VIOLATIONS AND PENALTIES

Any person violating or neglecting or refusing to comply with any provision of this Ordinance shall, upon conviction thereof be fined one hundred (\$100) dollars or imprisoned for not more than 30 days or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall constitute a separate offense.

ARTICLE XX. REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH

Any and all Ordinances of the Town of Midland City, whether void or valid in part or in whole, in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective on Oct. 6, 1988.

ARTICLE XXI. NOTICE OF PUBLIC HEARING .

In order to comply with the provisions of ARTICLE 786-799 of the Alabama Code, notice is hereby given, by publication of this Ordinance in its entirety as hereinafter provided that the Planning Commission will meet in the Council Chambers in the Town of Midland City on Thursday, August 18, 1988 for the purpose of holding a public hearing on the provisions of this Ordinance. When all public comments are received and any necessary changes made, the Planning Commission shall recommend to the Mayor and Town Council that this Ordinance be passed. The Mayor and Town Council will meet on Tuesday, Sept. 6, 1988 in the Council Chambers in the Town of Midland City, Alabama, for the purpose of conducting a public hearing in relation to the provisions of this Ordinance and at the time and place provided for in this article, all interested parties, and citizens, shall have an opportunity to make objections to any of the provisions of this Ordinance and to be heard thereon. This Ordinance shall be published one time at least fifteen (15) days prior to the time of the first hearing

APPENDIX I
CHART OF USES PERMITTED

The uses permitted in each of the types of districts are listed in this chart as follows:

E = Use Permitted by Exception R = Use Permitted by Right

Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
Airport and/or crop dusting service	E								E	E
ALL LIGHT MANUFACTURING AND ASSEMBLY									R	R
ALL HEAVY MANUFACTURING OR PROCESSING except as otherwise noted herein									R	E
ALL RETAIL SALES, AND PERSONAL OR PROFESSIONAL SERVICES, except as otherwise noted herein							R	R		R
ALL WHOLESALING AND WAREHOUSING, except as otherwise noted herein									R	R
Ambulance Service								E	E	E
Amusement, Commercial, indoor; gymnasium, billiards and bowling alley							R	R		R
Amusement, Commercial, outdoor; miniature golf course, golf driving range, archery range, go-cart track @								R		R
Apartment House or Complex				R	R					R
Art Gallery or Museum		E	E		E		R	R		R
Auditorium							R	R		R
Automobile & Truck Maintenance or Body Shop & Garages								R	R	E

@ = need not be enclosed within a structure

Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
Automobile & Truck Sales & Service; but not including commercial wrecking, dismantling, or auto salvage yard @								R		R
Automobile Filling & Service Station								R		R
Automobile Storage (commercial, not including truck storage) @								R	R	R
Automobile Wrecking, Dismantling or Salvage; must be enclosed within an opaque fence not less than six (6) feet in height and adequate to obstruct view, noise, and passage of persons									E	
Bank, Credit Union or Savings Institution without drive-up service							R	R		R
Bank, Credit Union or Savings Institution with drive-up service								R		R
Boarding House			E	E						
Butane and other Liquified Petroleum Products Storage and Sales @									E	E
Carnival or circus, as a temporary use on permit issued by the Zoning Enforcement Officer @	E							E		E
Cemetery @	E	E	E		E		E	E		E
Church, including parish house, community house and educational buildings	E	E	E		E		E	E		E
Clinic, Dental or Medical							R	R		R
Club or Lodge, private	E	E	E		E		R	R		R

@ = need not be enclosed within a structure

Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
College or University	E							E		E
Contractor's Storage Yard; must be enclosed within a wall or fence of at least six (6) feet adequate to obstruct passage of persons @									R	R
Correctional , Detention or Penal Institution	E								E	
Dog Pound or Shelter @	E							R		E
Dwelling - One family	R	R	R		R					R
Dwelling - Two-to-four family			R		R					R
Dwelling - Five or more families				R	R					R
Electric Power Generating Station									R	
Electric Substation; must be enclosed within a wall at least ten (10) feet high and adequate to obstruct view, noise, and passage of persons @		R	R		R		R	R		R
Electric Substation; must be enclosed within a chain link fence adequate to prevent the passage of persons @	R								R	
Explosives, Fireworks, and Gunpowder Manufactureand/orStorage									E	
Fairgrounds, Baseball Park and Stadium, or Armory @	E								E	E
Farming and Truck Gardening @	R				R					R
Fire Station	R	R	R	R	R	R	R	R	R	R

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Fire Station Name of Use	R A-C	R R-1	R R-2	R R-3	R R-D	R M-H	R C-1	R C-2	R M-1	R D-D
Flea Market - must be enclosed within structure	E							E		E
Fruit & Vegetable Stand (seasonal) only as a temporary use on permit issued by the Zoning Enforcement Officer	E							E		E
Freight Depot, Rail or Truck									R	R
Funeral Home, Mortuary, or Undertaking Establishment								R		R
Furniture Repair and Upholstering							E	R		R
Garage Apartment, only one per lot, not to exceed eight hundred (800) sq.ft. in gross floor area, and meeting any additional conditions and safeguards to insure adequate light, air, safety, and protection of adjacent properties		E	E		E					E
Garbage Dumping @									E	
Gas Regulator Station	E	E	E	E	E	E	E	E	E	E
Golf Course, not including commercial miniature golf courses or commercial driving ranges @	R	R			R			R		R
Gymnasium, Commercial							R	R		R
Hatchery, Poultry	E								R	E
Heavy Manufacturing & Processing									R	E
Home Occupation	R	R	R	E	R	E				R

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Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
Hospital or Sanitarium	E	E	E		E		E	E		E
Hotel, Motel, for transient occupancy except that not more than one-third of gross floor area may be used for apartments for permanent occupancy								R		R
Institution for Children	E	E	E		E			E		E
Junk Yard, including storage, baling or sale of rags, paper, iron, or junk; must be enclosed within an opaque fence at least 6 feet high @									E	
Laboratory								R	R	R
Laboratory, Dental or Medical								R		R
Library or Reading Room	R	R	R		R		R	R		R
Light Manufacturing & Assembly									R	R
Liquor Store or Lounge; for consumption on or off premises							E	E		E
Livestock and Poultry Raising; includes dairy @	R				R				R	R
Lumber Yard and Building Materials @								R	R	R
Marine (boat sales) Store								R		R
Meat Slaughtering and/or Packing									E	E
Mobile Home Parks & Subdivisions					E	R				E
Nursery, Day Care or Kindergarten	R	R	R		R			R		R

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Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
Nursing Home and Home for the Aged	R	R	R		R			R		R
Outdoor General Advertising Sign @	R						R	R	R	R
Park or Playground (public) including recreation center @	R	R	R		R		R	R		R
Passenger Depot, Railway or Bus								R	R	R
Personal or Professional Services							R	R		R
Petroleum and Petroleum Products, Storage and Distribution									R	E
Petroleum and Petroleum Products, Manufacturing, Processing, or Storage									E	E
Pipe Storage @									R	R
Pipe Line or Electrical Transmission Line @	E	E	E	E	E	E	E	E	E	E
Poultry (live) Storage and/or Dressing									R	E
Radio and Television Broadcasting Transmitter, including Studio	E							R	R	R
Railroad Facilities @									R	E
Railroad Right-of-way, but not including shop yards, and team tracks @									R	R
Restaurant							R	R		R
Restaurant, Drive-in								R		R
Retail Sales							R	R		R

@ = need not be enclosed within a structure

Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
Revival Church (temporary); as a temporary use on permit from Zoning Enforcement Officer, not to exceed two (2) weeks	E	E	E		E		E	E		E
Riding Academy @	R									
Sand and Gravel Storage Yard @									R	
Sawmill or Planning Mill									R	E
School, elementary and/or secondary meeting all requirements of the compulsory education laws of the state	E	E	E		E			E		E
Sewage Disposal Plant									R	
Stockyards									E	
Stone Monument Sales, Retail @								R		R
Tannery, including curing of hides									E	
Tar Distillation or Manufacture									E	
Theater, indoor							R	R		R
Theater, outdoor @								R		R
Tire Store								R		R
Town Houses, attached or detached					R					
Trailer Park					E	R				E

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Name of Use	A-C	R-1	R-2	R-3	R-D	M-H	C-1	C-2	M-1	D-D
Transit Vehicle Storage and Servicing									R	E
Trade School								E	E	E
Truck Storage (commercial) @									R	E
Video Tape Sales or Rental							R	R		R
Water Storage	E	E	E		E			R	R	E
Wood Preserving by Creosote or other impregnation treatment									E	E
Wholesaling and Warehousing									R	R
YMCA, YWCA, and Similiar Institutions		R	R		R			R		R

@ = need not be enclosed within a structure

PUBLIC HEARING NOTICE

The Town of Midland City will hold two public hearings to provide an opportunity for the public to learn about and comment upon the Town's Proposed Zoning Ordinance. These hearings will be held at the times and places below and all interested citizens are invited to attend.

PLANNING COMMISSION PUBLIC HEARING

Thursday August 18, 1988
Council Chambers
6:00 p.m.

TOWN COUNCIL PUBLIC HEARING

Tuesday, September 6, 1988
Council Chambers
6:00 p.m.

Copies of the Proposed Zoning Ordinance may be seen at the following locations:

South Dale Senior Center
U.S. Post Office
The IGA Store
Town Hall

Copies of individual pages of the proposed ordinance may be obtained at Town Hall.