

Ordinance No. 219-R1

An ordinance establishing a new comprehensive zoning ordinance for the Town of Gurley, Alabama; setting forth new use districts, permitted uses within such districts; setting forth regulations within said use districts with prohibited and dimensional requirements, and other general requirements; providing for off-street parking regulations; establishing a zoning board of adjustments for handling variances and special exceptions; establishing an administrative officer and providing for building permits and fees therefore; and other miscellaneous provisions applicable to said comprehensive zoning ordinance, with an appendix providing for regulations for mobile home park.

Be it ordained by the Town Council of the Town of Gurley, Alabama, sitting in regular session on this 7th day of January, 2014, as follows:

That Ordinance No. 142, Ordinance No. 200, Ordinance No. 201, Ordinance No. 219, and all other zoning ordinances or regulations in conflict with the new comprehensive zoning ordinance as set forth herein, are hereby repealed in their entirety and in accordance with the provisions of Section 11-52-70 through Section 11-52-84, Code of Alabama, 1975, as supplemented and amended, a new comprehensive zoning ordinance containing Articles I through XII, inclusive, with Appendix 1 attached, are hereby enacted as hereinafter set forth.

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Article I

Authority and Purpose

Section 1-1. Authority.

An ordinance establishing comprehensive zoning regulations for the Town of Gurley, Alabama, and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of Title II, Chapter 52, Article IV, Sections 11-52-70 to 11-52-84, inclusive of the Code of Alabama, (recompiled 1975) and providing for the repeal of all ordinances in conflict herewith.

Section 1-2. Purpose.

It is the purpose of this Zoning Ordinance:

- (a) To protect and provide for the public health, safety and general welfare of the Town.
- (b) To guide the future growth and development of the Town in accordance with the Comprehensive Plan.
- (c) To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger and to prevent overcrowding of the land and undue congestion of population.
- (d) To protect the character and the social and economic stability of all parts of the Town of Gurley and to encourage the orderly and beneficial development of all parts of the Town.
- (e) To protect and conserve the value of land throughout the Town and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.
- (f) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, and other public facilities and services.
- (g) To provide the most beneficial relationship between the uses of land, buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and highways.
- (h) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community and the value of the land.
- (i) To preserve the natural beauty and topography of the Town and to insure appropriate development with regard to these natural features.

Article II

Title

This ordinance shall be known as the “Zoning Ordinance of the Town of Gurley, Alabama”.

Article III

Establishment of Districts

Section 3-1. Use Districts Named.

The Town of Gurley is hereby divided into districts as shown on the Official Zoning Map filed with the Town Clerk and adopted by the Town Council (). The Map and all explanatory material thereon are hereby made a part of this Ordinance. Districts shall be designated as follows:

- R-1 Single-Family Residential District
- R-2 Multi-Family Residential District
- B-1 Primary Business District
- B-2 General Business District
- M-1 General Industrial District
- AG Agricultural District

Section 3-2. Official Zoning Map.

The Official Zoning Map shall be identified by the signature of the Mayor and attested by the Town Clerk under the following words: “This is to certify that this is the Official Zoning Map of the Town of Gurley, Alabama,” together with the date of the adoption of this Ordinance.

3-2-1 Changes in District Boundaries. If, in accordance with provisions of this Ordinance, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Town Council, with an entry on the Official Zoning Map as follows: Date of the action of the Town Council and resolution or ordinance number of the zoning amendment. No amendment to this Ordinance, which involves matter portrayed on the Official Zoning Map, shall become effective until after such changes and entry has been made on said map.

3-2-2 Unauthorized Changes Prohibited. No changes of any nature shall be made in the Official Zoning Map, or matter thereon, except in conformity with the procedures set forth in Article _____, Section _____ of this Ordinance. Any unauthorized changes of

whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in Article XI, Section 11-2.

3-2-3 Final Authority to Zoning. Regardless of the existence of purported copies of the Official Zoning Map, which may, from time to time, be made or published, the Official Zoning Map, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of the land, buildings, and other structures in the Town.

3-2-4 Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Council may, by ordinance, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor and attested by the Town Clerk, 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 the Zoning Ordinance of the Town of Gurley, Alabama."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 3-3. Rules for Interpretation of Districts.

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

- (a) DISTRICT REGULATIONS EXTEND TO ALL PORTIONS OF DISTRICTS SURROUNDED BY BOUNDARIES. Except as otherwise specifically provided, a district symbol or names shown within district boundaries of the Official Zoning Map indicates that district regulations pertaining to the district extend throughout the entire area surrounded by the boundary line.
- (b) BOUNDARIES INDICATED AS APPROXIMATELY FOLLOWING THE CENTERLINES OF STREETS OR ALLEYS shall be construed as following such centerlines as the exist on the ground, except where variation of actual location from mapped location would change the zoning status of a lot or parcel. In the case of a street closure, the boundary shall be construed as remaining in its location except where ownership of the vacated street is divided other than at the center, in which case, the boundary shall be construed as moving with the ownership.
- (c) BOUNDARIES INDICATED AS APPROXIMATELY FOLLOWING LOT LINES, PUBLIC PROPERTY LINES, and the like shall be construed as following such centerlines as they exist on the ground, except where variation

of actual location from mapped location would change the zoning status of a lot or parcel, in which case, the boundary shall be interpreted in such a manner as to avoid changing the zoning status of any lot or parcel. In case of a street closure, the boundary shall be construed as remaining in its location except where ownership of the vacated street is divided other than at the center, in which case, the boundary shall be construed as moving with the ownership.

- (d) BOUNDARIES INDICATED AS APPROXIMATELY FOLLOWING LOT LINES, PUBLIC PROPERTY LINES, and the like shall be construed as following such lines; provided, however, that where such boundaries are adjacent to a street or alley and the zoning status of the street or alley is not indicated, the boundaries shall be construed as running to the middle of the street or alley. In the event of a street or alley closure, interpretation shall be provided in Subsection 3-3-b above.
- (e) BOUNDARIES INDICATED AS APPROXIMATELY FOLLOWING CORPORATE LIMITS shall be construed as following such corporate limits.
- (f) BOUNDARIES INDICATED AS FOLLOWING CENTERLINES OF STREAMS, creeks, or other bodies of water shall be construed as following such centerlines.
- (g) BOUNDARIES INDICATED AS FOLLOWING PHYSICAL FEATURES OTHER THAN THOSE MENTIONED ABOVE shall be construed as following such physical features, except where variation of actual location from mapped location would change the zoning status of a lot or parcel and in such case, the boundary shall be interpreted in such manner as to avoid changing the zoning status of any lot or parcels.
- (h) BOUNDARIES INDICATED AS PARALLEL TO OR EXTENSIONS OF FEATURES INDICATED IN SUBSECTION 3-3-b THROUGH 3-3-f ABOVE shall be construed as being parallel to or extensions of such features.
- (i) DISTANCES NOT SPECIFICALLY INDICATED ON THE OFFICIAL ZONING MAP shall be determined by the scale of the map.
- (j) CASES NOT COVERED BY SUBSECTION 3-3-a THROUGH 3-3-I ABOVE. In cases not covered by Subsection 3-3-a through 3-3-I above, the Administration Officer shall interpret the Official Zoning Map in accord with the intent and purpose of this Zoning Ordinance. Appeal from the interpretation of the Administrative Officer shall be only to the Board of Adjustment in conformity with Section 7-3 of this Zoning Ordinance.
- (k) DIVISION OF A LOT OF RECORD BY A DISTRICT BOUNDARY. Where a district boundary divides a lot of record which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a Variance, the extension of the regulations for either portion of the lot for a distance not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

Article IV

Use District Regulations

Section 4-1. R-1 Single-Family Residential District.

This district is established as a district in which the principal use of land is for single-family residences and is designed to provide a pleasing residential environment.

4-1-1. Permitted Uses.

- Single-family dwellings, excluding mobile homes.
- Customary accessory buildings, including private garages and no commercial greenhouses and workshops.
- Churches and similar places of worship.
- Cemeteries.
- Country clubs and golf courses, except miniature courses or practice driving tees operated for commercial purposes.
- Parks and playgrounds.
- Agricultural uses of land for residential gardens or landscaping, but specifically excluding commercial poultry, animal farms and dog kennels.
- Private Day Care Homes, Day Nurseries and Private Care Centers.
- Home occupations as defined in Article X, Subsection 10-2-29.
- Libraries, fire stations and other municipal buildings and uses necessary for the provision of municipal services in a residential area, provided they are in keeping with the character and requirements of the district.
- Public and private schools.
- Public utility structures, including electrical substation, gas metering stations, sewage pumping stations, and similar structures, providing buffering against fumes, noise, unsightliness, est., shall be as requested by the Municipal Planning Commission.
- Modular Home.
- Duplex dwellings when approved a part of a planned unit development.

Uses Prohibited

- Any use not specified above as permitted is prohibited. Any additional uses shall be allowed only through amendment of this Ordinance.

4-1-2. Dimensional Requirements.

1. Front yard setback; thirty (30) feet.
2. Side yard setback; eight (8) feet except on corner lots where the side adjoining the right-of-way shall be twenty (20) feet.
3. Rear yard setback; thirty (30) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line. On

property without utility easements, accessory buildings set ten (10) feet from property line.

4. Minimum lot size; twelve thousand (12,000) square feet for single-family. (Amended 05/20/08)
5. Width in feet at building line; one hundred (100) feet for single-family. (Amended 05/20/08)
6. Lot coverage; main and accessory buildings shall not cover more than fifty percent of the lot area.
7. Height; no building shall exceed thirty-five (35) feet in height.

4-1-3. Reduced Dimensional Requirements. To maintain the character of existing neighborhoods, or to encourage in-fill of residential plats located on existing street right of ways, dimensional requirements may be reduced by a majority vote of the Town Council. When the Town Council determines that it is in the best interests of the town and its citizens to modify dimensional requirements for single family homes, the following requirements shall apply.

1. Front yard setback minimum of fifteen (15) feet. A five foot encroachment zone for building elements including porches, stoops, and bays is allowed. No more than 50% of the building width shall extend into the encroachment zone.
2. Side yard setbacks; minimum of five (5) feet except on corner lots where the side adjoining the right-of-way shall not be less than ten (10) feet.
3. Rear yard setbacks; minimum of five (5) feet when adjacent to a common area and ten (10) feet when adjoining a private lot. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line. On property without utility easements, accessory buildings set ten (10) feet from property line.
4. Minimum lot size; two thousand five hundred (2500) square feet for single-family homes.
5. Width in feet at building line; 30 feet for single-family.
6. Lot coverage: Main and accessory buildings shall not exceed sixty (60) percent of the total lot area. Planned unit developments consisting of three (3) or more homes which are approved for use of reduced dimensions, shall include common area(s) not less than 30% of the total area not including driveways, access roads, and required easements.
7. Dimensional requirements for duplex dwellings may be modified from those shown in sub-paragraph 1-6 above when included and approved by the town council as part of a planned unit development.

Section 4-2. R-2 Multi-Family Residential District.

The purpose of the R-2 District is to provide sites for multiple-family dwellings, which will: (1) serve as zones of transition between non-residential districts and single-family districts, and (2) provide areas for low/medium density multiple-family dwellings, which will be compatible with adjoining single-family development.

4-2-1 Permitted Uses.

- Single-family dwellings.
- Duplexes.
- Multiple-family dwellings including condominiums.
- Rooming and boarding houses.
- Townhouses.
- Churches and similar places of worship.
- Cemeteries.
- Parks and playgrounds.
- Country clubs and golf courses.
- Mobile homes.
- Mobile home parks.
- Modular homes.
- Group Care Facility.

Uses Prohibited.

- Any use not specified as permitted is prohibited. Any additional uses shall be allowed only through amendment of this Ordinance.

4-2-2 Dimensional Requirements.

1. Front yard setback; twenty-five (25) feet. Townhouses and multi-family development may front on a public street or private access way. Townhouses and multi-family dwellings shall be set back fifteen (15) feet from project drives and walkways.
2. Side yard setback; eight (8) feet except on corner lots where the side adjoining the right-of-way shall be twenty (20) feet. Townhouses and multi-family developments shall have a side yard of eight (8) feet on ends of groups and for townhouses or multi-family developments at corners, the side yard shall be a minimum of twenty (20) feet.
3. Rear yard setback; thirty (30) feet.
4. Minimum lot size; ten thousand (10,000) square feet for a single-family, twelve thousand (12,000) square feet for duplexes and two thousand (2,000) square feet additional area for each family more than two (2) occupying the structure. Townhouse developments shall not exceed ten units per acre and shall have a minimum lot size of two thousand (2,000) square feet.
5. Width in feet at building line; seventy-five (75) feet for single-family and eighty (80) feet for duplexes and ten (10) feet additional width for each additional family occupying the structure. For townhouse developments, the minimum width at the building line shall be twenty (20) feet. All townhouse units, except those on end lots, shall occupy the full width of the lot on which it is constructed.
6. Lot coverage; no building shall exceed thirty-five (35) feet in height.

Section 4-3. B-1 Primary Business District.

The purpose of this district is to encourage the development of the district as the business center of the Town of Gurley.

4-3-1 Permitted Uses.

- Retail, office and service uses as follows:
 - Antique shops
 - Arts and crafts stores, including hobby shops
 - Art galleries and museums
 - Auto parts supply, new or used; however, no outside storage shall be permitted
 - Bank and loan offices
 - Barber and beauty shops
 - Beverage stores
 - Bicycle stores, including rental and repair
 - Book and/or stationary stores
 - Building, electrical, plumbing and heating supply; however, no outside storage shall be permitted
 - Business machine service
 - Business schools, dance schools, or music schools, operated as a business enterprise
 - Camera and photographic supply store, including developing and processing shops and photographer or artist studios
 - Carpet, rug and linoleum stores
 - China and glassware stores
 - Churches
 - Clothing shops, including costume rental, furrier and haberdasheries
 - Coin and stamp stores
 - Custom dressmaking and millinery shops and tailors
 - Department, general merchandise, variety and dry good stores
 - Employment agencies
 - Florist shops
 - Food stores, meat market, bakeries, candy and ice cream shops, delicatessens, and catering establishments
 - Furniture stores
 - Gift shops, jewelry shops, including watch repair, and pawn shops
 - Hardware stores
 - Hotels and motels
 - Leather goods and luggage stores
 - Medical clinic (out patient only) and offices of doctors, dentists, osteopaths, optometrists, and similar or allied professions, including laboratories
 - Musical instrument shops
 - News stands
 - Office supply stores
 - Paint/wallpaper stores and interior decorating shops
 - Pet stores

- Printing, lithographing or publishing establishments for letter press, business cards, mimeographing and other similar custom services; newspaper publishing, including engraving and photo-engraving
- Radio broadcasting studios
- Restaurants, excluding drive-in restaurants
- Second hand stores, when conducted wholly within a completely enclosed building
- Shoe stores, including shoe repair stores
- Sporting goods stores and toy shops
- Self-service Laundromats
- Taxi stands
- Taxidermist shops
 - Telephone and telegraph offices
 - Theaters, assembly halls or similar places of assembly
 - Tobacco shops
 - Travel agencies
- Offices, business and professional, including attorney, insurance and real estate offices.
- Parking lots when part of a principal structure and intended for use by employees, customers, or visitors of such structures.
- Post offices.
- Private clubs or fraternal organizations.
- Municipal service buildings, such as administrative offices, fire and police facilities, libraries and community recreational facilities.
- Upholstering, when conducted wholly within a completely enclosed building.

4-3-2 Special Exceptions

- Service stations.
- Bus stations.
- Commercial parking lots.

4-3-3 Dimensional Requirements.

1. Front yard setback; none.
2. Side yard setback; none.
3. Rear yard setback; none.
4. Width in feet at building line; twenty (20) feet.
5. Minimum lot size; none.
6. Lot coverage; not specified.
7. Height; no building shall exceed thirty-five (35) feet in height.
8. Whenever a lot in a B-1 district adjoins a lot line in a residential or agricultural district, a six (6) foot landscape buffer is required as defined in Section 5-7.
9. Single-family residential structures may be rehabilitated, repaired, and/or replaced on the existing foundation if damaged by fire or natural disaster.

Section 4-4. B-2 General Business District.

This district is designed to (a) encourage the continued use and development within the district of businesses requiring a central location, and (b) to accommodate certain commercial uses compatible with one another, but inappropriate in certain other districts. This district, in Gurley, will also provide local shopping for area residents.

4-4-1 Permitted Uses.

- Auto repair.
- Any use permitted in the B-1 Primary Business District.
- Auto parts supply.
- Automatic car wash.
- Animal hospital and veterinary clinic.
- Commercial recreational facilities and amusements facilities.
- Drive-in banks and loan offices.
- Drive-in restaurants.
- Drive-in theatres.
- Service station.
- Funeral homes.
- Mobile home sales lot, including recreational vehicle sales.
- Self-service laundries.
- New and used car salesroom, or offices including leasing.
- Day nurseries and day care centers.
- Any service establishment of an office, showroom, or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer, or an establishment doing radio or home appliance repair, and similar service establishments that require a retail adjunct.
- Retail outlets for building, electrical, plumbing, and heating supplies provided no manufacturing or fabrication is conducted on the premises.
- Bus station.
- Repair or service shops not specifically named.
- Open-air businesses, including retail sales of plant material, lawn furniture, playground equipment and garden supplies.
- Tire recapping and rethreading establishments.
- Public and semi-public uses and structures.
- Planned shopping centers.
- Nursing homes.
- Churches.
- Mini storage warehouses with security quarters.
- Contractor's storage yards.
- Dry cleaners.
- Dry cleaners pick up.
- Drug stores.
- Appliance stores.

4-4-2 Uses Prohibited.

- Any use not specified above as permitted is prohibited. Any additional uses shall be allowed only through amendment of this ordinance.

4-4-3 Dimensional Requirements.

1. Front yard setback; thirty-five (35) feet.
2. Side yard setback; none required except on the side of a lot adjoining a residential district in which case, there shall be provided a side yard of not less than fifteen (15) feet.
3. Rear yard setback; shall not be required except where a rear lot line adjoins a residential district and/or where the commercial building is designed to be serviced from the rear; in which case there shall be provided a rear yard of not less than twenty (20) feet for lots without alleys and thirty (30) feet for lots with alleys.
4. Minimum lot size; none.
5. Lot coverage; main and accessory buildings shall not cover more than fifty (50) percent of the lot area.
6. Height; no building shall exceed thirty-five (35) feet in height.
7. Whenever a lot in a B-2 District adjoins a lot line in a residential or agricultural district, a six (6) foot landscape buffer is required as defined in Section 5-7.

Section 4-5. M-1 General Industrial District.

This district is established for those areas of the Town where the principal use of land is for industrial and related activities.

4-5-1 Permitted Uses.

- Wholesaling, warehousing, storage or distribution establishments.
- Printing, publishing or similar establishments.
- Building material sales yards.
- Sawmills.
- Concrete or cement products manufacturing, provided the use does not adjoin any residential district.
- Service establishments catering to commerce and industry including lines supply, freight movers, communications services, business machine services, canteen service, restaurant (including drive-in restaurant), union halls and employment agencies and centers.
- Light manufacturing including assembly, compounding, processing, packaging or treatment of finished or semi-finished products from previously prepared materials.
- Office buildings.
- Radio and television stations and transmitters.
- Public utility structures, including electrical substations, gas metering stations, water tanks, sewage pumping stations, fire stations and other necessary public facilities.
- Customer accessory uses and structures.

- Manufacturing, assembly, fabrication, compounding, processing, packaging, or treatment of finished or semi-finished products.

4-5-2 Special Exceptions.

- Asphalt manufacture or refining provided the use does not adjoin any residential district.
- Contractor's equipment storage yard
- Truck and farm implement sales and services.
- Sewage disposal plant.
- Volatile uses and volatile industries provided that such use or industry shall not be located closer than one thousand (1,000) feet to any residential district.
- Junk or salvage yard of any kind provide that any article or material stored permanently or temporarily outside of an enclosed building shall be so screened by ornamental walls, fences, and/or evergreen plantings that it cannot be seen from public streets or adjoining lots when viewed by a person standing at ground level.

4-5-3 Dimensional Requirements.

1. In no instance shall a structure, parking lot, or any other accessory use, other than a landscape yard, be located closer than fifty (50) feet to any residential district.
2. Front yard setback; forty (40) feet.
3. Side yard setback; twenty-five (25) feet.
4. Rear yard setback; twenty-five (25) feet.
5. All yards adjacent to a street which are created by the setback requirements contained herein shall be maintained as open landscaped yards bisected only by access drives, and their use of any other purpose including off-street parking, is specifically prohibited. Each individual use shall be located on a lot having not less than twenty thousand (20,000) square feet in area.
6. Lot coverage.
 - (a) Main and accessory buildings shall not cover more than fifty (50) percent of the lot area.
 - (b) The coverage of main and accessory building plus the area used or designed for the use by parking and loading facilities shall not exceed eighty (80) percent of the lot area. Not less than twenty (20) percent of the lot area shall be maintained as an open landscaped yard.
7. No building shall exceed forty-five (45) feet in height.

Section 4-6. Agricultural District.

The purpose of the AG District is to provide a zoning classification for land that is not expected to experience urbanization in the immediate future. The type of uses, area

and intensity to use of land, which is authorized in this district, is designed to encourage and protect agricultural uses until urbanization is warranted.

4-6-1 Permitted Uses.

- Any use allowed as a Permitted Use in the R-1 District.
- Churches and cemeteries.
- Agricultural uses including the raising of crops, livestock and poultry.
- Plant nursery.
- Sanitariums, convalescent and nursing homes.
- Public and private schools having curricula substantially the same as that ordinarily given in public schools.
- Parks, playgrounds, golf courses and country clubs.
- Fire stations.
- Home occupations.
- Group care facility.

4-6-2 Special Exceptions.

- Animal hospitals and kennels.
- Mobile home park (2 or more mobile homes).
- Mobile home.

4-6-3 Dimensional Requirements.

1. Front yard setback; thirty (30) feet.
2. Side yard setback; fifteen (15) feet except on corner lots where the side adjoining the right-of-way shall be thirty (30) feet.
3. Rear yard setback; thirty (30) feet. Unattached rear yard accessory buildings shall be set back one (1) foot from the utility easement line.
4. Minimum lot size; three (3) acres.
5. Width in feet at building line; one hundred fifty (150) feet.
6. Lot coverage; main and accessory buildings shall not cover more than twenty-five (25) percent of lot area.
7. Height; no building shall exceed thirty-five (35) feet in height except farm structures not intended for human occupancy.

Article V

General Provisions

Section 5-1. Application of Regulations.

The regulations set forth in this Ordinance affect all land, every building, and every use of land and/or building and shall apply as follows:

5-1-1 Use. No building or land shall hereafter be used or occupied, and no building, structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this Ordinance for the district in which it is located.

5-1-2 Height and Density. No building shall hereafter be erected or altered so as to exceed the height and density regulations of this Ordinance for the district in which it is located.

5-1-3 Lot Size. No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per dwelling unit or other requirements of this Ordinance are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

5-1-4 Yard Use Limitations. No part of a yard or other space required about any building or use for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building or use.

5-1-5 One Principal Building on a Lot. Every building after erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one (1) principal building and its customary accessory buildings on the lot, except in the case of a specially designed complex of institutional, residential, commercial or industrial buildings.

5-1-6 Buildings to have access. Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking. No dwelling shall be erected on a lot or portion of a lot that does not abut on at least one public street or approved private street for at least twenty (20) feet.

5-1-7 Visibility at intersections in residential districts. On a corner lot in all residential zoning districts, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two (2) and six (6) feet above the centerline grades of the intersecting streets shall be erected, placed, or maintained within the triangular area formed by the right-of-way lines at such corner lots and a straight line joining said right-of-way lines at points which are thirty (30) feet distant from the intersection of the right-of-way lines and measured along said right-of-way lines.

5-1-8 Fences, walls and hedges. Notwithstanding other provisions of this Zoning Ordinance, fences, walls and hedges may be permitted in any side or rear yard, or along the edge of any front yard; provided that no solid fence, solid wall, or hedge along the side edge of any required front yard or along the front edge of any required side yard shall constitute any obstruction to visibility between two (2) and six (6) feet above

ground level. Hedges shall be permitted in required front yards, provided they do not extend into the street right-of-way.

5-1-9 Accessory uses and structures. In residential districts, accessory uses and structures with a roof impervious to weather shall not be located in any front or side yards. Accessory structures, if not attached to a primary dwelling unit, shall be separated by at least eight (8) feet from said structures. The area designed, or a structure, shall not exceed thirty (30) percent of the floor area of the dwelling unit. If the primary building includes an attached garage, the garage is considered part of the dwelling unit for calculation of the floor area. If the garage is detached, it shall not exceed six hundred (600) square feet. The floor area of the detached garage, up to four hundred (400) square feet, may be used in the calculation for the floor area of the dwelling. Exceptions: Carports are allowed in the side yard if no attached or detached garage is present and shall not be included in the floor area of the dwelling unit. (Amended 05/20/08)

5-1-10 Moving of buildings or structures. No building or structure shall be moved from one lot to another lot, or moved to another location on the same lot, unless such building or structure shall thereafter conform to all of the applicable provisions of this Zoning Ordinance.

5-1-11 Essential Services. Essential services are permissible by Special Exception in any zoning district. Essential services are hereby defined to include and be limited to water, sewer, gas, telephone, and electrical systems, including sub-stations, lift stations, and services; provided, however, that this Subsection shall not be deemed to permit the location in a district of such establishments as electric or gas generating plants, sewage treatment plants, or water pumping or water aeration facilities from which they would otherwise be barred.

5-1-12 Necessary repairs permitted. Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared to be unsafe or unlawful.

5-1-13 Swimming pools. The following regulations shall apply to swimming pools:

1. Swimming pools established in any permitted zoning district shall not be located closer to any lot line than ten (10) feet, and noncommercial pools shall be enclosed by a fence or wall not less than six (6) feet in height to prevent uncontrolled access.
2. Private swimming pools may be established in residential zoning districts provided they are to be used solely by the occupants of the property on which it is located and their guests and that no part of the swimming pool extends into any required front or side yard.
3. All swimming pool fences or walls shall be equipped with safety latches with locks on swimming pool gates.

5-1-14 Cemeteries. All cemeteries hereafter established shall have direct access to major thoroughfares with ingress and egress so designed to minimize traffic congestion.

Any new cemetery shall be located on a site containing not less than five (5) acres. Structure setback shall conform to the district regulations in which the site is located. All grass or burial lots shall be set back no less than twenty-five (25) feet from any lot line.

5-1-15 Temporary real estate sales office. A temporary real estate sales office is permitted in a subdivision during the development of such subdivision provided its use relates only to the subdivision in which it is located and provided it shall be removed after twelve (12) months.

5-1-16 Automobile wrecking and junkyards. No operation shall be located nearer than three hundred (300) feet from any established residential district.

All outdoor storage of salvage and wrecking operations shall be conducted within an enclosed solid fence or wall, no less than six (6) feet in height nor more than ten (10) feet in height. Any fence or wall erected for screening purposes shall be properly painted or otherwise maintained in good condition.

The storage of salvaged or junk materials shall not exceed six (6) feet in height.

Section 5-2. Non-conformities.

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

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 uses of a structure and land in combination shall not be extended or enlarged after the effective date of this Zoning Ordinance or its amendment by attachment on structures or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in this district involved.

To avoid undue hardship, nothing in this Zoning Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning 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 removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be carried on diligently until the completion of the new construction involved.

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

Section 5-3. Interpretation of District Regulations.

The District Regulations shall be enforced and interpreted according to the following rules:

5-3-1 Permitted Uses. Uses not designated as Permitted Uses or subject to additional conditions shall be prohibited. Special Exceptions are permitted according to additional regulations imposed. These Special Exceptions can be approved only by the Zoning Board of Adjustment. Additional uses may be added to the Ordinance by amendment.

5-3-2 Minimum Regulations. Regulations set forth by this Ordinance shall be minimum regulations. If the district requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted uses, regulations or ordinances, the more restrictive or higher standard, shall govern.

5-3-3 Land Covenants. Unless restrictions established by covenants with the land are prohibited by, or are contrary to, the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants inoperative.

Section 5-4. Off-Street Parking.

It is the intent of this Zoning Ordinance that the public interest, welfare, and safety requires that every building and use erected or instituted after the effective date of this Zoning Ordinance shall be provided with adequate off-street parking facilities for the use of occupants, employees, visitors, customers, or patrons. Such off-street parking facilities shall be maintained and continued so long as the main use continues.

5-4-1 General. (1) Off-street parking and off-street loading facilities shall be provided as set out in this Zoning Ordinance. Conforming buildings and uses existing as of the effective date of this Zoning Ordinance may be modernized, altered or repaired without providing additional off-street parking or off-street loading facilities, provided there is no increase in floor area or capacity.

(2) Where a conforming building or use existed as of the effective date of this Zoning Ordinance and such building or use is enlarged in floor area, volume, capacity, or

space occupied, off-street parking and off-street loading as specified in this Zoning Ordinance shall be provided for the additional floor area, volume, capacity, or space so created or used.

(3) Required off-street parking shall not be used for sales, storage, repair, dismantling, or servicing of any type or kind, nor shall areas be devoted to such activities count as meeting off-street parking requirements.

5-4-2 Off-street Parking: Location. The required off-street parking facilities shall be located on the same lot or parcel of land they are intended to serve, provided, however, that for other than residential uses, the Planning Commission may, after review of the site plans, recommend the establishment of such off-street parking facilities within three hundred (300) feet of the premises they are intended to serve when practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve. Upon approval of said recommendation by the Planning Commission, the owner of this said parking area shall enter into a written agreement with the Town Council providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building, which the parking area serves so long as the facilities are required.

5-4-3 Off-street Parking: Uses not specifically mentioned. Requirements for off-street parking for uses not specifically mentioned in the District Regulations should be the same as provided in the District Regulations for the most similar to the one sought, it being the intent of this Zoning Ordinance to require all uses to provide off-street parking; unless specific provision is made to the contrary.

5-4-4 Off-street Parking: Measurements. Floor area shall mean the total floor area inside the exterior walls, where floor area is indicated as a basis for determining the amount of off-street parking required. In stadiums, sports arenas, churches, and other places of public assembly in which occupants utilize benches, pews, or other similar seating arrangements, each eighteen (18) lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.

5-4-5 Off-street Parking: Minimum Requirements. Irrespective of any other requirements of this Zoning Ordinance, each and every separate individual store, office or other business shall be provided with off-street parking spaces as specified below unless this Ordinance makes provision to the contrary.

<u>Use Classification</u>	<u>Parking Space Requirement</u>
Automobile sales and repair	One (1) parking space for each two (2) employees at maximum employment on a single shift, plus two (2) spaces for each 300 square feet of repair or maintenance space.
Automatic car wash	One (1) space for each two (2) employees at maximum employment, on a single shift.

	Reserve space equal to five (5) times the capacity of the facility at the location of both ingress and egress.
Elementary schools and Junior High Schools, both private and public	Two (2) spaces for each classroom and administrative office.
Churches	One (1) space for each four (4) seats.
Kindergartens or nurseries	One (1) space for each employee and four (4) spaces for off-street drop-off and pick up.
Libraries	One (1) space for each four (4) seats provided for patron use.
Mortuary or funeral home	One (1) space for each four (4) seats provided in the assembly room or chapel.
Motel, tourist home and tourist court	One (1) space per guest room plus two (2) additional spaces for each twenty (20) units.
Offices: professional, business or public, including banks	One (1) space for each four hundred (400) square feet of gross floor space.
Medical offices or clinics	Six (6) spaces for each doctor practicing at the clinic, plus one (1) space for each employee.
Places of public assembly, including including private clubs and lodges, auditoriums, dance halls, theaters, stadiums, gymnasiums, community centers, and all similar places of public assembly.	One (1) space for each four (4) seats provided for patron use, plus one (1) space for each one hundred (100) square feet of floor or ground area used for amusement or assembly but not containing fixed seats.
Rooming and boarding houses	One (1) space for each three (3) guests rooms, plus one (1) additional space for owner, if resident on the premises.
Residential dwellings	Two (2) spaces for each dwelling unit.
Restaurant-drive-in	Parking spaces equivalent to five (5) times the floor space in the main building.
Restaurant-indoor	One (1) space for each three (3) seats or stools, plus one (1) space for each two (2)

	employees on shift with the larger employment.
Retail business and other service establishments not covered	One (1) space for each 200 square feet of gross floor space.
Rest and convalescent home for the Aged, and similar institutions	One (1) space for each six (6) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees.
Senior high schools, both private and public	One (1) space for each ten (10) students for whom the school was designed, plus (1) space for each classroom and administrative office.
Shopping centers	Two (2) square feet of parking space for each square foot of gross floor space.
Service stations	Two (2) spaces for each gas pump plus three (3) spaces for each grease rack or similar facility.
Mobile home and mobile home parks	Two (2) spaces for each mobile home.
Wholesaling, warehousing (general) and industrial uses	One (1) space for each two (2) employees at maximum employment on a single shift.

Section 5-5. Off-street Loading: Specifications, Amounts.

Off-street loading facilities are required by this Zoning Ordinance so that vehicles engaged in unloading will not encroach on or interfere with the public use of streets and alleys and so that adequate space is available for the unloading and loading of goods, materials, or items for delivery and shipping. Off-street loading facilities supplied to meet the needs of one use may not be considered as meeting the needs of another use. Off-street parking facilities may not be used or counted as meeting off-street loading requirements.

When the use of a structure or land or any part thereof is changed to a use requiring off-street loading facilities, the full amount of off-street loading space required shall be supplied and maintained. When any structure is enlarged or any use extended so that the size of the resulting occupancy requires off-street loading space, the full amount of such space shall be supplied and maintained for the structure or use in its enlarged or extended size.

Each off-street loading space shall be directly accessible from a street or alley without crossing or entering any other required off-street loading space. Such loading

space shall be accessible from the interior of the building it serves and shall be arranged for convenient and safe ingress and egress by motor truck and/or trailer combination. Off-street loading spaces shall be provided and maintained as follows:

Retail Operation: One (1) loading space for each twenty thousand (20,000) square feet of gross floor area or fraction thereof.

Wholesale and Industrial Operations:

<u>Building Area in Square Feet</u>	<u>Number of Spaces</u>
0-40,000	1
40,000-100,000	2
100,000-160,000	3
160,000-240,000	4
240,000-320,000	5
320,000-400,000	6
Each 90,000 above 400,000	1

Section 5-6. Flood Hazard Areas.

The Flood Hazard Areas, as depicted on the Official Zoning Map of Gurley, Alabama, are established in order to allow, but restrict, development in all affected zoning districts without causing undue damage to property and structures as well as any danger to life. The Flood Hazard Areas are identified as areas in the vicinity of Sandy Branch within the Town of Gurley, which are subject to inundation by a flood having a one percent or greater chance of occurrence in any given year (i.e., the 100 year flood).

For the purposes of this Zoning Ordinance and the Official Zoning Map, the Flood Hazard Area boundaries are also depicted and identified on the Town of Gurley Flood Insurance Rate Map, community number 010152, which map is made a part of this Ordinance.

All Permitted Uses allowed in the zoning districts located within the boundaries of the Flood Hazard Areas shall be permitted subject to the requirements contained in Section 1910.3 of the National Flood Insurance Program’s regulations, which regulations are made a part of the Ordinance.

Section 5-7. Required Buffers.

The use of properly planted and maintained buffer areas may reduce and ease potential incompatibility or among different uses of land in proximity to each other.

5-7-1 Requirements. Where this Ordinance requires a landscaped buffer area, the following requirements shall be met:

- A. The landscaped buffer shall not be less than width specified in the Ordinance measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property line or lines.

- B. The area shall be so designed, planted, and maintained as to be eighty (80) percent or more opaque between two (2) and six (6) feet above average ground level when viewed horizontally, and five (5) feet wide landscaped buffer.
- C. Types and numbers of plantings for landscaped buffers shall be submitted with application for a building or mobile home permit, along with plans and statements demonstrating how the buffer will be irrigated in the future. No Building Permit shall be issued without such data, where this Ordinance requires a landscaped buffer area or areas.
- D. Plantings shall be of a size and type that will insure the meeting of eighty (80) percent opacity requirements within no longer than twelve (12) months of the date of first plantings. Where questions may arise as to the suitability of proposed plant materials to meet this requirement, final determination of suitability shall be made by the Administrative Officer.
- E. Failure to maintain the landscaped buffer area as set out above shall be a violation of this Ordinance.

5-7-2 Substitution for Landscaped Buffer Area. Except when otherwise specifically provided by this Ordinance, a six (6) feet high opaque structure set in a five (5) foot wide landscaped buffer area may be substituted for the six (6) feet high, planted buffer described in Subsection 5-7-1-B.

5-7-3 Waiver by Administrative Officer. When the Administrative Officer finds that the public safety requires, he may waive or modify the buffer requirements set out above. The findings of the Administrative Officer shall be in writing and shall be filed with the approved Building Permit.

Article VI

Exceptions and Modifications

Compliance with the requirements of this Ordinance is mandatory except that under the specific conditions enumerated in the following Sections, the requirements may be waived or modified as so stated.

Section 6-1. Existing Lots.

Where the owner of a lot at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements to this Ordinance, such lot may nevertheless be used as a building site, provided that lot requirements are not reduced below the minimum specified in this Ordinance by more than twenty (20) percent. If, however, the owner of two or more adjoining lots with insufficient land dimensions decides to build or to sell off these lots, he must first combine said lots to comply with the dimensional requirements of this Ordinance. Any lot requiring dimensional waivers below the twenty (20) percent minimum set forth in this Section shall be approved by this Zoning Board of Adjustment

provided that further decreased dimensional requirements shall conform as closely as possible to the required dimensions.

Section 6-2. Minimum Required Front Yard for Dwellings.

The minimum required front yard requirements for this Ordinance for dwellings shall not apply on any lot where the average front yard of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is less than the minimum required front yard, but not less than the average of the front yards of the aforementioned existing buildings.

Section 6-3. Height Limitations.

The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, elevator shaft enclosures, solar energy collectors, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Although exempted from the height limitations, these structures should not significantly impair solar access of buildings or solar collector locations.

Section 6-4. Mobile Homes.

Mobile homes now in existence at locations not in conformity with this Ordinance shall be permitted to remain at such locations; but with the following express limitations as to such mobile homes located outside an existing mobile home park or mobile home subdivision. If any such mobile home is removed from such location, it shall not be replaced with another mobile home except to upgrade the premises by the owner/occupant within a thirty (30) day period of time.

Mobile homes not in use may be stored only in mobile home parks, conforming mobile home sales lot, within the confines of a building (warehouse) or in individual lots in conforming mobile home parks with only one (1) mobile home permitted pr lot.

Mobile homes may be used in allowable zones for temporary business occupancy for twelve (12) months with the Administrative Officer's approval. Applications for business occupancy must be submitted to the Administrative Officer.

Mobile homes may be temporarily parked and used as bonafied construction offices at construction sites, provided a construction office permit is secured from the Administrative Officer.

In any residential district not more than one (1) mobile home may be permitted in a rear yard as an accessory use on a temporary basis provided the Zoning Board of Adjustment shall first make a finding that a personal hardship situation exists (such as the need to care for elderly parents or other dependants) which justifies a Special Exception

of this nature. Temporary use permits shall be issued in such cases for one (1) year, but may be renewed so long as the hardship continues to exist. All such mobile homes situated in rear yards must have access to Town water and sewer service, and such mobile homes must be maintained in such a way as to create no nuisance conditions. Furthermore, if any such mobile home must be situated closer to the side or rear yard line than the required setback for the district involved, a Variance must be obtained from the Zoning Board of Adjustment.

Section 6-5. Mobile Home Parks. See Appendix I.

Section 6-6. Group Development.

In the case of Group Development where residential, commercial, industrial or institutional consisting of one (1) or more structures designed for occupancy by three (3) or more families or two (2) or more businesses or firms, or uses; not subdivided, the developer shall submit to the Planning Commission a plan of development as required in Article VIII, Section 8-4.

Article VII

Zoning Board of Adjustment

Section 7-1. Establishment of a Zoning Board of Adjustment.

A Zoning Board of Adjustment is hereby established. Said Board shall consist of five (5) members, each to be appointed for a term of three (3) years by the Town Council, except that in the first instance, one member shall be appointed for a term of three (3) years, two (2) for a term of two (2) years, and two (2) for a term of one (1) year. Thereafter, each member appointed shall serve for a term of three (3) years or until his successor is duly appointed. Each member may be removed for cause by the appointing authority upon written charges and after a public hearing.

7-1-1 Qualifications of Members. Members of the Board of Adjustment shall not hold any other public position or office in the government of the Town of Gurley. All members of the Board of Adjustment shall be electors of the Town of Gurley.

7-1-2 Vacancies. Vacancies in Board membership shall be filled by appointment by the Town Council for the unexpired portion of the term of the member affected.

7-1-3 Removal. Members of the Board of Adjustment may be removed from office for cause by the appointing authority upon written charges and after a public hearing.

Section 7-2. Proceedings.

7-2-1 Qualifications of Members. The Board of Adjustment shall select a chairman and vice-chairman from among its members and may create such other offices as it may determine.

7-2-2 Rules and Procedures. The Board of Adjustment shall adopt rules of procedure necessary to its governance and the conduct of its affairs, in keeping with the applicable provisions of the Code of Alabama and this Zoning Ordinance. Such rules or procedure shall be in written form available to persons appearing before the Board and to the Public.

7-2-3 Meetings. Meetings shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Meetings shall not be held without at least twenty-four (24) hours notice to each member. The Board of Adjustment shall have the power to take testimony under oath and compel the attendance of witnesses.

7-2-4 Quorum, Minutes and Public Records. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member (including the Chairman or Vice-Chairman) or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official action, all of which shall be a public record and be filed immediately in the Office of the Board.

Persons appearing before the Board shall have no right of challenge of any Board member; provided, this provision shall not prohibit any person appearing before the Board from placing in the record a statement alleging bias and requesting disqualification for bias of any member or alternate member.

A quorum for the transaction of business shall consist of four (4) members; provided that no action that reverses the decision of the Administrative Officer shall be taken without the concurring votes for four (4) members.

7-2-5 Disqualifications of Members. If any member of the Board of Adjustment shall find that his private or personal interests are involved in the matter coming before the Board, he shall disqualify himself from all participation in that case; or he may be disqualified by the votes of four (4) members of the Board not including the member about whom the question of disqualification has been raised. No member of the Board of Adjustment shall appear before the Town Council as agent or attorney for any person.

Section 7-3. Hearings, Appeals and Notices.

Appeals to the Board of Adjustment concerning interpretation or administration of this Zoning Ordinance or for Variance under this Zoning Ordinance may be taken by any person aggrieved or by any officer, agency, or bureau of the Town of Gurley affected by any decision of the Administrative Officer. Such appeals shall be taken within a reasonable time, not to exceed thirty (30) days. The Administrative Officer shall

forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time.

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

Section 7-4. Powers and Duties of the Zoning Board of Adjustment.

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

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time.

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

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

7-4-1 Administrative Reviews. To hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Administrative Officer in the enforcement of this Ordinance. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Zoning Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make

such order, requirement, decision, or determination as ought to be made and to that end shall have all power of the Administrative Officer from whom the appeal is taken.

7-4-2 Variances. To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance from the terms of the Zoning Ordinance shall not be granted by the Board of Adjustment unless and until:

1. Written Petition. A written petition for Variance is submitted demonstrating that:
 - (a) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
 - (b) The special conditions and circumstances do not result from the actions of the applicant;
 - (c) Literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Ordinance and would work unnecessary and undue hardship on the applicant;
 - (d) The Variance, if granted, is the minimum Variance that will make possible the reasonable use of the land, building or structure;
 - (e) Granting the Variance requested will not confer on the application any special privilege that is denied by this Zoning Ordinance to other lands, buildings, or structures in the same zoning district;
 - (f) The grant of the Variance will be in harmony with the general intent and purpose of this Zoning Ordinance, will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
 - (g) The Variance is not a request to permit a use of land, building or structure, which is not permitted in the district involved.

2. Fee. A fee of fifty (50) dollars shall be paid to the Town Clerk to cover the cost and expense of the application to the Board of Adjustment. In addition, the applicant shall submit with each application a list of names and addresses of all record property owners adjacent to the exterior boundary of the subject property. Said list shall be current and certified by a professional engineer, an attorney, a registered surveyor, or a bonded abstractor.

3. Findings. The Board of Adjustment shall make findings that the requirements of Subsection 7-4-2 have or haven not been demonstrated by the applicant for variance.

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

4. Conditions and Safeguards. In granting any Variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance including, but not limited to, reasonable time limits within which the action for which Variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Ordinance and punishable as provided under Article XI, Section 11-2 of this Ordinance.

7-4-3 Special Exceptions; Conditions Governing Applications; Procedure.

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

1. Written Application. Written application for Special Exception is submitted indicating the section of the Zoning Ordinance under which special exception is sought and stating the grounds on which it is requested.
2. Fee. A fee of fifty (50) dollars shall be paid to the Town Clerk to cover the cost and expense of the application to the Board of Adjustment.

In addition, the applicant shall submit with each application a list of names and addresses of all record property owners adjacent to the exterior boundary of the subject property. Said list shall be current and certified by a professional engineer, an attorney, a registered surveyor, or a bonded abstractor.

3. Notice of Public Hearing. Upon receipt of said written application, fee, and list, notice of public hearing shall be given in accordance with Section 9-4 of this Zoning Ordinance. In addition notice of public hearing shall be given by mailing written notice by the Chairman of said Board to all owners adjacent property. Such notice shall contain:
 - (a) Legal description of the property and the street address or approximate location in the Town of Gurley;
 - (b) Present zoning classification of the property and the nature of the special exception requested;
 - (c) Date, time and place of hearing;

Said written notice shall be mailed not less than two (2) weeks before the meeting of the Board. A copy of the published notice may be mailed in lieu of written notice.

4. Public Hearing. The public hearing shall be held by the Zoning Board of Adjustment. Any party may appear by agent or attorney.

5. Findings. Before any Special Exception Permit shall be issued, the Zoning Board of Adjustment shall make a special finding that it is empowered under this Section of this Zoning Ordinance to grant the Special Exception and the Special Exception will not adversely affect the public interest. Before any Special Exception shall be issued, the Zoning Board of Adjustment shall further make a determination that the specific rules governing the individual Special Exception, if any, have been met by the petitioner and that satisfactory provision and arrangement has been made concerning the following where applicable:

- (a) Satisfactory ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control;
- (b) Provision of off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, and odorous effects of the special use on adjoining properties in the area;
- (c) Utility, with reference to locations, available ability and compatibility;
- (d) Buffering with reference to type, location, and dimensions;
- (e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic affect, and compatibility and harmony with properties in the district;
- (f) Location, use, plan elevations and dimensions of each building/structure to be constructed;
- (g) The location, dimensions, and arrangement of all open space, yards, access ways, entrances, exits, off-street parking, facilities, pedestrian ways, location and width of roads, streets and sidewalks;
- (h) General compatibility with adjacent properties and other property in the district.

6. Conditions and Safeguards. In granting any Special Exception, the Zoning Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Zoning Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Special Exception is granted, shall be deemed a violation of this Zoning Ordinance and punishable as provided under Article XI of this Ordinance. The Zoning Board of Adjustment shall prescribe a time limit within which the action for which the Special Exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the Special Exception.

7. Denial. If the Zoning Board of Adjustment shall deny a Special Exception, it shall state in its record its reasons for doing so. Such reasons shall take into account the factors stated in Subsection (6) above, or such of them as may be applicable to the action or denial, and the particular regulation relating to the Special Exception requested.

Section 7-5. Appeals from Decisions of Zoning Board of Adjustment.

Any person or persons, aggrieved by any decision of the Zoning Board of Adjustment may with fifteen (15) days thereafter appeal the decision to the appropriate

court of law by filing with the Zoning Board of Adjustment a written notice of appeal specifically the judgment of decision from which the appeal is taken.

Article VIII

Administrative and Enforcement: Building Permits and Development Plans

Section 8-1. Administrative Officer.

The provisions of this Ordinance shall be administered and enforce by an Administrative Officer appointed by the Town Council. This official shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary in carrying out his duties in the enforcement of this Ordinance.

If the Administrative Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 8-2. Building Permit Required.

It shall be unlawful to commence the construction of any building or other structure, including the installation of a mobile home, modular home or accessory buildings greater than one hundred twenty (120) square feet floor space, without a building permit issued by the Town Clerk. This requirement also includes any alterations as defined in this Ordinance. Applications for a building permit shall be made to the Town Clerk on forms provided that purpose, and shall be accompanied by a fee according to the fee schedule currently in use by the Town of Gurley, which will be paid to the Town Clerk of the Town of Gurley, Alabama, for each application for building permit to cover the cost of inspection and other administrative expenses.

Within three (3) days after the owner or his agent has notified the Administrative Officer to the Town that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Administrative Officer of the Town to make a final inspection thereof, and to issue a Certificate of Occupancy if the building or premises or part thereof is found to conform with the provisions of this Ordinance; if such certificate is refused, to state the refusal in writing with the cause. If the Certificate of Occupancy is denied, the applicant may appeal the action of the administrative Officer to the Zoning Board of Adjustment.

Section 8-3. Inspection.

The construction or usage affected by any building permit shall be subject to four inspections: (1) when the foundation has been excavated, (2) when the foundation has been completed and the building lines have been established, (3) when all plumbing elements are in place, (4) when the building or structure has been completed.

It shall be the duty of the holder of the permit to properly notify the Administrative Officer as to the time when the construction will be ready for inspection. Failure to make proper notification of the time for such inspection shall automatically cancel the permit. The proper location of buildings and the verification of set back lines are the responsibility of the owner and not the Administrative Officer. Improper location of buildings is a violation of this Ordinance and may result in the revocation of the Building Permit and/or the Certificate of Occupancy.

Section 8-4. Site Plan Review and Approval.

It is recognized by this Ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses, further that there are benefits to the public in conserving natural resources. Toward this end, this Ordinance requires Site Plan Review by the Planning Commission for certain buildings and structures that can be expected to have a significant impact on natural resources, traffic patterns, and on adjacent land usage.

8-4-1 A. Buildings, Structures and Uses Requiring Site Plan. The Administrative Officer shall not issue a Building Permit for the construction of the buildings and structures identified in this section unless a detailed Site Plan has been reviewed and approved by the Planning Commission and such review and approval is in effect for the following uses:

1. Mobile Home Parks.
2. Townhouses.
3. Condominiums.
4. A multiple-family building containing three (3) or more dwelling units.
5. Any gasoline service station abutting any Residential District.
6. Any planned shopping center.

B. Subdivision. Shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, plans, sites or other division of land for the purpose, whether immediate or future, of sale or of building development. Such terms include resubdivision, and when appropriate to the context, relate to the process of subdivision or to the land or territory subdivided. It shall include all division of land involving the dedication of a new street or a change in existing street.

However, the following shall not be included within this definition or be subject to the requirements thereof:

- (a) When property is divided by probated family estates;
- (b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved and the extension of public utilities are not required.
- (c) The public acquisition by purchase of strips of land for widening or opening of streets.
- (d) The sale or gift of one portion of a parcel of land where no street right-of-way dedication is involved.

8-4-2 Applications for Site Plan Review. Any person may file a request for a Site Plan Review by the Planning Commission by filing with the Town Clerk the completed application upon the forms furnished by the Town Clerk. As an integral part of said application, the applicant shall file at least three (3) copies of the Site Plan.

8-4-3 Planning Commission Review of Site Plan. Upon receipt of such application from the Town Clerk, the Planning Commission shall, within thirty (30) days, approve or disapprove such Site Plan, advising the applicant in writing of the recommendation, including any changes or modifications in the proposed Site Plan as are needed to achieve conformity to the standards specified in this Ordinance.

8-4-4. Required Data for Detailed Site Plan. Every Site Plan submitted to the Planning Commission shall be in accordance with the following requirements:

- (a) The Site Plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals one hundred (100) feet and of such accuracy that the Planning Commission can readily interpret the Site Plan and shall include more than one (1) drawing where required for clarity.
- (b) The proposed title or the project and the name of the owners, engineers, architect, designer, or landscape architect of the development, north arrow and date.
- (c) Vicinity map showing the location of the project in relation to the surrounding community.
- (d) Existing zoning and zoning district boundaries. In the case of the Special Exception, approved by the Zoning Board of Adjustment, any appropriate conditions and safeguards imposed by the Board shall also be indicated on the Site Plan.
- (e) The boundaries of the property involved, the general location of all existing easements, section lines, and property lines, and other physical and natural features in or adjoining the project.
- (f) Names and addresses of all adjacent landowners.
- (g) Acreage in total project.
- (h) The location of existing and proposed buildings, sanitary and storm sewers, water mains, culverts, and other public utilities in or adjacent to the project.
- (i) The Site Plan shall show the proposed street, driveways, sidewalks, and pedestrian circulation features within and adjacent to the site, also, the

location, size, and number of parking spaces in the off-street parking area, and the identification of service lanes and service parking.

- (j) Location and type of buffer strip and other open spaces including recreation areas.
- (k) The Site Plan shall show the location, proposed finished floor and grade line elevations, size of proposed principal and accessory buildings, their relation to one another and to any existing structure on the site, the height of all buildings and square footage of the floor space. Site plans for residential development shall include a density schedule showing the number of dwelling units per net acre, including a dwelling schedule showing the unit type and number of each unit type.
- (l) The Site Plan shall show the proposed location, use and size of open spaces and the location of any landscaping, fences or walls on the site. Any proposed alterations to the topography and other natural features should be indicated.

8-4-5 Standards for Site Plan Reviews. In reviewing the Site Plan, the Planning Commission shall ascertain whether the proposed Site Plan is consistent with all regulations of this Ordinance. Further, in consideration of each Site Plan, the Planning Commission shall find that provisions of this Section of this Ordinance as well as the provisions of this zoning district in which said buildings, structure and uses (as indicated in the proposed Site Plan) have been satisfactorily demonstrated and met by the applicant.

8-4-6 Planning Commission Approval of Site Plan. Upon the Planning Commission's recommended approval of a Site Plan, the applicant shall file with the Town Clerk one (1) copy thereof. The Town Clerk shall within ten (1) days transmit to the Administrative Officer one (1) copy with the Clerk's certificate affixed thereto, certifying that said approved Site Plan conforms to the provisions of this Ordinance as determined. If the Planning Commission disapproves the Site Plan, notification of such disapproval shall be given to the applicant within ten (10) days after such Planning Commission action.

Article IX

Amendments

Section 9-1. Initiation of Amendment.

The regulations, restrictions, procedures, Official Zoning Map, district regulations, and other materials set out in this Ordinance may from time to time be amended, supplemented, changed or repealed. Proposed changes or amendments may be initiated by:

- (a) Town Council.
- (b) Planning Commission.

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

Section 9-2. Application and Fee.

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

9-2-1 Applications. All petitions for change or amendment shall be made on forms available at the office of the Town Clerk, and accompanied by a map indicating the location of the proposed change. Such application shall be filed with the Town Clerk not later than twenty (20) days prior to the Planning Commission's meeting at which the application is to be considered. The Planning Commission will not consider said application, if denied by the Town Council for a period of twelve (12) months.

9-2-2 Fees. A fee of one hundred (100) dollars shall be paid to the Town Clerk of the Town of Gurley, Alabama, for each parcel of land for which application for an amendment is made to cover the costs of advertising and other administrative expenses involved. In addition, the applicant shall submit with each application a list of names and addresses of all record property owners adjacent to the exterior boundary of the subject property. Said list shall be current and certified by a professional engineer, an attorney, a registered surveyor, or a bonded abstractor.

Section 9-3. Planning Commission Procedure for Amendment.

The Planning Commission shall review and make recommendations to the Town Council on all proposed amendments to this Ordinance as set forth below.

9-3-1 Planning Commission Public Hearing. The Planning Commission may, at its discretion, hold a public hearing on any proposed zoning amendment. When a public hearing is deemed necessary by the Planning Commission, notice of said hearing shall be published in a newspaper of general circulation in the Town of Gurley at least once a week for two (2) consecutive weeks prior to the hearing, or, if there is no newspaper of general circulation published within the municipality, then by posting the proposed ordinance in four (4) conspicuous places within the municipality, provided further that the first notice shall appear fifteen (15) days in advance of said hearing. The notice shall state the time and place of the hearing, and stating further at such time and place, all person who desire shall have an opportunity of being heard in opposition to, or in favor of, such amendment. In addition to the published hearing notice, a notice of such public hearing shall be sent to all adjoining landowners by registered mail as their names appear upon the plats in the Madison County Tax Assessor's Office. It shall be the responsibility of the applicant to provide the list of names and addresses of adjoining property owners to the Town Clerk.

9-3-2 Planning Commission Report to the Town Council: Time Limit. Within sixty (60) days from the date a proposed zoning amendment is officially received by the

Planning Commission, unless a longer time is mutually agreed upon between the Town Council and the Planning Commission in the particular matter, the Planning Commission shall submit its report and recommendation to the Town Council. If the Planning Commission does not submit its report and recommendations within the prescribed time, the Town Council may proceed to action on the proposed amendment without further awaiting the report or recommendations of the Planning Commission.

9-3-3 Nature and Requirements of Planning Commission Report. When pertaining to the rezoning of land, the report and recommendations of the Planning Commission shall show that the Planning Commission has studied and considered the proposed change in relation to the following, where applicable:

- (a) Whether the proposed change would be contrary to the Land Use Plan;
- (b) The existing land use pattern;
- (c) Possible creation of an isolated district unrelated to adjacent and nearby districts;
- (d) The population density pattern and possible increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.;
- (e) Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;
- (f) Whether changed or changing conditions make the passage of the proposed amendment necessary;
- (g) Whether the proposed change will adversely influence living conditions in the neighborhood;
- (h) Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety;
- (i) Whether the proposed change will create a drainage problem;
- (j) Whether the proposed change will seriously reduce light and air to adjacent areas;
- (k) Whether the proposed change will adversely affect property values in the adjacent area;
- (l) Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations;
- (m) Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare;
- (n) Whether there are substantial reasons why the property cannot be used in accord with existing zoning;
- (o) Whether the change suggested is out of scale with the needs of the neighborhood or the Town;
- (p) Whether it is impossible to find other adequate sites in the Town for the proposed use in districts already permitting such use.

When pertaining to other proposed amendments of this Ordinance, the Planning Commission shall consider and study:

- (a) The need and justification for the change;
- (b) The relationship of the proposed amendment to the purposes and objectives of the Town's comprehensive planning program and to the Comprehensive

Plan, with appropriate consideration as to whether the proposed change will further the purposes of this Ordinance and other town ordinances, regulations and actions designed to implement the Comprehensive Plan.

9-3-4 Statuses of Planning Commission Report and Recommendations. The report and recommendations of the Planning Commission required by Subsection 9-3-2 and 9-3-3 above shall be advisory only and shall not be binding upon the Town Council.

Section 9-4. Town Council Procedure for Amendment.

9-4-1 Public Hearing Notice. No request for amendment may be considered by the Town Council until such time as notice of a public hearing on the proposed amendment has been given to the public at large. Upon receipt of a written application, the prescribed fee and the list of names required by Section 9-3, Notice of Public Hearing, shall be published in a newspaper of general circulation in the Town of Gurley by insertion therein of the full text of the proposed ordinance, and in addition thereto, insertion of a synopsis of the proposed ordinance one week after the first insertion, which synopsis shall refer to the date and name of the newspaper in which the proposed ordinance was first published. Both of such insertions shall be at least fifteen (15) days in advance of the public hearing and the final passage of said proposed ordinance, or, if there is no newspaper of general circulation published within the municipality, then by posting the proposed ordinance in four (4) conspicuous places within the municipality, together with a notice stating the time and place that the proposed ordinance is to be considered by the Town Council, and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such ordinance. In addition, notice of public hearing shall be given by mailing written notice by the Town Clerk to owners of adjacent property. Such notice shall contain:

1. Legal description of the property and the street address or approximate location in the Town of Gurley;
2. Present zoning classification of the property and the nature of the proposed change;
3. Date, time and place of hearing;

Said written notice shall be mailed not less than twenty-one (21) days before the meeting of the Town Council. A copy of the public notice may be mailed in lieu of the written notice.

Section 9-5. Limitations on the Rezoning of Property.

1. No amendment to rezone property shall contain additions, limitations, or requirements not applicable to all other property in the district to which the particular property is rezoned.
2. Except where the proposal for the rezoning of property involves an extension of an existing district boundary, no change in the zoning classification of land shall be considered which involves less than forty

thousand (40,000) square feet of area of two hundred (200) feet of street frontage.

3. Whenever the Town Council has, by amendment, changed the Zoning Classification of Property, the Town Council shall not then consider any petition for rezoning of any part or all of the same property for a period of six (6) months from the effective date of the amendatory ordinance.

4. Whenever the Town Council has denied an application for the rezoning of property, the Town Council shall not thereafter:

(a) Consider any further applications for the same rezoning of any part or all of the same property for a period of one (1) year from the date of such action;

(b) Consider an application for any other kind of rezoning on any part or all the same property for a period of six (6) months from the date of such action.

Section 9-6. Waiver of Time Limits.

The time limits of Section 9-5 (3 & 4) above may be waived by four (4) affirmative votes of the Town Council when such action is deemed necessary to prevent injustice or to facilitate the proper development of the Town of Gurley.

Article X

Definition of Terms

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

Section 10-1. Interpretation of Commonly Used Terms and Words.

10-1-1 Words used in the present tense include the future tense.

10-1-2 Words used in the singular number include the plural, and words used in the plural include the singular, unless the natural construction of the wording indicated otherwise.

10-1-3 The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.

10-1-4 The words "used for" shall include the meaning "designed for".

10-1-5 The word "structure" shall include the word "building".

10-1-6 The word "lot" shall include the words "plot", "parcel", or "tract".

- 10-1-7 The word “shall” is always mandatory and not merely directory.
- 10-1-8 The word “map” or “zoning map” shall mean the “Official Zoning Map, Town of Gurley”.

Section 10.2 Definitions of Commonly Used Terms and Words.

- 10-2-1 Abutting. Having property or district lines in common.
- 10-2-2 Access. A way of approaching or entering a property.
- 10-2-3 Accessory Building or Use. A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of the occupants of the principal building or principal use; (4) is located on the same zoning lot as the principal building or principal use except as herein provided. Examples of accessory uses are private garages, storage sheds and swimming pools.
- 10-2-4 Administrative Officer. The person appointed by the Governing Body to enforce all provisions of the Zoning Ordinance.
- 10-2-5 Alley. A public right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street.
- 10-2-6 Alteration.
- (a) Any addition to the height or depth of a building or structure.
 - (b) Any change in the location of any of the exterior walls of a building or structure.
 - (c) Any increase in the interior accommodations of a building or structure.
- 10-2-7 Board. The Zoning Board of Adjustment of the Town of Gurley, Alabama.
- 10-2-8 Boarding House. An establishment other than a hotel, café, or restaurant with lodging for three (3) or more persons, where meals are regularly prepared and served for compensation and where food is placed upon a table family style, without service or ordering of individual portions from a menu.

- 10-2-9 Buffer strip. A strip of land, established to protect one type of land use from another with which it is incompatible.
- 10-2-10 Building. A structure, having a roof supported by columns or walls and intended to be used for sheltering people, animals, and property or business activity.
- 10-2-11 Building Area. That portion of a lot remaining after required yard setbacks have been provided.
- 10-2-12 Building Height. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.
- 10-2-13 Building Line. A line, parallel to the property line, indicating the nearest distance to the street right-of-way line that is permissible by this Ordinance.
- 10-2-14 Building, Principal. A building in which is conducted the main or principal use of a lot on which said building is situated.
- 10-2-15 Certificate of Occupancy. Official certificate that a premise conforms to the provisions of the Zoning Ordinance and may be used or occupied.
- 10-2-16 Condominiums. The form of ownership of real or personal property or a combination thereof under a declaration providing for ownership of units of the property by one or more owners. Such units may consist of private elements together with an undivided interest in common and limited common elements.
- 10-2-17 Day Care Center. A day care center is an establishments designed to provide daytime care and/or instruction for two (2) or more children, other than members of the family. The term includes day nurseries, kindergartens, childcare centers, nursery schools or play schools.
- 10-2-18 Districts. Any section of the Town of Gurley in which zoning regulations are uniform.
- 10-2-19 Dog Kennel. A structure used for the boarding of more than three (3) dogs that are more than six (6) months old, for profit or gain.

- 10-2-20 Duplexes. A building arranged to be occupied by two (2) families living independently of each other, the structure having two (2) dwelling units.
- 10-2-21 Dwellings. Any building or portion thereof, which is designed for use by residential purposes.
- 10-2-22 Dwelling, Single Family. A building arranged to be occupied by one (1) family, the structure having only one (1) dwelling unit.
- 10-2-23 Dwelling- Two Family. A building arranged to be occupied by two (2) families living independently of each other, the structure having two (2) dwelling units.
- 10-2-24 Dwelling- Multiple Family. A building arranged to be occupied by three (3) or more families living independently of each other.
- 10-2-25 Swelling Unit. A building or portion thereof, designed, arranged and/or used for living quarters of one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.
- 10-2-26 Flood. An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.
- 10-2-27 Group Care Facility. A group home in which ten (10) or less unrelated persons who are mentally retarded or mentally ill may reside, and said home may, in addition thereto, include two (2) additional persons who need not be related by blood or marriage to each other or to any of the mentally retarded or mentally ill person living in the home.
- 10-2-28 Group Development. A tract of land under single, corporation, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved development plan. A group development may be residential, commercial, industrial, or institutional nature.
- 10-2-29 Hardship. A condition existing when the conditions imposed by the Zoning Ordinance would deprive the property owner of certain development rights that are enjoyed by other property owners within the same zoning district. Upon examination of the hardship claimed, it should be determined that: (1) the property owner did not bring this hardship upon himself; (2) the physical site

conditions are such that a hardship does exist; (3) the property owner would be deprived of rights which are normally afforded under the same regulations for the zone in which his property is located. The term “hardship” should never be interpreted as meaning personal or economic hardship to the property owner.

10-2-30

Home Occupation. An occupation conducted in a dwelling unit provided that:

- (a) No person other than immediate members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding one (1) square foot in area, nonilluminated, and mounted flat against the wall of the principal building;
- (d) No home occupation shall be conducted in any accessory building;
- (e) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard or side yard.

10-2-31

Hotels, Motels Motor Hotel, Motor Lodge, Tourist Court. The words hotel, motel, motor hotel, motor lodge, tourist court, are to be considered synonymous terms and to mean a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge, as distinguished from multiple-family dwellings, and rooming and boarding houses, where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients.

10-2-32

Junk Yards. The use of more than five hundred (500) square feet of any lot or tract for the outdoor storage and/or sale of waste paper,

rags, scrap metal, or other junk, and including storage of motor vehicles or machinery.

- 10-2-33 Loading Space, Off-Street. Off-street loading space is space logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, provided the minimum size of any required off-street loading space shall have clear horizontal dimensions of twelve (12) feet by thirty (30) feet exclusive of platforms and piers and a clear vertical dimension of fourteen (14) feet.
- 10-2-34 Lot. A tract, plot, or portion of the subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.
- 10-2-35 Lot, Corner. A lot, which occupies the interior angle at the intersection of two (2) street lines. The street line forming the least frontage shall be deemed the front of the lot where the two (2) street lines are equal; in which case, the owner shall be required to specify which is the front.
- 10-2-36 Lot, Depth. The mean horizontal distance between the front and rear lot lines.
- 10-2-37 Lot of Record. A lot, which is part of a subdivision, a plat of which has been recorded in the Office of the Probate Judge of Madison County, or a lot described by metes and bounds, the description of which has been so recorded.
- 10-2-38 Lot Width. The distance between side lot lines measured at the building setback line.
- 10-2-39 Mobile Home. A single-family dwelling unit constructed on a chassis and which has been so designed that it might be occupied and used with or without a permanent foundation. It is intended for year-round occupancy and is equipped with appliances and electrical and sanitary systems that function independently of auxiliary facilities so that only simply utility connections are needed. A mobile home unit may have collapsing or telescoping parts that can be expended, or consist of two separate units joined at the site into a single home (double wide). Removal of wheels or chassis and placing such structure on the ground, piers, or other foundation shall not remove such unit from this definition.

- 10-2-40 Mobile Home Park. A parcel of land under single ownership, designed, maintained, intended or used for the purpose of supplying a location or accommodations for two (2) or more mobile homes for nontransient use. This definition shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sales.
- 10-2-41 Modular Home. Factory-built housing certified as meeting the State Building Code (or local) as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site-built homes.
- 10-2-42 Non-Conforming Use. Any lawful use of land, building or structure existing at the time of adoption of the Zoning Ordinance, which does not conform with the regulations of the district in which it is located.
- 10-2-43 Non-Residential Use. A use which is not a residential use or accessory to a residential use.
- 10-2-44 Nursing Homes. A facility that provides resident services to seven (7) or more individuals, of whom one (1) or more are unrelated. These individuals are handicapped, aged, disabled, mentally ill, or are undergoing rehabilitation and are provided services to meet their needs. This category involves uses licensed or certified by any Federal, State or County health/welfare agency.
- 10-2-45 Open Storage. Unroofed storage areas, whether fenced or not.
- 10-2-46 Parking Space. A permanently surfaced area, enclosed or unenclosed, of not less than ten (10) feet by twenty (20) feet together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile. It shall be located outside the street right-of-way and required side yards.
- 10-2-47 Permitted Use. A use by right that is specifically authorized in a particular zoning district.
- 10-2-48 Rooming House. Any building or portion thereof which contains not less than three (3) nor more than nine (9) guest rooms which are designed or intended to be used, let, or hired out for occupancy by individuals for compensation whether paid directly or indirectly.

- 10-2-49 Special Exception. A Special Exception is a use that would not be appropriate generally or without restriction throughout a zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses maybe permissible in a zoning classification or district as a Special Exception if specific provision for such a Special Exception is made in this Ordinance. (For procedure in securing Special Exceptions, see Subsection 7-4-3.)
- 10-2-50 Street. A dedicated and accepted public right-of-way for vehicular traffic that affords the principal means of access to abutting property.
- 10-2-51 Street Frontage. All the property on one side of a street between two intersecting streets (crossing or terminating), or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
- 10-2-52 Street Line. The dividing line between a right-of-way and the contiguous property.
- 10-2-53 Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including buildings and signs, walls, fences, and mobile homes.
- 10-2-54 Sub Divider. The person(s), firm(s), or corporation(s), owning land in the process of creating a subdivision or having completed a subdivision of said land. Includes any agent of the subdivision.
- 10-2-55 Subdivision. Shall mean the division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites or other division of land for the purpose, whether immediate or future, of sale or of building development. Such terms include resubdivision and, when appropriate to the context, relates to the process of subdivision or to the land or territory subdivided. It shall include all division of land involving the dedication of a new street or a change in existing street. However, the following shall not be included within this definition or be subject to the requirements thereof:
- (a) When property is divided by probated family estates;
 - (b) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved and the extension of public utilities is not required;

- (c) The public acquisition by purchase of strips of land for widening or opening streets.
- (d) The sale or gift of one portion of a parcel of land where no street right-of-way dedication is involved.

- 10-2-56 Town Council. The Town Council of the Town of Gurley, Alabama.
- 10-2-57 Town Houses or Row Houses. Town houses or row houses are three (3) or more single-family attached structures separated by fire party walls.
- 10-2-58 Variance. A Variance is a relaxation of the terms of this Ordinance where such Variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship on the land. As used in this Ordinance, a Variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of use otherwise prohibited or not permitted shall not be allowed by Variance, not shall a Variance be granted because of the presence of non-conformities in the zoning classification or district or adjoining zoning classification or districts.
- 10-2-59 Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.
- 10-2-60 Yard, Front. A yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and main building or any projection thereof, other than steps.
- 10-2-61 Yard, Rear. A yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

10-2-62 Yard, Side. A yard between the building and the side line of the lot and extending from the lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

Article XI

Remedies and Penalties

Section 11-1. Remedies.

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

Section 11-2. Penalties for Violation.

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

Article XII

Legal Status Provisions

Section 12-1. Severability.

If any part or section of this Ordinance shall be declared unconstitutional or otherwise invalid by the judgment or decree of a court of competent jurisdiction, such determination shall not affect any of the remaining sections, clauses, sentences or phrases of this Ordinance.

Section 12-2. Effective Date.

This Ordinance shall be in full force after its passage by the Town Council of the Town of Gurley, State of Alabama, on this 7th day of January, 2014.

Robert Sentell, Mayor

Bill Dear, Council Member

Robert H. Winn, Council Member

Gary Boyett, Council Member

Dorothy Johnson, Council Member

William T. Powers, Council Member

Attest:

Tawnie Bryant, Town Clerk

Appendix I

Regulations for Mobile Home Parks

Section 1. Purpose.

The purpose of this Article is to provide requirements for the development of mobile home parks while deriving for the Town the advantage of improved appearance, compatibility of uses, optimum service by community facilities and adequate vehicular access and circulation. The areas are developed and located to provide safe and sanitary conditions for occupants.

Section 2. Procedure.

No mobile home park shall hereafter be developed, redeveloped, altered or expanded without a Special Exception Permit in accordance with the procedures provided in Section 7-4-3 and 10-2-44 of this Ordinance. In addition, a site plan approved by the Planning Commission containing the following information shall be required:

- (a) Location of mobile homes on stands and dimensions of each stand. Location and number of sanitary conveniences including toilets, wash rooms, laundries, utility rooms and recreation areas to be used by the occupants of units.
- (b) A typical stand detail showing the patio, if any, and mobile home with the location of utility connections including gas, water and sewer, electrical and fire protection.
- (c) Any area within or adjacent to the proposed mobile home park subject to periodic inundation by storm drainage, overflow, or ponding, shall be clearly shown and identified on the plan.
- (d) Mobile homes now in existence at locations not in conformity with this Ordinance shall be permitted to remain at such locations; but with the following express limitations as to such mobile homes located outside an existing mobile home park or mobile home subdivision. If any such mobile home is removed from such location, it shall not be replaced with another mobile home except to upgrade the premises by the owner/occupant within a thirty (30) day period of time.

Mobile homes not in use may be stored only in mobile home parks, conforming mobile home sales lots, within the confines of a building (warehouse) or in individual lots in conforming mobile home parks with only one (1) mobile home permitted per lot.

Mobile homes may be used in allowable zones for temporary business occupancy for twelve (12) months with the Administrative Officer's approval. Application for the business occupancy must be submitted to the Administrative Officer.

Mobile homes may be temporarily parked and used as bonafied construction offices at construction sites, provided a constructive office permit is secured from the Administrative Officer.

In any residential district not more than one (1) mobile home may be permitted in a rear yard as an accessory use on a temporary basis provided the Zoning Board of Adjustment shall first make a finding that a personal hardship situation exists (such as the need to care for elderly parents or other dependants) which justifies a Special Exception of this nature. Temporary use permits shall be issued in such cases for one (1) year, but may be renewed so long as the hardship continues to exist. All such mobile homes situated in rear yards must have access to Town water and sewer service, and such mobile homes must be maintained in such a way as to create no nuisance conditions.

Furthermore, if any such mobile home must be situated closer to the side or rear yard line than the required setback for the district involved, a Variance must be obtained from the Zoning Board of Adjustment.

Section 3. License Required.

It shall be unlawful for any person to establish, operate, maintain, or permit be established, operated, or maintained upon any property owned, leased or controlled by him, a mobile home park without having first secured a license for each such park from the Town Clerk pursuant to this Article. The license shall expire on December 31st of each year, but may be renewed under the provisions of this Section for additional periods of one year.

The application for a license or a renewal thereof shall be made on forms furnished by the Town Clerk and shall include the name and address of the owner of the tract (if the tract is vested in some person other than the applicant, a duly verified statement by that person, that the applicant is authorized by him to construct or maintain the park and make the application), and such a legal description of the premises upon which the park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by three (3) copies of the park plan and one (1) copy of the Special Exception Permit.

Section 4. Requirements.

Any development, redevelopment, alteration, or expansion of a mobile home park within the Town of Gurley shall be done in compliance with these requirements:

4-1 Location. A mobile home shall be located only in designated zoning districts and with a Special Exception Permit for that Purpose as provided in this Ordinance.

4-2 Basic Minimum Requirements.

- (a) Area Requirements: The minimum size of a mobile home park shall be two (2) acres.
- (b) Stand Requirements: Each stand shall provide a minimum area of six thousand (6,000) square feet.
- (c) Open Space Requirements: The minimum front yard setback shall be twenty (20) feet from the nearest corner of the mobile home to the front line of the stand. The minimum distance between mobile homes shall be twenty-five (25) feet on the sides and twenty (20) feet on the rear.
- (d) Setback Off Public Streets: All mobile home park structures shall conform to setback requirements as defined for an R-2 District when fronting on a public street or thoroughfare.
- (e) Height Regulations: The height limit for any mobile home in the park shall be eighteen (18) feet. The height of the mobile home frame above

the ground elevation, measured at 90° to the frame, shall not be greater than three (3) feet.

- (f) Soil and Ground Cover: Exposed ground surfaces in all parts of every park shall be paved, covered with stone screenings or protected with a vegetative growth that is capable of preventing soil erosion and eliminating dust.
- (g) Drainage: The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe, efficient manner. The adequacy of drainage facilities shall be verified by a licensed professional engineer.
- (h) Design and Location of Storage Facilities: Storage facilities with a minimum capacity of two hundred (200) cubic feet or a maximum capacity of seven hundred and twenty (720) cubic feet per stand may be provided on the stand, or in compounds located within two hundred (200) feet of each stand. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be faced with masonry, porcelain steel, baked enameled steel or other material equal in fire resistance, durability and appearance, or of any equal material approved by the Administrative Officer.
- (i) Mobile Home Stands: The area of the mobile home stand shall be improved to provide adequate support for the placement of the mobile home.
- (j) Parking: Every mobile home stand shall have two (2) off-street parking spaces.

4-3 Access and Traffic Circulation. Internal streets shall be privately owned, built, and maintained, and shall be designed for safe and convenient access to all stands and parking spaces and to common use of park facilities.

- (a) An international street or common access route shall be provided to each stand. The pavement/surface street shall be a minimum of thirty (30) feet in width. The internal street shall be continuous or shall be provided with a cul-de-sac having a minimum radius of fifty (50) feet. No internal street ending in a cul-de-sac shall exceed four hundred (400) feet in length.
- (b) All streets shall be constructed to meet the minimum specifications for streets within the Town of Gurley except the curbing. A concrete lay-down curb shall be used as approved by the Administrative Officer.
- (c) Every mobile home stand shall have two (2) off-street parking spaces. Off-street parking shall be hard surfaced with all weather material.
- (d) Internal streets shall be maintained free of cracks, holes, and other hazards at the expense of the licensee.
- (e) All streets within each park shall be numbered and named with the approval of the Planning Commission.
- (f) Interior streets shall intersect adjoining public streets at ninety (90) degrees and at locations that will eliminate or minimize interference with the traffic on those public streets.

- (g) At each entrance to the park, and eighteen (18) inch by twenty-four (24) inch sign shall be posted stating “private Drive, No Thru Traffic”. The licensee may also post a speed limit sign as determined by the Planning Commission.
- (h) The licensee shall provide proper traffic control and street name signs as determined by the Planning Commission.

4-4 Park Lighting. Adequate lighting shall be provided in a manner approved by the Gurley Planning Commission. All electric and telephone lines should be placed underground.

4-5 Recreation Area. All mobile home parks shall have at least one (1) recreation area located to be free of traffic hazards, easily accessible to all park residents, centrally located where topography permits, and usable for recreation purposes. Not less than ten (10) percent of the gross park area shall be devoted to recreational facilities. Such space shall be maintained in a usable and sanitary condition by the park owner.

4-6 Utility Requirements. Each mobile home shall be connected to the municipal water system and to the municipal sewage disposal system, if available. The design and specifications of the utility systems shall meet Town specifications and shall be approved by the Town Water and Sewer Department. If the municipal utility system is not available, then a private central system shall be required until such time as the municipal systems become available. The design and specifications of such systems shall meet Health Department specifications and shall be installed under inspection of the appropriate Town and/or County department.

4-7 Mobile Home Standards. To protect the health and safety of the public and assure quality construction, all mobile home units shall conform to standards approved by the American National Standards Institute (ANSI), which is Standards for Mobile Homes, A-119.1 – 1969 as amended.

4-8 Landscape Buffer Required. When a mobile home park adjoins a single-family dwelling, a landscape buffer will be required. The use of property planted and maintained buffer areas may reduce and ease potential incompatibility between or among different uses of land in proximity to each other.

- (a) Requirements. Where this Ordinance requires a landscaped buffer area, the following requirements shall be met:
 1. The landscaped buffer area shall not be less than the width specified in the Ordinance measured at right angles to property lines and shall be established along the entire length of and contiguous to the designated property line or lines.
 2. The area shall be so designed, planted and maintained as to be eighty (80) percent or more opaque between two (2) and six (6) feet above average ground level when viewed horizontally.
 3. Types and numbers of plantings for landscaped buffers shall be submitted with application for a building or mobile home permit, along with plans and

statements demonstrating how the buffer will be irrigated in the future. No building or mobile home permit shall be issued without such data, which this Ordinance requires a landscaped buffer area or areas.

4. Planting shall be of a size and type which will insure the meeting of eighty (80) percent opacity requirement within no longer than twelve (12) months of the date of first planting. Where questions may arise as to the suitability of proposed plant materials to meet this requirement, final determination of this suitability shall be made by the Administrative Officer.

5. Failure to maintain the landscaped buffer area as set out above shall be a violation of this Ordinance.

- (b) Substitution for Landscaped Buffer Areas. Except when otherwise specifically provided by this Ordinance, a six (6) foot high opaque structure set in a five (5) foot wide landscaped buffer area may be substituted for the six (6) foot high, planted buffer described in (a) above.
- (c) Waiver by Administrative Officer. When the Administrative Officer finds what the public safety requires, he may waive or modify the buffer requirements set out above. The finding of the Administrative Officer shall be in writing and shall be filed with the approved Building or Mobile Home Permit.

