

Council Member _____ introduced the following Ordinance:



ORDINANCE NO. 1602716-029

SUMMARY: AN ORDINANCE AMENDING PROVISIONS OF THE ZONING ORDINANCES OF THE CITY OF ALABASTER, ALABAMA AND CREATION OF THE CONDITIONAL OVERLAY DISTRICT WITHIN THE CITY LIMITS OF THE CITY OF ALABASTER

THE PUBLIC GOOD REQUIRING IT, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALABASTER, ALABAMA AS FOLLOWS:

Section 1. Amendment to Section 111-13(a)(1)(a) of the Alabaster Code of Ordinances (2015).

Section 111-13(a)(1)(a) is hereby amended as follows:

(a)(1)(a) A \$200 fee to defray the cost of processing the application, together with an estimated cost to the City of advertising the proposed zoning ordinance amendment, the final cost of which shall be borne by the applicant. In the event the proposed zoning ordinance is not advertised, the estimated advertising cost paid to the City shall be refunded. No zoning amendment shall be finally effective until all advertising costs are paid by the applicant unless otherwise waived by the City Council by resolution.

Section 2. Creation of Section 111-90 of the Alabaster Code of Ordinances (2015).– Conditional Overlay District Regulations

(A) **Purpose.** The purpose of the "CO" (conditional overlay) district is to provide for additional regulation of commercial, industrial, or residential uses of land and structures in order that uses and development of said land, buildings and structures will be harmonious and compatible with and not have an undesirable or detrimental impact on surrounding development. The conditional overlay district is also designed to protect the public welfare and the property value of surrounding property by securing an appropriate development that is in harmony with the objectives of the City of Alabaster Comprehensive Plan as adopted by the Alabaster Planning and Zoning Commission.

In order to achieve the above stated purposes, provision is hereby made that in consideration of a change of zoning classification, the subject property shall be limited in such manner that it may not be utilized for all uses and standards ordinarily permitted in a particular zoning classification, may be limited in architectural type, materials, size, and design, and development of said subject property shall conform to specific conditions as determined by the planning commission and the city council. In such cases, the ordinance changing the zoning classification of the property in question shall place it in a "CO" (conditional overlay) zoning district. The "CO" (conditional overlay) classification shall be indicated in the rezoning ordinance passed by the city council (example: a B-2, general business classification with a conditional overlay would be listed as B-2/CO) and designated on the official zoning map.

(B) **Zoning districts that may be combined with a "CO" - conditional overlay classification.** Property proposed to be classified as a conditional overlay district must be combined with an existing zoning classification and may be used in combination with all zones as defined in the Zoning Ordinance of the City of Alabaster.

(C) **Uses permitted in a conditional overlay district.** The uses, designs, and structures and materials permitted under a conditional overlay classification shall be limited to those determined by the planning commission and city council during the zoning review process outlined in these regulations.

(D) **Application process.** The application process for the creation of a conditional overlay district shall be the same as a standard zoning application to be reviewed by the planning commission and city council as outlined in these regulations.

(E) **Review standards for a conditional overlay district.** In addition to permitted uses as determined by the planning commission and city council, the conditional overlay ordinance recommended by the planning commission and passed by the city council may impose standards on the subject property with respect to set-backs, build-to lines, buffers (may include required solid fencing, brick or decorative masonry walls), ingress and egress, architectural controls, architectural designs, materials, structure size, site development plan, signage, parking and maneuvering, common areas, landscaping, drainage, and environmental plans as well as other considerations that are determined to be necessary to make the proposed development compatible with surrounding land use and existing zoning. All applicable limitations and/or standards within the conditional overlay classification shall be considered to apply permanently to the site and specific uses permitted.

(F) **Recording of a development plan for a conditional overlay district.** A site development plan as proposed under conditional overlay criteria, and approved by the planning commission and city council with all conditions and permitted uses as set forth during the review process, shall be in a form for recording, (twenty-four (24) inches by thirty-six (36) inches) with standard plat signature certificates. The site plan/plat shall also include a signature line for the city council which will reference the ordinance number for the creation of the conditional overlay designation.

The site development plan designated with permitted land use shall be recorded in the office of the Probate Judge of Shelby County. The official zoning map of the City of Alabaster shall designate the conditional overlay and the planning department shall file a copy of the record plat.

If the proposal for a conditional overlay classification includes the request for subdivision approval, there will be two (2) plats required; the conditional overlay plat dealing with land use and site planning, etc; and a plat as required by the subdivision regulations of the City of Alabaster. Required plats shall be recorded within three (3) months of final approval.

The development of the site shall be in strict accordance with all aspects of the approved plans and permitted land uses.

(G) **Expiration of development plan (time limit on development).** In the event that construction in accordance with a development plan has not begun within two (2) years from the date of approval by the city council of the conditional overlay, said development plan shall become null and void. The planning commission and city council may, upon application, consider extending the time frame for development. An application for extension may require additional conditions for the development if there is a change in circumstances in surrounding properties or a change in regulations.

If no construction has begun, or there is no application is submitted for an extension of the time limit for development, the planning commission may consider recommending an amendment to the city council for the reclassification of the property to its original zone.

(H) **Amendments to an approved conditional overlay district.** In the event that a change in the site development plan or more permitted uses than those set forth in the conditional overlay rezoning ordinance as recommended by the planning commission and passed by the city council are desired for the subject property, the proposed plan/uses must be re-submitted to the planning commission. The planning commission will consider the application in accordance with normal policy and procedures for rezoning and recommend the additional uses or change in site

plan to the city council who shall, after proper notification, hold a public hearing on the matter to determine the validity of the application. Upon a denial of the application by the planning commission for a change in the plan or additional uses, the applicant has the option to proceed to the city council to request a hearing to approve or deny the proposal.

Proposed amendments pertaining only to minor aspects of the plan such as building orientation, parking layout, and so forth that will not impact adjoining properties, may be approved internally by departmental reviews. All changes shall be designated on a revised site plan and/or subdivision plat, as appropriate, and recorded in the office of the Probate Judge of Shelby County.

(l) **Application and recording fees.** Standard zoning and/or subdivision fees shall be required at the time the application is submitted to the planning commission.

The applicant shall be responsible for all fees related to the advertising and recording of the final plan and ordinance in the office of the probate judge of Shelby County.

Section 3. Amendment to Section 111-262 through 111-269, Alabaster City Code of Ordinances (2015) as follows:

Sec. 111-262. - Intent.

The intent of this article is to require a minimum number of trees in residential areas, to establish standards for buffers required between differing land uses or zoning districts, and to provide for landscaping surrounding and within vehicular areas in high-traffic corridors. Because of the unique nature of mixed use development, this article shall not apply to a MXD Mixed Use District. Requirements for landscaping and buffers shall be established for each mixed use development as part of the development plan review process as required in section 111-87(h).

Sec. 111-263. – General Landscaping standards.

In addition any other requirements herein, the following general landscaping standards shall apply to all new construction and reconstruction in the City:

- (1) Prior to issuance of a certificate of occupancy on a lot that is 70 feet or less in width, the owner shall plant at least two shade trees in the front or side yards, and at least one shade tree in the rear yard if feasible.
- (2) Prior to issuance of a certificate of occupancy on a lot that is more than 70 feet in width, the owner shall plant at least one shade tree for each 30 feet in width, and at least two shade trees in the rear yard if feasible.
- (3) Only shade trees listed in section 111-267 may be planted to comply with the requirements of this section.
- (4) Existing trees which are at least six inches in diameter may be used toward meeting the requirements of subsections (1) and (2) of this section, if the area within the dripline of the trees has been left in its natural condition and no filling, grading, excavation, or parking of vehicles or equipment, or other activity which could damage or kill the tree, has occurred within the dripline of said existing trees.
- (5) For any commercial structure containing more than 25 parking spaces there must be a landscape island every 10 linear parking spaces with a shade tree listed in section 111-267.

Sec. 111-264. - Buffers.

- (a) **Applicability.** Buffer regulations are set forth in each of the zoning district sections of article III of this chapter. A landscaping plan shall be required as part of every zoning application, special exception use application, and building permit application for construction which is required by this chapter to have a buffer.

(b) Standards. In order to decrease incompatibility between neighboring land uses, the following standards shall apply to all buffers required by this chapter, whether the buffer is comprised of planted or natural vegetation, or a combination of planted and natural vegetation:

- (1) Prior to occupancy of the building or premises, the buffer shall provide a visually impervious barrier, uniformly dense at all heights from the ground, and a minimum of five feet above grade throughout the entire length of the buffer. Within one year after installation, the buffer shall be at least six feet above grade throughout the entire length of the buffer. The buffer shall be comprised of vegetation which meets or exceeds these minimum standards throughout the calendar year.
- (2) In the case of planted buffers, the entire surface area of the buffer shall be planted as prescribed in this section. Only evergreen plant materials may be planted within a required buffer.
- (3) Public utilities and storm drainage facilities may be constructed in a required buffer, provided the buffer is installed in compliance with the approved landscaping plan. The city may require supplemental evergreen plantings in order to mitigate the effect of land disturbance in the buffer.
- (4) The owner shall be responsible for the maintenance, repair and replacement of all landscaping materials. All plant material shall be maintained in a healthy growing condition, replaced when dead and kept free of weeds, refuse and debris.

Exception: Where there are constraints that cannot feasibly be overcome with respect to buffers for any non-conforming lot, the Zoning Official may allow substitution with a 6' tall wooden privacy fence, or a continuous, opaque vegetative screen with a minimum height of 6' at time of installation.

Sec. 111-265. - Landscaping requirements for vehicular areas in high-traffic corridors.

(a) Applicability.

- (1) The regulations of this section apply to all areas which are located within or visible from a high-traffic corridor, and used for drives; off-street parking and loading; vehicular storage, display, maneuvering and washing; and the dispensing of motor fuels (hereinafter referred to as "vehicular areas").
- (2) A landscaping plan shall be required as part of every zoning application, special exception use application, variance application and building permit application for new construction which includes vehicular areas as herein described. This section shall apply to new vehicular areas for all uses, except single-family dwellings, two-family dwellings and manufactured or mobile homes, or for any change of use. For the purposes of this section, a change in use includes any non-conforming use or building that has remained vacant for six months, and any existing use that changes to any other permitted use.
- (3) Exception-Existing off-street parking areas. An off street parking area which is in existence and does not conform to the provisions of this section may continue until such time as it is altered by more than fifty (50) percent of its existing parking capacity, at which time a landscaping plan meeting the requirements of this section for the existing and new vehicular areas must be submitted for approval.

(b) Interior vehicular areas.

- (1) Each vehicular area shall have interior landscaping covering not less than five percent of the total vehicular area, and shall include a landscape island separating every 10 parking spaces. Such landscaping shall be in addition to all plantings within six feet of a building.
- (2) The primary landscaping materials used in vehicular areas shall be shade trees which comply with the standards of section 111-267. Shrubs and other planting materials may be used to complement the shade tree planting, but shall not be the sole component of the landscaping.

- (3) The interior dimensions of any planting area shall be sufficient to protect all landscaping materials planted therein.
- (c) Perimeter areas adjacent to public rights-of-way.
- (1) Only shade trees as referenced in section 111-267 may be used to comply with the requirements of this subsection (c).
 - (2) A landscaped strip at least ten feet wide, which shall not include a sidewalk or trail, shall be located between the vehicular area and the public right-of-way, except where driveways cross the property line.
 - (3) The entire ten-foot-wide strip shall be planted at least one shade tree for every 30 feet of frontage, and supplemented with a double staggered row of shrubs at an equivalent planting of one shrub every 36 inches on center. The shrubs shall be evergreen and a minimum of 30 inches high at the time of installation.
 - (4) Landscaping shall not be planted in a manner or location which causes a hazard to vehicles entering or within the public right-of-way.
- (d) Peripheral areas adjacent to private property.
- (1) Only shade trees listed in section 111-267 may be used to comply with the requirements of this subsection (d).
 - (2) A landscaped strip at least five feet wide shall be located along all property lines which separate vehicular areas and drives from adjoining property, except where driveways cross the property line.
 - (3) At least one shade tree for every 30 linear feet of required landscape strip, or portion thereof, shall be planted in the landscaped strip.

Sec. 111-266. - Maintenance and irrigation.

Commercial owners shall be responsible for the maintenance, repair and replacement of all landscaping materials required by sections 111-264 and 111-265. All plant material shall be tended and maintained in a healthy growing condition, replaced when dead and kept free of weeds, refuse and debris.

Sec. 111-267. - Required shade trees.

Only the species of shade trees that are provided on a list maintained by the Zoning Official may be used to satisfy the requirements of Sections 111-263, 111-264 and 111-265, which shall be published by the Zoning Official on the City's website. Such plantings shall be at least two inches in diameter, measured five feet above the root ball of the tree and shall be of such species as are common to the area and disease and drought resistant.

-Sec. 111-268. - Landscaping plan.

A landscaping plan shall be required as part of every zoning application, special exception use application, and building permit application for new construction or reconstruction in the City. The landscaping plan shall be drawn to a scale no larger than one inch equals 50 feet and shall contain the following information:

- (1) The location and dimension of all areas proposed for landscaping and planting, including a description of the proposed plant materials.
- (2) All dimensions and distances, property lines, easements, rights-of-way and buffers.
- (3) Existing and proposed buildings and structures, including signs, trash and garbage containers and utility and drainage structures.
- (4) Bodies of water, including water detention and retention areas.
- (5) Driveways, vehicular areas, existing and proposed parking spaces, access aisles and other vehicular areas.
- (6) Sufficient information and details to demonstrate compliance with the requirements of this article.

Sec. 111-269. - Enforcement.

- (a) A required landscape plan shall be submitted to and approved by the city prior to the issuance of a building permit for any property subject to Sections 111-263, 111-264 and 111-265. The city may accept a financial guarantee in an amount determined by the city to be not less than 150 percent of the cost of implementing the landscaping plan if all landscaping requirements are not met at final inspection. The guarantee shall be in the form of a bond, irrevocable letter of credit or certificate of deposit made payable to the city. Prior to release of the financial guarantee and prior to issuance of a certificate of occupancy, the city shall determine that the landscaping plan has been implemented.
- (b) Prior to issuance of a certificate of occupancy the owner shall comply with the plan submitted and approved by the city.

Section 4. Severability

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

Section 5. This Ordinance shall become effective immediately upon its enactment and publication as required by law.

ADOPTED AND APPROVED THIS 27th DAY OF JUNE, 2016.

ATTEST:

CITY OF ALABASTER, ALABAMA

George Henry, City Manager/Clerk

Scott Brakefield, Council President

APPROVED:

Marty B. Handlon, Mayor