ZONING ORDINANCE

CITY OF HELENA, ALABAMA

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An Ordinance, in pursuance of the Authority granted by Volume 10, Title 11, Chapter 52, Article 4, Code of Alabama 1975, as amended and supplanted by all applicable laws to provide for the establishment of Districts within the Corporate Limits of Helena, Alabama: to regulate within such districts the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards and other open spaces, the density of population and the use of buildings, structures, and land: to repeal all existing Zoning Ordinances and to provide methods of administration of this Ordinance and penalties for violation thereof.

THE PUBLIC WELFARE REQUIRING IT, be it ordained by the City Council of the City of Helena, Alabama, as follows:

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ARTICLE I: SHORT TITLE

This Ordinance shall be known as the "Zoning Ordinance of Helena, Alabama", and the map herein referred to, identified by the title "Zoning Map of Helena, Alabama", shall be further identified by the signature of the Mayor of Helena and attested by the City Clerk. The Zoning Map of Helena is hereby adopted and made a part of this Ordinance. Said Zoning Map shall zone only territory within Helena. Such map is filed with the Clerk of Helena at the time of the introduction of this Ordinance, will remain on file in the office of the said Clerk and upon the adoption of the ordinance, said map will show by endorsement thereon the date of such adoption.

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ARTICLE II PURPOSE AND METHOD

Section 1. Purpose

The fundamental purpose of this Ordinance is to promote the public health, safety, morals and general welfare; to provide for the orderly development and growth of Helena, Alabama; to avoid congestion on the public roads and streets; to conserve life, property and natural resources and the expenditure of funds for public improvements and services to conform with the most advantages uses of land, resources and properties, for the general good and benefit to the people of Helena.

Section 2. Method

For the purposes hereinbefore stated, the City of Helena is divided into districts of such number, shape and area, and of such common unity of purpose, adaptability of use, which are deemed most suitable to provide for the best general civic use, protect the common rights and interests within each district, preserve general rights, and interests of all; and by further regulations to limit the location, uses, and occupancy of buildings, structures, and land to be used for trade, industry, residence, or other structures, including the number of lots occupancy and coverage, street setback lines, size of yards, and other open spaces.

Section 3. Zoning Districts

In order to classify, regulate, and restrict the location of buildings designed for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity of the use of the land area, and to regulate and determine the areas of open spaces within and surrounding such buildings, the City of Helena, Alabama, is hereby divided into the following districts:

3.1	A-1	Agricultural District
3.2	E-1	Single Family Estate District
3.3	E-2	Single Family Estate District
3.4	E-3	Single Family Residential District
3.5	R-1	Single Family Residential District
3.6	R-2	Single Family Residential District
3.7	R-3	Single Family Residential District
3.8	R-4	Townhouse District

3.9	R-5	Two Family District
3.10	R-6	Multi-Family District
3.11	CRBC	Cahaba River/Buck Creek Conservation Overlay District
3.12	O-I	Office & Institutional District
3.13	B-1	Neighborhood Business District
3.14	B-2 B-3 B-4	General Business District Mini Warehouses District Business Renaissance District
3.15	M-1	Light Industrial District
3.16	M-2	Heavy Industrial District
3.17	SD	Special District Planned Shopping Center Special District Planned Residential Special District Planned Industrial Special District Mobile Home Parks
3.18	U-1	Utilities District
3.19	U-2	Communications Tower District

Section 4. Zoning Map

The boundaries of the districts are as shown on the map which shall be known as the "Helena Zoning Map". Unless otherwise shown on said Zoning Map, the boundaries of districts are lot lines, center lines of streets or alleys or such lines extended, railroad right-of-way lines, or the corporate limit lines as they exist.

Section 5. Interpretation of District Boundaries

The Building Official shall make an interpretation of the "Helena Zoning Map" upon request of any person. Where uncertainty exists as to the boundaries of any district shown on said maps the following rules shall apply:

5.1 Where boundaries are indicated as approximately following street and alley lines or land lot lines, such lines hall be construed to be such boundaries.

5.2 In un-subdivided property or tracts where a district boundary divides a lot, the location of such boundaries, unless same are indicated by dimensions, shall be determined by the use of the scale appearing on such maps.

5.3 Where boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or to the center lines or alley lines of alleys or to the center lines or right-of-way lines of highways, such boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the said maps.

5.4 In case any further uncertainty exists, the Helena City Council shall determine the location of boundaries.

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ARTICLE III ADMINISTRATION AND REVIEW PROCEDURES

Section 1. General Administration

The provisions of this ordinance shall be administered and enforced by the Building Official of the City. This Official shall have the right to enter upon any premises at any reasonable time prior to the issuance of certificate of occupancy for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

Section 2. Establishment of Board of Adjustment

There is hereby established for the City of Helena a Board of Adjustment whose members shall be appointed by the Mayor and Council of the City of Helena. The members of the Board of Adjustment shall be appointed pursuant to the terms and provisions of Section 11-52-80, Code of Alabama, 1975. The Board of Adjustment herein established shall have only those powers specifically delegated to it by the provisions of Section 11-52-80, Code of Alabama, 1975.

Section 3. Building Permit

It shall be unlawful to commence earthwork or the construction of any building or other structure, including accessory structures, signs, or to store building materials to erect temporary field offices, or to commence the moving, alteration, or repair of any structure, until the Building Official of the City has issued, for such work, a building permit including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this Ordinance. Application for a building permit shall be made to the Building Official of the City on forms provided for the purpose.

Section 4. Review of Building Permit Applications

It shall be unlawful for the Building Official of the City to approve any plans or issue a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this Ordinance. Said plan shall include:

4.1 The actual shape, proportion and dimensions of the lot.

4.2 The shape, size, use, and location of all buildings, signs, or other structures to be erected, altered or moved and of any buildings or other structures already on the lot, both above and below existing grade.

4.3 The existing and proposed facilities for the disposal of storm water drainage.

4.4 The setback and side lines of buildings on adjoining lots and such other information concerning the lot or adjoining lots as may be essential for determining conformance with the provisions of this Ordinance.

4.5 Written certification from the Helena Utility Department or the Shelby County Health Department that adequate sewage treatment facilities are available at the proposed site.

4.6 Every application for the use of land under, and by virtue of the provisions of, this Ordinance shall include therewith a plan showing the location of necessary fire hydrants with adequate flow.

4.7 In the event of an application request such as a permit for the construction of a theater, hotel, state building, private school building or commercially structured building containing fifteen (15) or more rooms, the applicant shall furnish to the Building Official a written certification from the applicant's architect affirming that the plans have been approved by the Building Commission of the State of Alabama.

Section 5. Approval of Building Permit Application

If the proposed excavation, construction, moving, or alteration as set forth in the application, are in conformity with the provisions of this Ordinance, the Building Official of the City shall issue a building permit accordingly.

Section 6. Denial of Building Permit Application

This applicant, upon notification in writing by the Building Official of a building permit denial may contact the City Clerk, in writing, and request a hearing before the Board of Adjustment.

Section 7. Certificate of Occupancy

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used or occupied until the Building Official of the City shall have issued a certificate of occupancy.

Within three (3) working days after the owner of his agent has notified the Building Official of the City that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Building Official of the City to make a final inspection thereof, to issue a certificate of occupancy if the building or premises is found to conform with the provisions of this Ordinance or, if such certificate is refused, to notify such applicant in writing of the refusal and the cause or causes thereof. Appeals from the decision of the Building Official shall be heard by the Board of Adjustment.

Section 8. Expiration of Building Permit

Any permit under which no construction work has been done above the foundation wall or other foundation support within six (6) months from the date of issuance shall expire by limitation, but shall upon re-application be renewable, subject, however, to the provisions of all Ordinances in force at the time of said renewal. In no event shall any permit be renewed more than one time.

Section 9. Unlawful Structure

Any uses of land or dwellings or construction or alteration of buildings, or structures erected, altered, razed or converted in violation of any of the provisions of this Ordinance are hereby declared to be a nuisance per se. The Building Official is hereby authorized to apply to a court of equity to abate the nuisance created by such unlawful use of structure. Whenever the Building Official has declared a structure to be not conforming with the provisions of this Ordinance, the owner or occupant shall, within seventy-two (72) hours from the issuance of a notice from the Building Official to vacate such premises, accomplish such vacation of such structure or premises which shall not again be used or occupied until such structure or premises has been adapted to conform to the provisions of this Ordinance.

Section 10. Penalties

Any person, firm, corporation, or other organization which violates any provisions of this Ordinance shall be fined upon conviction not less than two dollars ($2.00) nor more than one hundred dollars ($100.00) and cost of court for each offense. Each day such violation continues shall constitute a separate offense.

Section 11. Remedies

In case any building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Building Official of the City or any other appropriate authority or any adjacent or neighboring property owner who would be damaged or caused hardship by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to stay or prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to correct or abate such violation or to prevent occupancy of such building structure or land.

Section 12. Rezoning or Amendments

A proposed change of the zoning district boundaries or of the regulations as they pertain to a piece of property may be initiated by the City Council, the Planning Commission, or at the request of the owner or owners of the property to be rezoned or their authorized agents.

When a rezoning request is made by a petition of the property owner, the following procedure shall be followed:

12.1 The applicant shall submit to the City Clerk:

12.1.1 A one hundred fifty-dollar ($150.00) fee to defray the cost of processing the application, along with the cost of giving legal notice, plus cost of certified mailing to all adjoining property owners.

12.1.2 A map, drawn to scale, indicating: the dimension and exact location of the site in relation to the vicinity in which it is located; location of all public Rights-of-way; location and dimension of all existing and proposed buildings and structures on the site and adjacent sites and the nature and location of all existing and proposed facilities for the disposal of storm water drainage.

12.1.3 A written statement indicating:

12.1.3.1 Reason for the rezone request
12.1.3.2 Expected traffic volumes to be generated by the proposal.
12.1.3.3 Availability of required utilities
12.1.3.4 Relationship of the proposed rezoning to the land use pattern of the vicinity.
12.1.3.5 Legal description of proposed rezoning site.

12.2 In the event the rezoning request affects only one contiguous parcel of land, a minimum of five (5) days prior to the Planning and Zoning Commission meeting at which the rezoning request is initially considered the City Clerk shall notify by certified mail all persons included on a list of adjacent property owners. The notice shall state the following:

12.2.1 Location of rezone request (by street address and legal description).

12.2.2 The nature of the rezone request (indicating the current zoning of the site and the proposed rezoning classification).

12.2.3 The time, date and location of the Planning and Zoning Commission meeting at which the rezoning request is to be reviewed.

In the event the rezoning request would, if adopted, apply to more than one parcel of contiguous or noncontiguous located within the city, in lieu of all other notice provisions contained herein, the City Clerk shall give notice of such rezoning request by publishing a copy of the proposed ordinance or proposed rezoning request in full for one insertion and an additional insertion of a synopsis of the same, one week after the

first insertion, which synopsis shall refer to the date and name of the newspaper in which the proposed amendment, ordinance or rezoning proposal was first published; both such insertions shall be at least fifteen (15) days in advance of its passage and in a newspaper of general circulation published within the municipality or, if there is no such newspaper, then by posting the proposed amendment, ordinance or rezoning proposal in four conspicuous places within the municipality, is to be considered, 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 thereof.

12.3 The Planning and Zoning Commission shall schedule a hearing on the application at the first regularly scheduled meeting after compliance with notice provisions, as set forth herein.

12.4 Upon receipt of a favorable recommendation from the Planning and Zoning Commission, the City Clerk shall, in accordance with State Law, schedule and advertise the proposed amendment for a public hearing before the City Council.

12.5 Upon receipt of a negative or no action recommendation from the Planning and Zoning Commission, the City Council review process will be initiated at the request of the applicant.

12.6 When the City Council denies a rezoning request, the Planning and Zoning Commission shall not reconsider the same request for a period of six (6) months. Each time the City considers a zoning request, the one hundred fifty dollars ($150.00) administrative fee must be paid, along with cost of legal notice.

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ARTICLE IV DEFINITION

For the purpose of this Ordinance certain terms used herein are herewith defined. When not consistent with the context, words used in the present tense include the future, words in the singular include the plural, number and words in the plural include the singular number. The word "shall" is mandatory.

ACCESSORY STRUCTURE - A subordinate structure incidental to the primary use of the site.

ACCESSORY USE - A use naturally and normally incidental to and subordinate to and devoted exclusively to the main use of the premises.

ALLEY - A public or private thoroughfare or way which affords only a secondary means of access to abutting property.

ALTER AND ALTERATION - Any change or modification in construction or occupancy.

BASEMENT - That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater that the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

BILLBOARD - Any sign used as an outdoor display for the purpose of making anything known, the matter advertised or displayed, being remote from its origin or point of sale.

BLOCK - All land fronting on one side of a street between the nearest intersecting streets, roads, railroad rights-of-way and waterways, meeting or crossing the aforesaid street and bounding such land.

BOARDING HOUSE - A building other than a hotel or motel, where for compensation and by prearrangement-arrangement for specific time periods, meals and lodgings are provided for not less than three (3) persons nor more than ten (10) persons.

BUILDING - A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels; and when supported by division walls from the ground up without ingress and egress provided between such divisions or suitable openings, each portion of such building so divided shall be deemed a separate building.

BUILDING AREA - That portion of lot occupied by the main building, including porches, carports, accessory buildings, and other structures.

BUILDING FACE OR WALL - All window and wall area of a building in one plane or elevation.

BUILDING FACE SIGN - A sign attached to the wall of a building with the sign face horizontally parallel to the building wall, and shall not exceed the roof line in height.

BUILDING FRONT SIGN - A sign attached to the wall of a building with the sign face horizontally parallel to the building wall, and may exceed the roof line in height.

BUILDING HEIGHT - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building of the highest point of the roof for flat roofs, to the decked line for mansard roofs, and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

BUILDING MAIN - A building in which is conducted or intended to be conducted the main or principal use of the lot on which said building is located.

CARPORT - An accessory structure attached to a principal building, having a roof with one or more sides and intended for the sheltering of motor vehicles.

CLINIC - A building or a portion of a building where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing together.

CLUB PRIVATE - A building or portion thereof or premises owned or operated by a corporation, association, persons or person, for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

COPY AREA - The area in square feet of the smallest geometric figure which describes the area enclosed by the actual copy of a sign.

CUL-DE-SAC - The dead-end street terminated by a vehicle turnaround area having a minimum right-of-way radius of fifty feet (50').

DAY CARE CENTER - Any facility receiving more than six (6) individuals for care during all or part of the day. The term does not include: programs operated as part of public or private schools; programs operated on federal governmental premises; and special activities programs such as athletics, crafts, and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations.

DIRECTIONAL SIGN - Any sign which serves solely to designate the location or direction or any place or area.

DISCOTHEQUE - Establishment wherein dancing by patrons is the primary activity and where dancing by employees is prohibited.

DISTRICT - A section or sections of the City of Helena for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

DOUBLE FACED SIGN - A sign with copy area on both sides of sign.

DRIVE-IN RESTAURANT - A restaurant or public eating establishment so conducted that food, meals or refreshments are brought to a vehicle for consumption therein or on the premises, by the customer or patron.

DRIVE-IN THEATER - A theater so arranged and conducted that the customer or patron may view the performance while being seated in a vehicle.

DWELLING - Any building or portion thereof which is designed or used exclusively for residential occupancy.

DWELLING - MULTIPLE - A structure designed or used for residential occupancy by more than two families, with or without common or separate kitchen or dining facilities, including apartment house, apartment hotels, rooming houses, boarding houses, fraternities, sororities, dormitories, row houses, townhouses, and similar housing types, but not including hotels, motels, hospitals or nursing homes.

DWELLING - SINGLE FAMILY - A detached building so designed and arranged to provide sleeping, cooking and kitchen accommodations and toilet facilities for occupancy by one family only.

DWELLING - TWO FAMILY - A building arranged to provide separate sleeping, cooking and kitchen accommodations and toilet facilities for occupancy by two families.

DWELLING UNIT - Any portion of a building used as a separate abode for a family having its own cooking and kitchen accommodations and toilet facilities.

EARTHWORK - The breaking of ground, except common gardening and ground care.

ELECTRICAL SIGN - Any sign containing electrical wiring which is attached or equipped to be attached to an electrical energy source.

ENTRANCE WALL - A free standing masonry structure, located on private property, the sole purpose of which is to highlight or emphasize the appearance and location of a private driveway entrance from a public road.

ERECT - Construct, build, reconstruct, alter, move upon, or any physical operations on the premises required for the building, principal structure, sign or accessory use. Excavation, earthwork, fill, drainage work, utilities installations and other work as it relates to the construction or use of a building principal structure, sign or accessory use shall be considered within the meaning or erect.

ESSENTIAL SERVICES - Erection, construction, alteration or maintenance by public utilities or municipal departments or commission of underground or overhead gas, electrical, steam, or water transmission or distribution systems; of other transmission, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories used in connection therewith but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the general public health, safety and welfare.

FAMILY - One person or a group of two or more persons lives together and interrelated by bonds of consanguinity, marriage, or legal adoption, occupying the whole or part of a dwelling as a separate housekeeping unit with a common and single set of culinary facilities.

FAMILY SUBDIVISION - The division of a lot, tract, or parcel or land into two (2) or more lots, plats, sites or other divisions of land, whether described by metes and bounds or any other description, for the purpose of establishing a residential use to be occupied by legally related immediate family members (spouse, child, parent, grandparent, sibling or step-related individuals of the same status). Proof of legal relation shall be the unique responsibility of the applicant.

FENCE - A structure intended for a barrier or enclosure.

FIRST FLOOR - The term "FIRST FLOOR" shall mean the lowest floor surface of that portion of a structure defined as a story.

FLASHING SIGN - Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally-mounted intermittent light source. Automatic changing signs such as public service time, temperature and date signs or electronically controlled message centers are not classified as flashing signs.

FLOOR AREA LIVABLE - The livable floor area for all residential uses shall be the area of the first floor plus the area of the floors next above, and the area under a sloping roof having a minimum ceiling height that meets the City of Helena Building Code. Garage floor area, basements, decks, porches, patios, terraces and carport floor area are not included as livable floor area.

FLOOR AREA NON-RESIDENTIAL - The gross floor area, including basement of any structure.

FREE STANDING SIGN - Any sign erected on a free standing frame, foundation, mast or pole and not attached in any way to any building.

GARAGE - PRIVATE - A private garage is a garage for which the principal use is storage or privately owned vehicles and constituting an accessory use on the lot.

GARAGE - PUBLIC - Any garage other than a private garage available to the public operated for gain.

GASOLINE SERVICE STATION - Any building, structure or land at which the sale of combustible and flammable fuels is conducted.

GRADE - The average level of the finished ground surfaces.

HAZARDOUS USES - All uses which involve the storage, sale, manufacture, processing or handling of materials which are easily ignited and likely to burn with moderate rapidity or cause smoke, including materials which are highly flammable, explosive, noxious, toxic, or inherently dangerous to humans, animals, land, crops, or property.

HOME OCCUPATION - A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes and does not change the essential residential character or appearance of such building.

HOSPITAL - A public or proprietary institution providing medical diagnosis, treatment, or other care of human ailments, operating under license by the Alabama State Health Department, and which, unless otherwise specified, shall be deemed to include institutions primarily for treatment of contagious diseases and the insane or feeble minded but not including nursing homes.

HOTEL - A building or part thereof occupied as the more or less temporary abiding place of individuals in which the rooms are usually occupied singularly for hires and in which rooms no provision for cooking is made and in which building there is usually a kitchen and public dining room for the accommodation of the occupants and guests.

INDUSTRIAL PARK - Tract of industrial land, and subdivided into two or more parcels.

INSTITUTION - A building or activity operated by a non-profit corporation or non-profit establishment for public use.

JUNK YARD - A place, structure or lot where junk, waste, discarded, salvaged or similar materials such as old iron or other metal, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are stored, bought, sold, exchanged, baled, packed, dissembled or handled.

KENNEL - INDOOR - A building in which five or more domestic animals are permanently or temporarily boarded, groomed, trained or treated, for compensation.

KENNEL - OUTDOOR - A lot or premises on which five or more domestic animals are permanently or temporarily boarded, groomed, trained or treated, for compensation.

LAND AREA - Property which is not water surface area.

LIVE ENTERTAINMENT - Any activity performed by persons for the entertainment of patrons on the premises of establishments dispensing alcoholic beverages.

LOADING SPACE - A space having minimum dimensions of twelve by thirty-five feet (12 x 35') and a vertical clearance of at least fourteen feet (14') within the main building or on the same lot, providing for the standing, loading or unloading of trucks.

LOT - Land occupied or intended to be occupied by a building and its accessory buildings or by a dwelling or group of dwellings and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance and having not less than the minimum area required by the Ordinance for a lot in the district in which it is located and having its principal frontage upon a public street.

LOT - CORNER - A lot abutting upon two or more streets at their intersection.

LOT - INTERIOR - A lot other than a corner lot.

LOT LINE - The lines bounding a lot as defined herein.

LOT LINE - FRONT - In the case of a lot line abutting upon one street, the front line is the line separating such lot from such a street. On corner lots the front lot line shall be considered as parallel to the streets upon which the lot is located.

LOT LINE - REAR - The rear lot line is that opposite the front line. In case of a lot terminating at a point at the rear of the lot, or having a rear lot line less than ten feet (10') long, the rear lot line shall be considered a line parallel to the front line having a length not less than ten feet (10') long.

LOT LINE - SIDE - Any lot line other than the front lot line or rear lot line.

LOT-OF-RECORD - A lot of record is a lot shown on the records in the office of the Judge of Probate and which actually exists as so shown.

LOT WIDTH - The width of the lot measured at the building setback line.

MEZZANINE - An intermediate or fractional story between the floor and ceiling or a main story occupying not more than one-third (1/3) of the floor area of such main story.

MINI-WAREHOUSE - A structure or group of structures, not to exceed one story in height, partitioned for leasing of individual storage spaces, wherein no retail or wholesale trade is conducted.

MOBILE HOME - A detached unit for residential purposes designed for transportation after fabrication, on streets and highways on its own wheels and arriving at the site where it is to be occupied complete and ready for occupancy or use except for minor

and incidental unpacking and assembly operations, foundations, connections to utilities, and the like. A travel trailer is not to be considered as a mobile home.

MOBILE HOME COMMUNITY - An area containing one or more mobile/manufactured homes used as living facilities, which is zoned for said homes.

MODULAR/MANUFACTURED HOME - Any structure, or component thereof, designed primarily for residential occupancy which is wholly, or in substantial part, made, fabricated, formed, constructed or assembled in a manufacturing facility or at an off-site point for installation, or assembly and installation on the building site.

MOTEL - A motel or motor court is a business comprised of a dwelling unit or a group of dwelling or dwelling units so arranged as to furnish overnight accommodations for transient guests.

NIGHTCLUB - Establishment where dancing by employees is provided as either a primary or incidental economic activity.

NON-CONFORMING USE - The use of any building, structure or land which was lawful at the time of the passage of this Ordinance, or amendment thereto but which use does not conform, after the passage of this Ordinance or amendment thereto, with the use regulations of the district in which it is situated.

NURSING HOME - A home for the aged or infirm in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics, or similar establishments devoted primarily to the diagnosis and treatment of the sick or injured.

NURSERY SCHOOL, KINDERGARTEN OR DAY CARE CENTER - Any premises or portion thereof used for educational work or parental care of children of less than the age required for enrollment in the public school system.

OFFICE - Space or rooms for professional, administrative, clerical and similar uses.

PARKING AREA - An open, unoccupied space which is surfaced by either bituminous pavement or concrete, used or intended to be used for parking of vehicles, and in which no business is conducted.

PARKING SPACE - A parking space is an area surfaced by either bituminous pavement or concrete, enclosed or unenclosed, not less than nine feet wide by twenty feet long (9' W x 20' L) unless a smaller dimension is specifically permitted by this Ordinance.

PORTABLE SIGN - Any sign not permanently attached to the ground or a building.

PREMISES - A lot, together with all buildings and structures existing thereon.

PROPERTY LINE - The line bounding a lot as defined herein.

PUBLIC UTILITY - Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under regulations to the public, electricity, gas, steam, telephone, telegraph, transportation, drainage, water or sewer.

RESTAURANT - An establishment where food is cooked, patrons dine on or off premises, and where there is no drive-up or walk-up window service or service to customers in their vehicles.

RESTAURANT - CATERING - An establishment where food is cooked or prepared exclusively for delivery off the premises by employees.

RESTAURANT - DRIVE-UP - An establishment where food is cooked or prepared, and where there is drive-up or walk-up window service, or service to customers in their vehicles.

RESTAURANT - FOOD SERVICE - An establishment where food is not cooked on the premises, but is prepared and served, including: sandwich shop, delicatessen, ice cream parlor, yogurt shop, soda fountain, and similar establishments where there is no drive-up or walk-up window service or service to customers in their vehicles.

ROAD - That portion of a public thoroughfare or right-of-way intended for use by vehicles.

ROOF LINE - The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROOMING HOUSE - Either a one (1) or two (2) family dwelling other than a hotel, motel, or apartment house where lodging for one (1) or more persons not of the immediate family is provided for compensation and by prearrangement for definite time periods.

SHOPPING CENTER - Two or more retail or service establishments in the B-2 Commercial District, located in one building or a group of architecturally unified buildings; said buildings being under one ownership or management, with selected tenants, and having an integrated parking area.

SIDEWALK - The paved portion of a public thoroughfare or right-of-way intended for use by pedestrians.

SIGN - A name, identification, image, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business and which is visible from any street, right-of-way, sidewalk, alley, park or other public property.

SIGN FACE - The area of a sign on which copy could be placed.

SIGN STRUCTURE - The structure of a sign shall include the entire sign, its supporting devices, sources of illumination, and copy area. However, with regard to internally illuminated signs in which the copy area is depicted on a sign face which is designed to be removed from the sign cabinet for maintenance, repair, or change of copy, the sign structure shall not include the sign face nor source of illumination.

STORY - That part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty percent (50%), by cubic content, is below the height level of the adjoining ground.

STORY - HALF - A half story is a story situated within a sloping roof, the floor area of which, at a height of five feet (5') above the floor, does not exceed two-thirds (2/3) of the floor area in the story directly below it and the height above at least two hundred (200) square feet of floor space is seven feet six inches (7'-6"). A half story containing independent apartment or living quarters shall be counted as a full story.

STREET - A thoroughfare which affords a principal means of access to abutting property and which has been accepted by the City as a public street.

STRUCTURE - A structure is any construction or production of a piece of work artificially built up or composed of parts joined together in some definite manner.

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

USE - A use is the purpose for which land or buildings and structures thereon are designed, arranged or intended to be used, occupied or maintained.

VEHICLE BARRICADE - A fence or wall less than thirty inches (30") high, located within the front yard, for the sole purpose of restraining motor vehicles from entering said yard. The vehicle barricade may not be located on the public road right-of-way.

WATER SURFACE AREA - Property within lakes, ponds, rivers and year-round streams. Water surface area shall not include property within storm drainage structures, drainage ways which periodically contain water, no swimming pools and other structures which contain water.

WHOLESALE ESTABLISHMENT - Any establishment which exclusively sells goods in large quantities, as for resale by a retailer.

YARD - A ground area open to the sky, unoccupied and unobstructed. Yard measurements shall be the minimum horizontal distances.

YARD - FRONT - A yard, or yards in the case of a corner lot, extending across the full width of the lot between the front lot line(s) and the nearest line of the main building.

YARD - REAR - A yard extending across the full width of the lot rear lot line and the nearest line of the main building.

YARD - SIDE - A yard between the side of the lot and the nearest line of the principal building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot line, as the case may be, except that on a corner lot the side yard adjacent to a street shall extend the full depth of the lot.

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ARTICLE V ZONING DISTRICTS AND BOUNDRIES

Section 1. Establishment of Districts

In order to carry out the intent and purposes of this ordinance, the City of Helena is hereby divided into the following districts; the location, boundaries, and area of which are and shall be as shown and depicted upon the zoning map as certified by the Mayor, City Clerk, Chairperson of the Helena Planning/Zoning Commission, and Building Official.

1.1	A-1	Agricultural District
1.2	E-1	Single Family Estate District
1.3	E-2	Single Family Estate District
1.4	E-3	Single Family Residential District
1.5	R-1	Single Family Residential District
1.6	R-2	Single Family Residential District
1.7	R-3	Single Family Residential District
1.8	R-4	Townhouse District
1.9	R-5	Two Family District
1.10	R-6	Multi-Family District
1.11	CRBC	Cahaba River/Buck Creek Conservation Overlay District
1.12	O-I	Office & Institutional District
1.13	B-1	Neighborhood Business District
1.14	B-2	General Business District
	B-3	Mini Warehouses District
	B-4	Business Renaissance District
1.15	M-1	Light Industrial District
1.16	M-2	Heavy Industrial District
1.17	SD	Special District Planned Shopping Center
		Special District Planned Residential
		Special District Planned Industrial
		Special District Mobile Home Parks
1.18	U-1	Utilities District
1.19	U-2	Communications Tower District

Section 2. Zoning Map

The map hereto referred to is the official zone map of the City of Helena, Alabama, and which, together with the legends, words, figures, letter, symbols, and explanatory matter thereon, is hereby declared to be a part of this ordinance, shall be known as the "Zoning Map" throughout this ordinance.

Section 3. District Boundaries

The district boundary lines on said zoning map are intended to follow either natural boundaries, streets, alleys or lot lines, and where the districts designated on said map are bounded approximately by such streets, alley or lot lines, the center line of the street or alley, or the lot lines shall be the boundary of the district unless such boundary is otherwise indicated on the map. In all other cases, the district.

Section 4. Pre-Zoning and Annexation of Unincorporated Land

Any owner of land seeking annexation shall file a petition with the City of Helena Planning and Zoning Commission to pre-zone the property to an appropriate and compatible category in accordance with Helena Zoning Code Article V, Section 1. In determining a category, the Commission shall use the factors such as existing and surrounding land uses and/or districts, the Comprehensive Plan for Future Land Use, and the desire of the land owner.

4.1 Annexation and Pre-Zoning applications must be submitted simultaneously and on the same schedule as other Helena Planning and Zoning Commission agenda items. If the Pre-Zoning application is denied or granted on terms other than those requested by the applicant, the annexation application may be withdrawn by the applicant.

4.2 All applications of pre-zoning will use the following guidelines:

4.2.1 A one hundred fifty-dollar ($150.00) fee to defray the cost of processing the application, along with the cost of giving legal notice, plus cost of certified mailing to all adjoining property owners.

4.2.2 A map, drawn to scale, indicating:

4.2.2.1 The dimension and exact location of the site in relation to the vicinity in which it is located.
4.2.2.2 Location of all public Rights-of-way.
4.2.2.3 Location and dimension of all existing and proposed buildings and structures on the site and adjacent sites and the nature. To be required for high density development, commercial development and special district development or as deemed necessary by the City of Helena.
4.2.2.4 Location of all existing and proposed facilities for the disposal of storm water drainage.
4.2.2.5 Provide copy of assessor's parcel map.
4.2.3 A written statement indicating:
4.2.3.1 Reason for the pre-zone request.
4.2.3.2 Expected daily traffic volumes to be generated by the proposed use. To be required for high density development, commercial development and special district development or as deemed necessary by the City of Helena.

4.2.3.3 Availability of required utilities and facilities to include but not limited to water, sewer, power, gas, and broadband.

4.2.3.4 Relationship of the proposed pre-zoning to the land use pattern of the vicinity.

4.2.3.5 Legal description of proposed pre-zoning site.

All of the above shall comply with applicable Helena Ordinances.

4.3 In the event the pre-zoning request affects only one contiguous parcel of land, a minimum of five (5) days prior to the Planning and Zoning Commission meeting at which the pre-zoning request is initially considered the City Clerk shall notify by certified mail all persons included on a list of adjacent property owners. The notice shall state the following:

4.3.1 Location of pre-zoning request (by street address and legal description).

4.3.2 The nature of the pre-zoning request (indicating the current zoning of the site and the proposed pre-zoning classification).

4.3.3 The time, date and location of the Planning and Zoning Commission meeting.

4.4 In the event the pre-zoning request would, if adopted, apply to more than one parcel of contiguous or noncontiguous located within the city, in lieu of all other notice provisions contained herein, the City Clerk shall give notice of such pre-zoning request by publishing a copy of the proposed ordinance or proposed pre-zoning request in full for one insertion and an additional insertion of a synopsis of the same, one week after the first insertion, which synopsis shall refer to the date and name of the newspaper in which the proposed amendment, ordinance or pre-zoning proposal was first published; both such insertions shall be at least fifteen (15) days in advance of the recommendation by Planning and Zoning Commission and in a newspaper of general circulation published within the municipality or, if there is no such newspaper, then by posting the proposed amendment, ordinance or pre-zoning proposal in four conspicuous places within the municipality, together with a notice stating the time and place that the proposed amendment, ordinance or pre-zoning proposal is to be considered, 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 thereof.

4.5 The Planning and Zoning Commission shall schedule a hearing on the application at the first regularly scheduled meeting after compliance with notice provisions, as set forth herein.

4.6 Upon receipt of a favorable recommendation from the Planning and Zoning Commission, the City Clerk shall, in accordance with State Law, schedule and

advertise the proposed amendment for a public hearing before the City Council.

4.7 Upon receipt of a negative or no action recommendation from the Planning and Zoning Commission, the City Council review process will be initiated at the request of the applicant.

4.8 The Planning and Zoning can recommend another zoning district other than the one requested.

4.9 The City Council will hold a public hearing on the pre-zoning and annexation as dual ordinances to be approved or denied.

4.10 When the City Council denies a pre-zoning request, the Planning and Zoning Commission shall not reconsider the same request for a period of three (3) months. Each time the City considers a zoning request, all applications of pre-zoning shall follow the guidelines set forth in Section 4.2.

4.11 Changes made by the owner after approval by the Helena Planning and Zoning or the Helena City Council shall require the property owner to make written notification to the City Clerk. In addition, property owner shall be required to attend a re-hearing with the Helena Planning and Zoning Commission for consideration.

4.12 The Helena Planning and Zoning Commission and the Helena City Council retains the authority to waive any provisions within this article or to impose greater requirement(s) than herein stated on individual case basis for the betterment of the City of Helena.

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ARTICLE VI GENERAL REGULATIONS

THE FOLLOWING GENERAL REGULATIONS PERTAIN TO THE ADMINISTRATION, ENFORCEMENT OF, AND COMPLIANCE WITH THIS ORDINANCE.

Section 1. Use of Land

No land shall be used except for a use permitted in the district in which it is located, except as provided in Articles XXVIII, XXIV and XXX.

Section 2. Use of Structures

No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or structure be used, except for a use permitted in the district in which such building is located, except as provided in Articles XXVIII, XXIV and XXX.

Section 3. Height of Structures

No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height limit herein established for the district in which such structure is located, except as provided in Articles XXII, XXIV and XXX.

Section 4. Dimensional Regulations

No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed in conformity with the dimensional regulation of the district in which such structure is located, except as provided in Articles XXVIII, XXIV and XXX.

Section 5. Encroachment on/ Reductions or Open Spaces, etc.

The minimum yards, parking spaces, and open space, required by this ordinance for each structure existing at the time of passage of this ordinance, or for any structure hereafter erected or structurally altered, shall not be encroached upon or considered as part of the yard or parking space or open space required for other structure, nor shall any lot area be reduced below the low area per family requirements of this ordinance for the district in which such lot is located except as provided in Articles XXVIII, XXIV and XXX.

Section 6. Off Street Parking and Loading

No building shall be erected, converted, enlarged, reconstructed or moved except in conformity with the off-street parking and loading regulations of Articles XXVI and XXVIII.

Section 7. Building to be on Lots

Every building hereafter erected, converted, enlarged, reconstructed, moved or structurally altered shall be located on a lot as herein defined except as provided in Articles XXIV and XXX.

Section 8. Accessory Building – Construction Prior to Construction of Main Building

No accessory structure shall be constructed or moved upon a lot until the construction of the main building has actually been commenced.

Section 9. Same Use for Dwelling Purpose

No accessory building shall be used for dwelling purposes other than by domestic servants entirely employed on the premises.

Section 10. More than One Main Building Permitted on One Lot

Provided however that all area and dimensional regulations are complied with for that zoned area.

Section 11. Joint Occupancy

No structure shall be erected, structurally altered for, or used as a single-family or two-family dwelling simultaneously with any other use.

Section 12. Permits for Construction

No excavation for foundations, nor any erection, or structural alteration of any structure shall be undertaken prior to appropriate permits having been approved by the Building Official and issued by the City Clerk.

Section 13. Building Material Storage

Building materials or temporary structures for construction purposes shall not be placed or stored on any lot or parcel of land located in a Residential or Business Zone District before appropriate building permits have been approved by the Building Official and issued by the City Clerk.

** Temporary structures for construction purposes must be permitted by the Building Official prior to being set up at any residential or business zoning. Permit forms may be obtained through the Building Official's office.*

Section 14. Parking and Storage of Major Recreational Vehicles

Major recreational vehicles including house boats, travel trailers, pick-up campers, motorized dwellings, tent trailers, and other like vehicles shall not be stored or parked in any front or side yard on any lot in a residential district except in an enclosed building or carport, provided, however the such equipment may be parked in any off street location in any district for a period not to exceed three (3) days. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 15. Parking and Storage of Certain Vehicles

15.1 Automotive vehicles without current license plates shall not be parked or stored on any residential zoned property other than in a completely enclosed building.

15.2 Commercial vehicles without current license plates shall not be parked or stored in a residential district, except in a completely enclosed building.

Section 16. Public Utilities

Utility structures including, but not limited to poles, wires, crossarms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power regulators, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other utilities may be constructed, erected, repaired, maintained or replaced within any district within the City. THIS IS NOT to be construed to include the erection or construction of buildings. Electric substations are conditional uses in all zone districts of the City. However, a twenty foot (20') planted greenbelt must be provided around site.

Section 17. Non-Conforming Uses of Land and Buildings

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

17.1 **Continuance** - A lawful non-conforming use existing at the effective date of this Ordinance may be continued, except as hereafter provided, although such use does not conform with the provisions of this Ordinance.

17.2 **Restoration to Safe Condition** - Nothing in this Ordinance shall prevent the restoration of any building or structure to a safe or sanitary condition when required by the proper authorities.

17.3 **Restoration After Damages** - No non-conforming building or structure which has been damaged by fire or other causes to the extent of more than fifty percent (50%) of its current replacement value at the time of such damage shall be rebuilt or restored except in conformity with the provisions of this Ordinance. If a non-conforming building is damaged less than fifty percent (50%) of its current replacement value, it may be rebuilt or restored and used as before the damage, provided that such rebuilding or restoration is completed within twelve (12) months of the date of such damage.

17.4 **Abandonment (Non-Conforming)** - A non-conforming use which has been discontinued for a continuous period of one year shall not be re-established and any future use shall be in conformity with the provisions of this Ordinance.

17.5 **Change in Use** - A non-conforming use shall not be changed to another non-conforming use of the same or less restrictive classification. A non-conforming use which is changed to a conforming use or to another non-conforming use of more restrictive classification shall not be permitted to revert to the original or less restrictive use.

Section 18. Lot Widths at the Street Line

All lots shall have access to a public street.

18.1 Minimum Lot Width at the Street Line

18.1.1 40 feet for A-1, E-1, E-2, E-3, R-1, R-2, R-3, R-5 and O.I. districts.
18.1.2 18 feet for R-4.
18.1.3 30 feet minimum lot width at the street line for B-1, B-2, M-1 and M-2 districts.

Section 19. Mobile/ Manufactured Homes

19.1 Except as provided in Article XXIV, all Mobile/Manufactured homes shall be placed in an authorized Mobile Home Community.

19.2 Except as provided in Article XXIV, all Mobile/Manufactured homes shall not be permitted on individual lots and shall not be considered as single family dwellings.

Section 20. Factory Built Housing or Modular Home

No factory built housing or modular home will be allowed except as otherwise authorized herein, and in no event will any factory built housing or modular home be allowed unless the same meets the following criteria and standards:

20.1 Such structure shall be constructed with the same or similar materials which are used in the construction of the majority of other homes within the immediate area of the structure in question.

20.2 The construction of the foundation must be completed within forty-five (45) days. All electrical connections, plumbing and heating/cooling systems are substantially the same as the majority of other homes in the immediate area.

20.3 That the width or shortest outside dimension thereof shall be equal to the width of other housing in the surrounding area.

20.4 In no event will the pitch of the roof be flatter than the three feet (3') vertical rise in elevation for each twelve feet (12') of horizontal dimension of such roof.

20.5 That the outside appearance and construction shall be aesthetically compatible with that found in the majority of other homes within the immediate area of the structure in question.

20.6 A factory built or modular home shall not be allowed where prohibited by covenant restrictions.

Section 21. Detailed Accessory Use Regulations: Home Occupations

21.1 **Purpose.** It is the purpose of this Section to provide residents of the City of Helena a wide range of opportunities in the use of their residences in profitable activities. However, the character of the City's residential areas must also be preserved. Therefore, these regulations shall ensure that such activities remain limited in scope so as not to interfere with the principal use of any residential neighborhood or development.

21.2 **General Regulations.** All home occupations shall meet the following criteria:

21.2.1 The home occupation must be clearly secondary and incidental to the use of the dwelling unit as a residence. No more than 25 percent of the total floor area of the dwelling shall be used for the home occupation, to a maximum of 500 square feet.

For the purposes of this Section, "total floor area" shall include all heated and ventilated areas within the dwelling. Garages, carports, outside storage rooms, and porches shall be excluded.

At the Planning Commission or City Council's option, a floor plan of the residence may be required, indicating the specific location(s) and extent of the business activity.

21.2.2 The exterior appearance of the dwelling unit and/or premises shall not be altered, nor the occupation within the dwelling unit conducted, in any manner that would cause the premises to differ from its residential character or from the character of the neighborhood.

21.2.3 The home occupation shall be operated in the existing dwelling unit, which shall not be enlarged to accommodate the business activity.

21.2.4 No new accessory structure shall be built, nor shall any existing accessory structure be used, for the purpose of operating the home occupation.

21.2.5 There shall be no visible evidence that the dwelling is being used to operate a home occupation. Signs shall not be permitted.

21.2.6 No more than two (2) companies or commercial vehicle shall be parked at the premises at any time – including but not limited to cars, vans, trucks, and utility trailers. Off-street parking shall be provided on the premises, as required by Article XXVII of the Helena Zoning Ordinance. No parking of commercial vehicles, or residential vehicles displaced by same, shall be permitted on the street.

21.2.7 A maximum of one (1) person not residing in the dwelling may engage in the operation of the home occupation.

21.2.8 No merchandise shall be distributed to customers on the premises.

21.2.9 There shall be no outside display or storage of materials, goods, supplies, or equipment used in the home occupation on the premises.

21.2.10 The operation of a home occupation shall not create any nuisance such as excessive traffic, on-street parking, noise, vibration, glare, odors, fumes, smoke, dust, heat, fire hazards, electrical interference or fluctuation inline voltage, or hazards to any greater extent than that normally experienced in the residential neighborhood, or be present or noticeable beyond the property boundaries of the home occupation premises.

21.2.11 The operation of a home occupation shall not involve the sale of any dangerous or deadly weapons such as knives, firearms, or air guns without first receiving written authorization from the Helena Police Department.

21.2.12 The on-site repair of vehicles shall be prohibited as a home occupation.

21.3 **Application Procedures.** Any applicant for a home occupation shall pay a fee as established in Article IX, and submit an application form, together with any required attachments, to the Helena City Council. The Council may at its next regularly scheduled meeting approve or deny the application, or inform the applicant that more information is needed to reach a decision.

Each applicant for home occupation approval shall submit a deed to the property on which the proposed business will be conducted. If the applicant does not own the property, he/she shall obtain from the owner a signed and notarized letter of authorization to apply for home occupation approval.

No more than one (1) home occupation shall be approved in any residential dwelling unit. A fraternity, sorority, or boarding house shall constitute a single dwelling unit.

If an applicant fails to provide required documentation, or provides insufficient information, to determine compliance with this Section, the application shall be denied.

21.4 **Other Provisions**

21.4.1 Home-based businesses offering child or adult day- or nighttime-care services to more than two (2) persons shall not be considered home occupations under this Section, but shall be regulated as set out by City Code 734-07 SECTION 26 and the Code of Alabama. These businesses, if previously approved as home occupations, may continue operating as such until the expiration of the current business license.

21.4.2 Yard or garage sales shall be exempt from these regulations under the following conditions:

21.4.2.1 No more than two (2) garage sales will be permitted per year;

21.4.2.2 A garage sale permit must be obtained prior to each sale;

21.4.2.3 Garage sale signs shall be no closer than 20 feet from a county or state right-of-way or 11.5 feet from a city right-of-way;

21.4.2.4 No signs are to be posted on utility poles or traffic control signs such as stop, yield or any other public sign.

21.4.2.4.1 Sales shall last no longer than two (2) consecutive days;

21.4.2.4.2 Sales are held no more than two (2) times per year, with an intervening time period of at least 30 days;

21.4.2.4.3 The property on which the sale is conducted shall be owned by one of the participants;

21.4.2.4.4 No goods purchased for resale may be offered for sale;

21.4.2.4.5 No consignment goods may be offered for sale;

21.4.2.4.6 All directional or advertising signs shall be removed immediately upon completion of the sale.

21.4.3 The Building Official, or his/her designee, shall be permitted upon reasonable request to enter and inspect the premises of an approved home occupation at any time to verify compliance with these regulations.

21.4.4 Any existing home occupation not in compliance with these regulations may continue operating as a nonconforming home occupation under the following conditions:

21.4.4.1 The home occupation was approved prior to the effective date of these regulations;

21.4.4.2 The home occupation is in compliance with all regulations in effect at the time of its approval;

21.4.4.3 The business activity has continued since the effective date of these regulations without ceasing for a period in excess of 30 days;

21.4.4.4 The home occupation holds a valid business license issued by the City of Helena Finance Dept.;

21.4.4.5 The home occupation has operated in a lawful manner at all times prior to adoption of these regulations;

21.4.4.6 All signs shall be removed immediately;

21.4.4.7 Limitation on company vehicles and outside display/storage of materials shall become effective immediately upon adoption of this Ordinance.

21.4.5 Home Occupations are not transferrable from one property owner to another. Upon sale of property the existing home occupation shall cease operation. New owners wishing to conduct the same or a different home occupation must petition the City for a new home occupation license and must come into compliance with all home occupation regulations in place at that time.

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ARTICLE VII A-1 AGRICULTURAL DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the A-1 Agricultural District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principle Uses

Detached single family dwellings and accessory structures.

Section 4. Conditional Uses

A building or premises shall be used only for the following purposes:

4.1 Nurseries or Home Gardens

4.2 Greenhouse; provided, that no sales shall be made on the premises.

4.3 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.4 Church or other place of worship provided, that any building shall be located not less than fifty feet (50') from any lot line.

4.5 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.6 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.7 Home Occupations, as approved by City Council.

4.8 Accessory Structures and Uses

4.9 Signs as regulated in Article XXVI

4.10 Truck crops

4.11 Grazing

4.12 The growing of crops in the open

4.13 Horticulture

4.14 The raising of animals, but not including commercial feed lots

4.15 Dairying

4.16 Accessory structures and uses provided that no structure for the keeping of farm animals or poultry shall be located closer than seventy-five feet (75') from any property line.

4.17 Animal Clinics

4.18 Kennels provided that open pens or runs are located not less than one hundred feet (100') from any lot line.

4.19 Utility substation

4.20 Accessory dwellings for persons employed on the premises.

4.21 Fur bearing animals, provided, that no structure for keeping fur bearing animals shall be located closer than one hundred feet (100') from any lot line.

4.22 Manufactured homes in family subdivision.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth in the following table shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	50 / 50	25 / 25	3 Acre	150

* Maximum height does not apply to barns or silos provided that additional set backs are provided in accordance with Article XXVIII.

5.1 Minimum Livable Floor Area:

5.1.1 One Story Dwelling - 1,000 Square Feet

5.1.2 One and One Half or Two-Story Dwelling - 1,300 Square Feet

Section 6. Greenbelt Requirements

Conditional uses 2.3, 2.4, 2.5, 2.6, 2.7 and 2.9 requiring a structure shall provide as a minimum of twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Regulations

7.1 A minimum lot area of four (4) acres is required in order to house or raise any livestock or animals other than those permitted in the residential zones of the City.

7.2 Provisions must be made to dispose of manure and other organic wastes in such a manner as to avoid pollution of ground water or any lake or stream.

7.3 Barns, cages, pens and other facilities used for the feeding or housing of any livestock or animals, must be a minimum of seventy-five feet (75') from any lot line.

Section 8. Parking Regulations

Off street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article XXVII.

ARTICLE VIII

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ARTICLE IX E-1 SINGLE FAMILY ESTATE DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the E-1 Single Family Estate District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principle Uses

Detached single family dwellings and accessory structures.

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.2 Church or other place of worship provided; that any building shall be located not less than fifty feet (50') from any lot line.

4.3 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5 Home Occupations, as approved by City Council.

4.6 Accessory structures and uses - Article XXVIII, Section 7, Sub.

4.7 Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

A single Family Estate District must contain twenty (20) or more acres. Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	75 / 75	25 / 25	3 Acre	150

5.1 Minimum Livable Floor Area:

5.1.1 One Story – 2,400 Square Feet of heated living area.

5.1.2 Two Story - 1,800 Square Feet on the First Floor;
2,800 Square Feet of heated living area.

Section 6. Greenbelt Requirements

Conditional uses 4.1, 4.2, 4.3 and 4.4 requiring a structure shall provide as a minimum a twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Regulations

7.1 No animals shall be allowed on any lot, other than household pets as defined in Appendix A as amended, provided however, owners of property shall be allowed to keep horses for riding and/or recreational activity when also authorized by private covenant running with the land, and where not otherwise inconsistent with law.

7.2 A minimum lot area of three (3) acres shall be required in order to house or raise a horse in this district. An additional one and one-half (1-1/2) acres are required for each additional horse with a maximum of five (5) horses per parcel of land.

7.3 Provisions must be made to dispose of manure and other organic wastes in such a manner as to avoid pollution of ground water or any lake or stream.

7.4 All areas to be used for the keeping of a horse must be fenced with not less than four strand barbed wire fence, a minimum of four feet (4') in

height, mounted to independent posting material as defined herein. (Appendix A)

7.5 Barns must be a minimum of seventy-five feet (75') from any lot line.

Section 8. Parking Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE X E-2 SINGLE FAMILY ESTATE DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the E-2 Single Family Estate District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principle Uses

Detached Single Family dwellings and accessory structures.

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.2 Church or other place of worship provided; that any building shall be located not less than fifty feet (50') from any lot line.

4.3 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5 Home Occupations, as approved by City Council.

4.6 Accessory structures and uses - Article XXVIII, Section 7, Sub.

4.7 Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	50 / 50	15 / 15	20,000 Sq Ft	120

5.1 Minimum Livable Floor Area:

5.1.1 One Story - 2,000 Square Feet of heated living area

5.1.2 One and One-Half or Two Story - 1,400 Square Feet on First Floor; 2,400 Square Feet for Total heated living area.

Section 6. Greenbelt Requirements

Conditional uses 4.1, 4.2, 4.3 and 4.4 requiring a structure shall provide as a minimum a twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Requirements

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XI E-3 SINGLE FAMILY DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the E-3 Single Family District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principal Uses

Single Family dwellings and accessory structures.

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.2 Church or other place of worship provided; that any building shall be located not less than fifty feet (50') from any lot line.

4.3 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5 Home Occupations, as approved by City Council.

4.6 Accessory structures and uses - Article XXVIII, Section 7, Sub

4.7 Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	40 / 40	12 / 12	15,000 Sq Ft	110

5.1 Minimum Livable Floor Area:

5.1.1 One Story - 1,800 Square Feet of heated living area

5.1.2 One and One-Half or Two Story - 1,400 Square Feet on First Floor 2,100 Square Feet for Total heated living area.

Section 6. Greenbelt Requirements

Conditional uses 4.1, 4.2, 4.3 and 4.4 requiring a structure shall provide as a minimum a twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XII R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the R-1 Single Family Residential District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principal Uses

Single Family dwellings and accessory structures. (Detached)

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.2 Church or other place of worship provided; that any building shall be located not less than fifty feet (50') from any lot line.

4.3 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5 Home Occupations, as approved by City Council.

4.6 Accessory structures and uses - Article XXVIII, Section 7, Sub.

4.7 Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	35 / 35	10 / 10	15,000 Sq Ft	100

5.1 Minimum Livable Floor Area:

5.1.1 One Story - 1,600 Square Feet of heated living area

5.1.2 One and One-Half or Two Story - 1,300 Square Feet on First Floor 1,800 Square Feet for Total heated living area.

Section 6. Greenbelt Requirements

Conditional uses 4.1, 4.2, 4.3 and 4.4 requiring a structure shall provide as a minimum a twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XIII R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the R-2 Single Family Residential District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principal Uses

Single Family dwellings and accessory structures. (Detached)

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.2 Church or other place of worship provided; that any building shall be located not less than fifty feet (50') from any lot line.

4.3 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5 Home Occupations, as approved by City Council.

4.6 Accessory structures and uses - Article XXVIII, Section 7, Sub.

4.7 Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	35 / 35	10 / 10	10,000 Sq Ft	90

5.1 Minimum Livable Floor Area:

5.1.1 One Story - 1,400 Square Feet of heated living area

5.1.2 One and One-Half or Two Story - 1,000 Square Feet on First Floor, 1,600 Square Feet for Total heated living area.

Section 6. Greenbelt Requirements

Conditional uses 4.1, 4.2, 4.3 and 4.4 requiring a structure shall provide as a minimum a twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XIV R-3 SINGLE FAMILY RESIDENTIAL DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the R-3 Single Family Residential District.

Section 2. Intent

To provide minimum density and maximum open space and privacy for single family housing, free from other uses except those which are both compatible with and convenient to the residents of such a district.

Section 3. Permitted Principal Uses

Single Family dwellings and accessory structures. (Detached)

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building, museum, library or art gallery; provided, that any building shall be located not less than fifty feet (50') of any lot line.

4.2 Church or other place of worship provided; that any building shall be located not less than fifty feet (50') from any lot line.

4.3 Public school, elementary or high, or a parochial or private school having a curriculum including the same courses as ordinarily given in the public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4 Golf club or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5 Home Occupations, as approved by City Council.

4.6 Accessory structures and uses - Article XXVIII, Section 7, Sub.

4.7 Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side	Per Family	Feet
2 ½ / 35	30 / 30	10 / 10	9,000 Sq Ft	80

5.1 Minimum Livable Floor Area:

5.1.1 One Story - 850 Square Feet of heated living area

5.1.2 One and One-Half or Two Story - 600 Square Feet on First Floor; 1,000 Square Feet for Total heated living area.

Section 6. Greenbelt Requirements

Conditional uses 4.1, 4.2, 4.3 and 4.4 requiring a structure shall provide as a minimum a twenty-five foot (25') greenbelt on all side and rear lot lines.

Section 7. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XV R-4 TOWNHOUSE DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations of the R-4 Townhouse District.

Section 2. Intent

To provide townhouse residential areas.

Section 3. Permitted Principle Uses

Townhouse multiple dwellings and accessory structures such as club houses, swimming pools, tennis courts and other uses deemed compatible by the Planning Commission.

Section 4. Conditional Uses

Due to the unique nature of townhouse development and small lot size, no use other than townhouse dwellings is permitted, other than Home Occupations approved by the City Council.

Section 5. Prohibited Uses

Any use other than townhouse dwellings and accessory structures.

Section 6. Minimum Site Area

Townhouses will be permitted when the total site includes a minimum of four (4) acres.

Section 7. Area and Dimensional Regulations

7.1 Minimum lot width 18'

7.2 Minimum building setbacks:

7.2.1 Front: 25'

7.2.2 Rear: None

7.3 Maximum number of units attached before a twenty foot (20') separation. Eight (8) units per acre

7.4 Minimum Livable Floor Area:

7.4.1 One Story Townhouse - 1,000 Square Feet

7.4.2 One and One-Half or Two Story Townhouse

7.4.2.1 550 Square Feet on First Floor, Total
7.4.2.2 Minimum for Townhouse - 1,000 Square Feet

7.5 All townhouse developments must provide a playground/play area for children within the development. Area size to be determined by the Planning Commission.

7.6 Site Plan must be submitted and approved by the Planning Commission.

Section 8. Greenbelt Requirements

When a townhouse development is located totally or partially adjacent to single family or two family residential zone or an agriculture zone, said use shall provide as a minimum of a twenty foot (20') greenbelt. (See Greenbelt Regulations)

Section 9. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XVI R-5 TWO FAMILY DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the R-5 Two Family District.

Section 2. Intent

To provide low density two family duplex housing free from uses incompatible with the character of this district.

Section 3. Permitted Principal Uses

Two Family duplex dwellings and accessory structures.

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building; provided, that any building shall be located not less than fifty feet (50') from any lot line.

4.2. Church or other place of worship; provided that any building shall be located not less than fifty feet (50') from any lot line.

4.3. Public, elementary, high or middle school, or parochial or private school having a curriculum comparable to the above public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4. Golf club, or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5. Home Occupations, as approved by City Council.

4.6. Accessory structures and uses Articles XXVIII Section 7, Sub.7.1

4.7. Signs as regulated in Article XXVI.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 5. Area and Dimensional Regulations

A two-family district must contain a minimum of four (4) acres or more.

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side	Per Family	Feet
2 / 35	30 / 30	10	7,500 Sq Ft*	70*

5.1 Minimum Livable Floor Area:

5.1.1 One Story Dwelling – *1,000 Square Feet (per unit)

5.1.2 Two Story Dwelling - *700 Square Feet on First Floor;
*1,000 Square Feet for Total heated living area.

Section 6. Greenbelt Requirements

When any permitted or conditional use is located wholly or partially in said district, or adjacent to other residential districts, said use shall provide a minimum twenty foot (20') greenbelt. (See Greenbelt Requirement)

Section 7. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XVII R-6 MULTI-FAMILY DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations of the R-6 Multi-Family District.

Section 2. Intent

To provide low density multi-family residential areas in which open space and compatibility with single family neighborhoods are primary considerations, but permitting selected non-residential uses, limited to clubhouse, child care, Laundromat, which shall be used for the sole benefit of its residents.

Section 3. Permitted Principal Uses

Multi-Family dwellings

Section 4. Conditional Uses

4.1 Publicly owned or operated park, playground or community building provided, that any building shall be located not less than fifty feet (50') from any lot line.

4.2. Church or other place of worship; provided, that any building shall be located not less than fifty feet (50') from any lot line.

4.3. Public, elementary, high or middle school, or parochial or private school having a curriculum comparable to the above public school, but not providing residential accommodations for students; provided, that any such building shall be located not less than fifty feet (50') from any lot line.

4.4. Golf club, or golf course, except a par three golf course, miniature course or practice golf driving range operated for commercial purposes.

4.5. Home Occupations, as approved by City Council.

4.6. Accessory structures and uses Articles XXVIII Section 7, Sub. 7.1

4.7. Signs as regulated in Article XXVI.

4.8 Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

4.9 Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

4.10 Must provide recreational space within the development. Minimum area required as specified by the Planning Commission.

Section 5. Area and Dimensional Regulations

Except as provided in Article XXVIII and XXX the area and dimensional regulations set forth shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side	Per Family	Feet
2 / 35	35 / 35	25	4,000 Sq Ft	None

5.1 Minimum Livable Floor Area:

5.1.1 800 Square Feet per Unit

5.1.2 Maximum number of units before twenty foot (20') separation, eight (8) units per building.

5.1.3 All department developments must provide a playground/play area within the development. Area size to be determined by the Planning Commission.

5.1.4 A Site Plan must be submitted and approved by the Planning Commission.

Section 6. Greenbelt Requirements

When any permitted or conditional use is located wholly or partially in said district, or adjacent to other residential districts, said use shall provide a minimum twenty foot (20') greenbelt. (See Greenbelt Requirement)

Section 7. Additional Regulations

Off street parking shall be provided in accordance with the requirements as set forth in Article XXVII.

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ARTICLE XVIII CAHABA RIVER/BUCK CREEK CONSERVATION (CRBC)

Section 1. Generally

The provisions of the river conservation overlay district shall apply to any land located within the floodway of the Cahaba River, Buck Creek, their tributaries or the Stream Setback/Buffer, whichever is greater. These standards shall be in addition to the standards of the underlying zoning district in which the property is located.

Section 2. Intent

The purpose of the Cahaba River/Buck Creek Conservation Overlay District is to protect the water quality and environmental integrity of the Cahaba River, Buck Creek and their tributaries; in addition the Cahaba River South of the Shelby County Road 52 shall receive an additional measure of protection due to its OAW classification.

Section 3. Permitted Principal Uses

Any use permitted by right in the underlying zoning district shall be permitted in the Cahaba River/Buck Creek Overlay District.

Section 4. Special Exception Uses

Any conditional use in the underlying zoning district shall be permitted as a special exception use in the Cahaba River/Buck Creek Overlay District.

Section 5. Area and Dimensional Regulations

The following regulations shall apply to any land use within the district:

5.1 Minimum lot width for lots abutting the river: 100 feet

5.2 Minimum lot size for lots abutting the river South of Shelby County Road 52: 1 acre

5.3 Maximum impervious surface: 50% of lot area

5.4 Stream setback/buffer requirements: The stream setback/buffer shall consist of a strip of land extending along both sides of the Cahaba River or Buck Creek and shall include all land within 200 feet of the Cahaba River and 150 feet of Buck Creek, measured horizontally from the edge of the stream bank of the active channel. The stream setback/buffer shall include three distinct zones with each zone having its own set of allowable uses and vegetative targets as specified below. Tributaries of Cahaba

River and Buck Creek shall require half the allowable minimums, as set forth in this Ordinance, and run for a distance sufficient enough to protect the water quality of the river.

5.5 ZONE 1 – Streamside Zone

5.5.1 The function of the streamside zone is to protect the physical and ecological integrity of the stream ecosystem.

5.5.2 The streamside zone will begin at the edge of the stream bank of the active channel and extend a minimum of 50 feet.

5.5.3 Allowable uses with this zone are highly restricted to:

5.5.3.1 Flood control structures

5.5.3.2 Footpaths to approach the river

5.5.3.3 Road crossings, where permitted by the Helena City Council

5.5.4 The streamside zone must be retained in its natural vegetative state.

5.5.5 No motorized vehicles or equipment to be operated in Zone 1 except as noted in 5.5.3.

5.6 ZONE 2 – Middle Zone

5.6.1 The function of the middle zone is to protect key components of the stream and forest and to provide distance between upland development and the streamside zone.

5.6.2 The middle zone will begin at the outer edge of the streamside zone and extend a minimum of 100 feet for Cahaba River and 50 feet for Buck Creek

5.6.3 Allowable uses within the middle zone are restricted to:

5.6.3.1 Those uses allowed in Zone 1 - Streamside Zone

5.6.3.2 Biking or hiking paths are approved by Helena Planning and Zoning Commission.

5.6.3.3 Stormwater management facilities, with the approval of the Alabama Department of Environmental Management, except that retention/detention facilities shall not be located within the 100 year flood plain and that there shall be no modification to natural drainage ways except as granted by waiver.

5.6.3.4 Passive recreational uses as approved by Helena Planning and Zoning Commission.

5.6.3.5 Tree clearing shall be limited to the minimum required for uses as stated in items 5.6.3.1 through 5.6.3.4.

5.6.4 The vegetative target for the middle zone is to encourage and preserve vegetation native to the region.

5.6.5 No motorized vehicles or equipment to be operated in Zone 2 except as noted in 5.6.3.

5.7 ZONE 3 – Outer Zone

5.7.1 The function of the outer zone is to prevent encroachment into the stream buffer and to filter runoff from residential and commercial development.

5.7.2 The outer zone will begin at the outward edge of the middle zone and provide a minimum width of 50 feet between Zone 2 and the nearest structure or accessory structure.

5.7.3 The uses allowed in Zone 1 Streamside Zone and in Zone 2 Middle Zone shall also be allowed in Zone 3. There shall be no other structures, accessory structures or impervious cover, with the exception of paths, within the outer zone.

5.7.4 The vegetative target for the outer zone may vary, although the planting of native vegetation, which may include lawn materials, should be encouraged to increase the total width of the buffer.

5.7.5 Stream Setback/Buffer Maintenance and Management

5.7.5.1 The stream setback/buffer, including wetlands and flood plains, shall be managed to enhance and maximize the unique value of these resources. Management includes specific prohibitions or limitations on alteration of the natural conditions of the resources within Zones 1, 2 and 3 to include, but not be limited to the following:

5.7.5.1.1 Clearing of trees and flowering vegetation
5.7.5.1.2 Soil disturbance by grading, stripping, or other practices
5.7.5.1.3 Filling or dumping
5.7.5.1.4 Drainage by ditching, under drains, or other systems
5.7.5.1.5 Use, storage, or application of pesticides, herbicides and fertilizers

5.7.5.1.6 Housing, grazing, or other maintenance of livestock

5.7.5.1.7 Storage of motorized vehicles or operation of same, except for emergency use

5.7.5.2 The following structures, practices, and activities are permitted within the stream setback/buffer by waiver and subject to specific design or maintenance features and approval from the Helena Planning and Zoning Commission.

5.7.5.2.1 Roads, bridges, trails and utilities are permitted within the stream setback/buffer subject to the following:

5.7.5.2.1.1 An analysis should be conducted to ensure that no economically feasible alternative is available

5.7.5.2.1.2 The right-of-way should be the minimum width needed to allow for maintenance access and installation

5.7.5.2.1.3 The angle of the crossing shall be perpendicular to the stream or buffer to minimize clearing requirements.

5.7.5.3 In any land modifications, on-site and non-structural stormwater management alternatives will be preferred over larger facilities within the stream setback/buffer, and the cleared area will be limited to the area required for construction and adequate maintenance access in constructing stormwater management facilities, with material dredge or otherwise removed to be stored outside the buffer.

5.7.5.4 Upon submittal of a development plan or plat, waivers may be granted by the Helena Board of Adjustments, for the following:

5.7.5.4.1 Those projects or activities serving a public need where no feasible alternative is available

5.7.5.4.2 The repair and maintenance of public improvements where avoidance and minimization of adverse impacts so non-tidal wetlands and associated aquatic ecosystems have been addressed.

5.7.5.5 The applicant shall submit a written request to the Helena Board of Adjustments for a waiver to include specific reasons justifying the waiver, and any other information necessary to evaluate the proposed waiver request.

5.7.5.6 In requesting a waiver from the Helena Board of Adjustments, a site design, landscape planting, fencing and the establishment of water quality best management practices is required in order to reduce adverse impacts on water quality, streams, wetlands, and flood plains.

5.7.6 Fertilizers, Herbicides and Pesticides

5.7.6.1 The use of herbicides and pesticides within the required stream setback/buffer shall be limited to those necessary to control insects which threaten native vegetation such as pine beetles and other borers, or the spot spraying of noxious or non-native species.

5.7.6.2 The use of liquid or solid chemical fertilizers or manure within the stream setback/buffer is prohibited.

5.7.7 On-Site Sewage Disposal: The installation of any on-site sewage disposal system septic tanks or field lines are not allowed within the setback/buffer or where existing city sewer lines are available.

5.7.8 Development Controls: Anyone making land modifications are required to respond creatively to both the market and the critical environmental values of the area, as well as the needs and values of the City of Helena and our citizens.

5.7.8.1 Any land modifications adjacent to Cahaba River/Buck Creek shall require an erosion and sedimentation control plan to minimize, to the maximum extent possible, the discharge of sediments

to the Cahaba River. This plan shall be consistent with the practices set forth by the Alabama Department of Environmental Management.

5.7.8.2 The applicant shall demonstrate that development will not increase the likelihood of chemical or bio-hazard runoff in adverse amounts into the Cahaba River, Buck Creek or their tributaries which could be damaging to their ecosystems, or the applicant shall propose modifications to the plan to retain run-off on the site to bring the project into conformance with ADEM standards, such modification may require the inclusion of water quality monitoring stations.

5.7.8.3 The applicant shall demonstrate, using methodology for small urban watersheds for a twenty-five year, twenty-four hour storm, that the total volume of storm water discharged from the site in its post development condition shall not exceed the total run-off in its pre-development condition. If this analysis demonstrates that this standard will not be met, the applicant shall propose modifications to the plan to retain run-off on the site to bring the project into conformance with this standard.

5.7.8.3.1 If stormwater detention facilities are required, said facilities will be engineered to retain the first ½ inch of storm run-off for residential development and the first 1-1/2 inch of storm run-off for commercial and industrial development or comply with the recommendations of qualified engineering experts.

5.7.8.3.2 All stormwater releases shall be at non-erosive velocities as may be accomplished by constructed velocity breaks, elevation drops, or other generally accepted engineering practices.

5.7.8.4 Notwithstanding any of the above, in areas of Helena where the flood hazard has been determined and that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and/or extraordinary public expenditures for

flood relief and protection, all development shall be done in accordance with the City of Helena Flood Plain requirements to maximize flood damage protection. The standards of flood plain development shall apply to any land delineated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) whether or not the base flood elevation has been determined. Permits shall be subject to the requirements of the City of Helena Flood Damage Prevention Ordinance for Non-Costal Communities. However, no construction will be approved within the floodway.

5.7.8.5 In considering "SDPR" zoning, the Helena Planning and Zoning Commission, with input (topography maps, engineering studies, water management studies, etc.) from the developer, may modify the buffer requirement as outlined in this Ordinance, as long as the proposed modification will achieve the intent of this Ordinance. In considering any modification, attention will be given to maintaining natural vegetation and eliminating or reducing run-off. All buffers and/or modifications will be shown in the master plan.

5.7.9 Conflict with other regulations: Where the standards and management requirements of this section are in conflict with other laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, flood plains, timber harvesting, land disturbance activities or other environmental protective measures, the more restrictive shall apply.

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ARTICLE XIX OFFICE AND INSTITUTIONAL DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the O-I Office and Institutional District.

Section 2. Permitted Principal Uses

A building or premises shall be used only for the following purposes:

2.1 A public, semi-public or private office.

2.2 Sales office, provided that the merchandise is not displayed in a retail manner.

2.3 Research or testing laboratories compatible with other permitted uses.

2.4 A clinic, convalescent home, assisted living or hospital.

2.5 Public or semi-public recreation, including but not limited to parks, golf, swimming, tennis, country or commercial clubs or associations.

2.6 Church, school or orphanage.

2.7 Accessory structures and uses, including commercial uses which are clearly incidental to the permitted use of the premises and which are carried on wholly within a main building or accessory building.

2.8 Other uses deemed compatible by the Planning Commission.

* Conditional uses in residential districts shall be permitted only on lots fronting on and with principal driveway access to a public street with approved paving at least twenty-four feet (24') in width, and so located, site planned, and designed as to avoid undue noise and other nuisances and hazards.

* Building under conditional uses shall be aesthetically compatible with that found in the majority of the buildings or homes within the immediate area.

Section 3. Area and Dimensional Regulations

Except as provided in Articles XXVIII and XXX, the area and dimensional regulations set forth below shall be observed.

3.1 Minimum lot width for non-residential structures or uses shall be fifty feet (50').

3.2 Side yards must comply with Standard Fire Prevention and Life Safety Code.

Section 4. Parking Regulations

Off Street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article XXVII.

Section 5. Greenbelt Regulations

When any permitted or conditional use is wholly or partially adjacent to a residential, or agricultural zone, said use shall provide a minimum twenty foot (20') greenbelt or a ten foot (10') high wood fence. No paving permitted closer than twenty feet (20') from any property line. Additionally, see Greenbelt Regulations, Article XXVIII, Section 8.

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ARTICLE XX B-1 NEIGHBORHOOD BUSINESS DISTRICT (NBD)

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article, are the regulations in the B-1 Neighborhood Business District.

Section 2. Permitted Principal Uses

A building or premises use shall be limited to the following purposes only:

2.1 Barber or Beauty Shops

2.2 Banks or Lending Institutions

2.3 Convenience Stores (See Prohibited Uses)

2.4 Pharmacy or Drug Store

2.5 Dry Cleaning

2.6 Day Care Nurseries

2.7 Grocery Stores not exceeding 12,000 square feet

2.8 Hardware

2.9 Gift Shops

2.10 Florist

2.11 Commercial or Business Offices

2.12 Restaurant (See Prohibited Uses)

2.13 Shoe Repair

2.14 Video Stores

2.15 Medical, Dental or Vision Care (See Prohibited Uses

2.16 Sporting Goods

2.17 Other uses deemed compatible by the Planning Commission

Section 3. Conditional Uses

Any building or premise use not listed in SECTION 2 and not prohibited by SECTION 4 of this Ordinance may be considered in the B-1 Neighborhood Business District. Consideration of any conditional use shall occur under the following guidelines:

3.1 The use is not considered any part of the prohibited uses in SECTION 4 of this Ordinance.

3.2 The preliminary request for a conditional use shall be presented at a regularly scheduled meeting of the Helena Planning Commission. At a separate meeting following the request for conditional use, a public hearing shall be held for the purposes of acknowledging the request and to include public input.

3.3 The building and architectural amenities must conform to the surrounding neighborhood as prescribed by the following criteria and standards:

3.3.1 Structures shall be constructed with the same or similar materials which are used in the construction of the majority of homes within the immediate area of the structure in question.

3.3.2 The construction of the foundation, electrical connection, plumbing and heating systems are substantially the same as the majority of homes in the immediate area.

3.3.3 In no event will the pitch of the roof be flatter than a three feet (3') vertical rise in elevation for each twelve feet (12')of horizontal dimension of such roof.

3.3.4 That the outside appearance and construction shall be aesthetically compatible with that found in the majority of other homes within the immediate area of the structure in question.

3.4 After the public hearing has been held, the conditional use may be granted provided the use does not violate any other sections of this Article and any other adopted Ordinance of the City of Helena.

Section 4. Prohibited Uses

4.1 Any residential dwelling

4.2 "Fast Food" establishments

4.3 Drive-Thru windows used for dispensing food

4.4 Establishments which serve alcoholic beverages on premises (except restaurants)

4.5 Establishments which dispense gasoline or oil products

4.6 Industrial or heavy commercial establishments

4.7 Hospitals

4.8 Warehouses, storage facilities or mini-warehouses

Section 5. Area and Dimensional Regulations

Minimum area required to set-up a neighborhood shopping district shall be five (5) acres.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side		Feet
2 / 30	35 / 20	20	None	None

Section 6. Greenbelt Regulations

When any permitted or conditional use is wholly or partially adjacent to a residential, office and institutional or agricultural zone, said use shall provide a minimum twenty foot (20') greenbelt or a ten foot (10') high wood fence. No paving permitted closer than twenty feet (20') from any property line. Additionally, see Greenbelt Regulations, Article XXVIII, Section 8.

Section 7. Parking and Loading

Off street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article XXVII.

Section 8. Service Yard

Each establishment structure shall have a service yard adequate for handling of wastes and garbage and the loading and unloading of vehicles. Such service yard shall be paved, have access to a public street or alley, be located to the side or rear of the structure and be enclosed on the three (3) sides with a permanent wall or fence, at least six feet (6') high and adequately to conceal the service yard.

Section 9. Exterior Lighting

No exterior lighting fixture including lighting for parking area, walkways, general illumination or any other purpose shall extend more than twelve feet (12') in height measured from the ground. All exterior lighting fixtures shall be constructed to direct the beam below the horizontal plane of the fixture and shall reflect away from any adjacent residential area.

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ARTICLE XXI B-2 GENERAL BUSINESS DISTRICT (GBD)

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article are the regulations in the B-2 General Business District.

Section 2. Permitted Principal Uses

A building or premises use shall be limited to the following purposes only:

2.1 Any use permitted in the Office and Institutional and B-1 Neighborhood Business Districts.

2.2 Automobile or Manufactured Home Dealerships

2.3 Auto Parts Store

2.4 Bakery - which bakes goods for on-premises retail sales

2.5 Building Material Sales

2.6 Cafeteria

2.7 Department Stores

2.8 Domestic Equipment Rental

2.9 Drug Store

2.10 Furniture Store

2.11 Fast Food Restaurants

2.12 Farm Implement Store

2.13 Feed Hardware Store

2.14 Hospital

2.15 Clinic or Hospital for Animals (no open kennels)

2.16 Grocery Stores

2.17 Retail Stores or Shops

2.18 Shopping Center

2.19 Other uses deemed compatible by the Planning Commission

2.20 Nursing Homes

2.21 Commercial recreation and amusement facilities

Section 3. Conditional Uses

Payday and Title Loan Businesses

3.1 Definitions:

3.1.1 **Payday Loan (Deferred Presentment) Business** - A business that, in accordance to the requirements and restrictions listed in Chapter 18A of Title 5 of the Code of Alabama (Alabama Deferred Presentment Services Act), involves a transaction pursuant to a written agreement involving the following combination of activities in exchange for a fee: (1) Accepting a check or authorization to debit a checking account and, in connection with that acceptance, advancing funds to the checking account holder; and (2) holding the check or authorization to debit the checking account for a specified period of time.

3.1.2 **Title Loan Business** - A business that offers a short term loan that is collateralized by the title of a vehicle in accordance with the requirements and restrictions described and detailed in Chapter 19A of Title 5 of the Code of Alabama (Alabama Pawn Shop Act).

3.2 Payday Loan businesses and Title Loan businesses are allowed as a conditional use in B-2, provided that:

3.2.1 No other Payday Loan business or Title Loan an business is located within 2,000 feet.

3.2.2 Payday Loan business or Title Loan business shall not be allowed within 500 feet of any residential district.

3.2.3 Payday Loan business or Title Loan business shall be limited to one (1) business per ten thousand (10,000) population. The total population figures shall be based on the most recent decennial U. S. Census.

3.2.4 No outdoor storage is allowed on premise.

Section 4. Area and Dimensional Regulations

Except as provided in Articles XXVIII and XXX the area and dimensional regulations set forth in the following table shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front	Rear/Side		Feet
2 ½ / 35	35 / 20	20 / 20	None	None
		If abutting a residential zone, must have a 20' greenbelt or 6' high wood fence		

4.1 Any building which exceeds two and one-half (2-1/2) stories in height must be approved by the Helena Planning Commission, Fire Department and Inspection Department.

Section 5. Greenbelt Regulations

When any permitted or conditional use is wholly or partially adjacent to a residential, office or agricultural zone, said use shall provide as a minimum, a twenty foot (20') greenbelt, or a six foot (6') high wood fence. No paving permitted closer than twenty feet (20') from any property line. (See Greenbelt Regulations)

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ARTICLE XXI-A B-3 MINI WAREHOUSES DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article are the regulations in the B-3 Mini Warehouses.

1.1 A Site plan must be submitted and approved by the Planning Commission.

Section 2. Permitted Principle Uses

A building or premises shall be used only for the following purposes:

2.1 Mini Warehouses - defined as five (5) or more individual storage spaces with separate access to each space rented to the public and conforming to the generally accepted concept of such warehouses.

2.2 All approved mini warehouse units of thirty (30) or more shall require and on-site resident manager.

2.3 All mini warehouse buildings shall be enclosed structures.

2.4 Mini warehouse owners shall establish hours of operation. Normal business hours shall be reasonable, but NO twenty-four (24) hour operation is allowed. Hours of operations must be furnished to the Helena Police Department for security purposes. An emergency phone number must be available, posted on site and furnished to the police department.

2.5 Outside storage of operational Recreational Vehicles, moveable campers, and readily moveable water craft will be allowed. No maintenance work on RV's, campers, or water craft is allowed. Recreational Vehicles, campers or water craft shall not be occupied or otherwise used for any other purpose while in the storage facility.

2.6 No outside storage of any other materials is allowed other than that described in Item 2.5.

Section 3. Prohibited Uses

3.1 Mini warehouses are for the sole purpose of storage only by renter. No residential living, sales, distributions, work shops or any other special use will be allowed.

Section 4. Area and Dimensional Regulations

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

4.1 Maximum Height of Structures: Story - 1; 15 Feet Side Walls

4.2 Front - none, except set back from entrance road not be less than ten feet (10'). Landscaping considerations should be noted in the site plan.

4.3 Side - none, except on the side of a lot abutting a residential district, in which case there shall be a side yard consisting of a greenbelt buffer not less than twenty feet (20') beyond the security fence line. (See Section 9)

4.4 Rear - none, except on the rear of a lot abutting a residential district, in which case there shall be a rear yard consisting of a greenbelt buffer not less than twenty feet (20') beyond the security fence line. (See Section 9)

4.5 No maximum or minimum lot area or dimensions.

4.6 No outside storage of any kind is allowed in the front of a warehouse facility.

4.7 Reference Greenbelt Article XXVIII, Section 8.

Section 5. Parking and Loading Regulations

Off street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article XXVII.

Section 6. Service Yard

Each mini warehouse area shall have a service yard, adequate for the handling of wastes and garbage and the loading or unloading of vehicles. Such service yard shall be paved, have access to a public street or alley, be located to the side or rear of the mini warehouse structures and be enclosed on the three (3) sides with a permanent wall or fence, at least six feet (6') high and adequate to conceal the service yard from visibility.

Section 7. Exterior Lighting

Exterior lighting at the entrances of each mini warehouse of low illumination shall be installed for security purposes. All exterior lighting fixtures shall be constructed to direct the beam below the horizontal plane of the fixture and shall reflect away from any adjacent residential areas.

Section 8. Security

Security fences shall be installed around the perimeter of the mini warehouse complex no less than eight feet (8') and no more than ten feet (10') in height with barbed wire buffers at the top. The location of the security fence shall be a minimum of twenty feet (20') from the building line.

Section 9. Zoning Approval

Prior to any zoning change request from B-3 Mini Warehouses, a site plan must be submitted with the application for rezoning. Site plan must include:

9.1 Location of building(s)

9.2 Fencing

9.3 Buffer zones, if abutting any residential districts

9.4 Lighting

9.5 Landscaping

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ARTICLE XXI-B B-4 BUSINESS RENAISSANCE DISTRICT

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this article are the regulations in the B-4 Business Renaissance District.

This district is composed of land and structures situated in the historical core of downtown. The district regulations are designed to advance the economic development of this district yet preserve and enhance its historical and architectural integrity.

Section 2. Permitted Principal Uses

A building or premises shall be used only for the following purposes:

2.1 Antique Shop

2.2 Museum

2.3 Restaurant (no Drive-Thru Facility)

2.4 Specialty Retail

2.5 Gift Shops

2.6 Florist

2.7 Public Facilities

2.8 Ice Cream/Soda Parlor

2.9 Photo Shop

2.10 Barber/Beauty Shop

2.11 Candy Shops

2.12 Drug Store

2.13 Hardware (Small Vintage)

2.14 Commercial or Business Office

2.15 Shoe Repair

2.16 Video Store

2.17 Medical, Dental or Vision Care Office

Section 3. Conditional Uses

3.1 As deemed appropriate and subject to conditions specified by the Planning Commission.

3.2 Other Use Standards

3.2.1 Residential on second level or above along Main Street

3.2.2 New "infill" Residential beyond Main Street must be architecturally compatible with that of surrounding residential uses.

3.2.3 Additions and accessory structures for existing residential must be architecturally compatible with the main structure.

Section 4. Area and Dimensional Regulations

Except as provided in Articles XXVIII and XXX, the area and dimensional regulations set forth in the following table shall be observed.

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front / Rear	Side / Side		Feet
2 ½ / 35	10 / 20	10 / 10	None	None

4.1 If adjoining property is Zoned B-4, the side yard setback may be reduced to zero (0) if the structure is equipped with an approved sprinkler system and has a fire rated wall that meets approval of the Helena Fire Chief.

Section 5. Parking and Loading

Off street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article XXVII.

Section 6. Additional Regulations

6.1 Alterations - No building or structure may be erected or demolished, and no material change in appearance of any property or structure within such district shall be made unless approved by the Building Official.

A material change is defined as a change that will affect either the exterior architectural or environmental features of any property, building, structure, site or landscape feature.

6.2 New Construction - The Building Official shall issue a certificate of approval to new structures constructed within the district of these structures which conforms to the guidelines approved by this article. No building or land shall be occupied for any use until an application has been submitted and approved by the Building Official must be similar to that of 1930's architecture.

6.3 Interior Alterations - In its review of applications for approval, the Building Official shall not consider interior arrangement or use which has no effect on exterior architectural features.

Section 7. Design Guidelines

7.1 The following guidelines are established for construction, redevelopment, alteration or other development activities in the B-4 zoning district by the Planning Commission.

7.1.1 No building, fence, wall or other structure shall be commenced or erected, nor shall any exterior addition to, or change or alteration be made until plans and specifications showing the nature, kind, shape, height, materials and location have been submitted and approved in writing.

7.1.2 The following standards are set for materials and design of structures in the B-4 District.

7.1.2.1	Wood Frame
7.1.2.2	Stone
7.1.2.3	Brick – of an antique nature and color
7.1.3.4	Roof Design – Gable or Hip
7.1.3.5	Roof Materials – Metal in galvanized, green or other earth tone; cedar shake or other appropriate materials reflecting the historic era of the district
7.1.3.6	Outside Colors – Earth tones
7.1.3.7	Glass – Glass on the front of structures must give the appearance of a break. No "store front" appearance
7.1.3.8	Design must be similar to that of 1930's architecture
7.1.3.9	Other materials or standards deemed appropriate Building Official

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ARTICLE XXII M-1 LIGHT INDUSTRIAL DISTRICT (LID)

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article are the regulations in the M-1 Light Industrial District.

Section 2. Permitted Uses

A building or premises shall be used only for the following purposes:

2.1 Animal hospital or clinic including open kennels

2.2 Automobile repair or renovation facilities

2.3 Bakery

2.4 Bottling Plant

2.5 Building materials sales with outside storage

2.6 Contractor yards

2.7 Farm machinery and heavy equipment sales

2.8 Highway maintenance yard

2.9 Janitorial and maintenance services

2.10 Sanitary sewage treatment facilities

2.11 Truck terminal

2.12 Warehouses (excluding Mini Warehouses - See XXIA B-3)

2.13 Woodworking shop

2.14 Accessory buildings including a dwelling for a watchman or custodian employed on the premises.

2.15 Other uses deemed compatible by the Planning Commission.

Section 3. Prohibited Uses

Any residential structure, storage of junk or wrecked vehicles for purposes other than for repair or service, disposal plants for garbage or landfills, any other uses which are detrimental to property or to the health and safety beyond the district by reason of the emission of odor, dust, gas, fumes, smoke, noise, vibration, or waste material.

Section 4. Area and Dimensional Regulations

Maximum Height of Structure	Minimum Yards	Minimum Side Yards	Minimum Lot Area	Minimum Lot Width
Stories / Feet	Front	Rear/Side		Feet
2 ½ / 35	35	20 / 20	None	None
		If abutting a residential zone, must have a 20' greenbelt or 6' high wood fence		

4.1 Any building which exceeds two and one-half (2-1/2) stories in height shall be approved by the Helena Planning Commission, Fire Department and Inspection Department.

Section 5. Greenbelt Regulations

When any permitted or conditional use is wholly or partially adjacent to a residential, office or agricultural zone, said use shall provide as a minimum, a twenty foot (20') greenbelt, or a six foot (6') high wood fence. No paving permitted closer than twenty feet (20') from any property line. (See Greenbelt Regulations)

Section 6. Parking and Loading

Off street parking and loading spaces shall be provided in accordance with the requirements for specific uses set forth in Article XXVII.

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ARTICLE XXIII M-2 HEAVY INDUSTRIAL DISTRICT (HID)

Section 1. Generally

The regulations set forth in this district or set forth elsewhere in this Ordinance, when referred to in this Article are the regulations in the M-2 Heavy Industrial District.

Section 2. Permitted Uses

A building or premises shall be used only for the following purposes:

2.1 Any use permitted in M-1 Light Industrial

2.2 Any other use not in conflict with any ordinance of the City of Helena, provided, however, that any use not permitted in the M-1 Light Industrial District, shall be allowed only by the special permit from the Helena Planning Commission and Helena City Council.

Section 3. Area and Dimensional Regulations

Prior to issuance of a building permit, the applicant shall submit and obtain approval from the Helena Planning Commission of a site plan which is zoned for and meets the following requirements:

3.1 Access by way of a major thoroughfare adequate and suitable for the accommodation of truck traffic.

3.2 All streets or roadways within an industrial park shall have a minimum right-of-way width of seventy feet (70'), a maximum gradient of five percent (5%) and shall conform to City of Helena standards for commercial streets or as otherwise approved by the Helena Planning Commission.

3.3 Outdoor storage in an Industrial District shall be permitted only when accessory to a permitted principal use, and only when storage areas are suitably screened by either landscaping, fences or walls and are located at least twenty feet (20') from any property lines of all other districts, fifty feet (50') from any right-of-way lines. The Helena Planning Commission shall approve plans for the location and screening of all outdoor storage areas before a building permit shall be issued for construction.

3.4 CUL-DE-SAC streets shall be permitted in industrial parks when they are less than five hundred feet (500') long as measured from the terminal point of the cul-de-sac street to the closest intersection and which terminal point is provided with a paved vehicle turn around area having a minimum radius of seventy feet (70').

3.5 Street lighting shall be provided as approved by the City of Helena.

3.6 Sight distances at all points of ingress and egress to the public thoroughfares or highways shall not be less than five hundred feet (500'), except where traffic signal light is installed.

3.7 Where points of ingress to or egress from industrial parks are located on public thoroughfares having speed limits in excess of thirty (30) miles per hour, there shall be provided on the public thoroughfare, accelerations and deceleration lanes, the lengths of which shall be determined by the following schedule:

Speed Limit in Miles Per Hour	30	40	50	55
Distance in Feet	100	200	300	400

3.8 A report of sub-surface soil conditions shall be provided to the City Engineer by a professional testing company, and a report submitted from the City Engineer to the Helena Planning Commission.

3.9 A preliminary plan or engineering feasibility report shall be submitted to the Helena Planning Commission which provides for the site grading, storm drainage, sanitary sewage, and water supply, prepared by a registered professional engineer.

3.10 A copy of intended deed restrictions shall be provided to the Helena Planning Commission along with the preliminary plan.

3.11 Parking (Article XXVII)

Section 4. Greenbelt Regulations

When any permitted or conditional use is wholly or partially adjacent to a residential, office or agricultural zone, said use shall provide as a minimum, a twenty foot (20') greenbelt, or a six foot (6') high wood fence. No paving permitted closer than twenty feet (20') from any property line. (See Greenbelt Regulations)

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ARTICLE XXIV SPECIAL DISTRICT

Section 1. Generally

Special districts are hereby authorized for the purpose of providing optional methods of land development, which encourages imaginative solutions to environmental design problems. Areas so established shall be characterized by a unified building and site development program providing for coordinated open space and architectural treatment. The special districts authorized by this Article are also intended to provide means for the establishment of use which are generally considered to be incompatible with most other land usage.

The procedure to be followed in the creation of special districts shall conform to the regulations for any other zone change with the following exceptions:

1.1 Any petition for the establishment of a Special District shall be submitted to the Helena Planning Commission for its review and recommendation. The recommendation, which shall be in writing, shall state the Commission's consideration of the following:

1.1.1 The value and character of the property or properties adjacent to the tract of land under consideration will not be adversely affected.

1.1.2 That the proposed development is consistent with the intent and purpose of this ordinance to promote public health, safety, morals and the general welfare.

1.1.3 That the final plan for the proposed development meets the requirements of all other regulating bodies.

1.1.4 That an approved method of sewage disposal is available to the tract under consideration.

1.2 The establishment of a Special District will be for the express purpose of improving the tract of land in accordance with the approved plan of development for the particular tract of land and for the use set forth in the development plan.

1.3 The owner or owners of a tract of land may petition the Helena City Council for an amendment to the official zoning map creating a special district only after the development plan has been approved and favorable recommendation on the zone change has been rendered by the Helena Planning Commission.

1.4 If, within three hundred sixty-five (365) days for the effective date of the amendment, the Building Inspector has not received an application for a

building permit, the City Council may, by appropriate action, repeal the amendment establishing the Special District. Once a building permit is issued, the improvements set forth in the plan of development must be completed within twelve (12) years from date of issuance. Otherwise, the City Council may repeal the amendment establishing the Special District.

The administrative official may not issue a building permit unless the proposed improvements are substantially as shown in the plan of development approved as a prerequisite to the amendment establishing the Special District.

1.5 Unless specific variations are noted on the development plan and approved by the Helena Planning Commission, the most restrictive requirements for parking, loading, yards and dimensional regulations for the proposed use shall be applicable to the Special District.

Section 2. Planned Shopping Center District

2.1 A special district created for the purpose of establishing a planned shopping center may be allowed in any district, provided, that adjoining property is protected.

2.2 The Planned Shopping Center District shall be laid out, developed and used according to a plan prepared in compliance with the provisions of this Article in order to provide for modern retail shopping facilities in appropriate locations to serve residential neighborhoods or regional areas. Any owner or owners of a tract of land comprised of five acres or more, may request that such tract of land be zoned as a Planned Shopping Center District by proceeding under the provisions of this Article, but the failure of such owner or owners to apply under this Article shall not prevent them from constructing or causing to be constructed a retail sales complex, customarily called a Shopping Center, upon such tract of land provided the same is zoned so as to permit its use for this purpose.

2.3 The use of each building or premises shall be in accordance with the plan referred to in the Article which use shall be limited to services, offices, clinics, parking, retail sale of merchandise, and similar activities ordinarily accepted as shopping center uses. No building shall be designed, constructed, structurally altered or used for residential purposes, except to provide within the buildings allowed, facilities for a custodian, caretaker, or watchman employed on the premises.

2.4 The structures permitted in this Article shall observe a maximum height of two and one-half (2-1/2) stories or thirty-five feet (35').

2.5 The owner or owners of a tract of land comprised of five (5) acres or more may submit to the Helena Planning Commission a plan for the

development and use of such tract for the purposes of and meeting the requirements set forth in this Article. Said plan shall comply with all requirements of this Article and shall be accompanied by evidence concerning the feasibility of the project and the effect of this proposed development on surrounding property and other physical conditions, which plan and supporting evidence shall include each of the following:

2.5.1 A site plan defining the areas wherein buildings may be constructed, the areas which will be developed for parking and the proportionate amount thereof, the location or roads, driveways and walkways and walks and the points of ingress and egress, including access streets where required, the location and height of walls, the spaces for loading, the locations, size and character and number of signs, the location and character of exterior lighting, and the character and extent of landscaping, planting and other treatment for protection of adjoining property.

2.6 Before any action thereon, the proposed planned shopping center plan, together with the required supplementary information shall be referred to the Helena Planning Commission for study and report. Reasonable additional requirements may be required by the Helena Planning Commission for the protection of adjoining residential property.

* The Helena Planning Commission and Helena City Council retains the authority to waive any provisions in this article or to impose greater requirements than herein stated.

Section 3. Planned Residential District

3.1 The regulations established in this section are intended to provide optional methods of land development with provisions for commercial, religious, educational and cultural facilities, which are integrated with the total project by unified architectural and open space treatment.

A planned residential development, occupying five (5) acres or more, shall be permitted in any district except B-1, B-2, O-I, M-1 and M-2 Industrial District.

3.2 The following uses are permitted:

3.2.1 Single Family attached and detached dwellings

3.2.2 Two-Family

3.2.3 Multiple Family dwellings

3.2.4 Commercial uses

For each one hundred (100) dwellings units to be established, four (4) acres may be set aside for commercial use provided that adequate protection of a adjacent property is afforded by the plan.

3.2.5 Recreation uses

Recreation uses may include a community center, a golf course, a swimming pool, or parks, playground or other recreational uses. Any structure involved in such use shall have a fifty feet (50') setback from all property lines. The amount of land set aside for permanent open space shall be ten percent (10%) of the gross development area.

3.2.6 Educational Uses

3.2.7 Community facilities such as churches and other religious institutions and non-profit clubs such as country clubs, swim and/or tennis area.

3.3 The following requirements are minimums and are intended to serve as a guide in plan formulation. The Helena Planning Commission retains the authority to waive the provisions of this section or to impose greater requirements than herein stated.

All buildings shall be set back from the street right-of-way lines and from the periphery of the project to comply with the following requirements:

3.3.1 There shall be a front yard for all detached single-family dwellings of not less than twenty-five feet (25')*. The front yard setback for all other structures shall be as determined by the Helena Planning Commission.

3.3.2 Unless indicated elsewhere, all buildings shall have a setback of not less than twenty-five feet (25')*.

*Unless determined otherwise by Helena Planning Commission

3.3.3 In no case shall a lot, for a single-family detached structure, be created with an area of less than 7,000 square feet or a frontage of less than seventy-five feet (75') at the building line unless approved by the Helena Planning Commission and Helena City Council.

3.4 In addition to the applicable regulations the following rules shall be observed.

3.4.1 The application must be accompanied by a site development plan showing the use or uses, dimensions and locations of proposed streets, parks, playgrounds, other open spaces, residential buildings, commercial buildings and such other pertinent information as may be necessary to adequately determine that the proposed development meets the purpose of this Ordinance.

3.4.2 The Helena Planning Commission shall review the conformity of the proposed development by employing recognized principles of design and land use planning. The minimum yard and maximum height requirements of the zoning district shall not apply except as set forth herein. The Helena Planning Commission may impose conditions regarding layout, circulation and other physical improvements.

Where the planned residential developments provides for single family attached (row houses) or single family detached housing to be held under individual ownership by the occupant, a plat of development shall be recorded and shall show building lines, common land, streets, easements and other applicable features.

3.4.3 The proposed development must be designed to produce an environment of stable and desirable character not out of harmony with its surrounding neighborhood. It shall include provisions for recreation areas to meet the needs of the anticipated population.

* The Helena Planning Commission and Helena City Council retains the authority to waive any provisions in this article or to impose greater requirements than herein stated.

Section 4. Planned Industrial District

4.1 A special district for the purpose of a Planned Industrial District may be established in any district.

4.2 The owner or owners of a tract of land comprised of ten (10) acres or more in any acceptable zone district, may submit to the Helena Planning Commission a plan for the development and use of such tract meeting the requirements set forth in this article and shall be accompanied by evidence concerning the number of persons expected to be employed, the effect of the proposed development on surrounding property, and other physical conditions, which plan and supporting evidence shall include each of the following:

4.2.1 A site plan defining the areas wherein buildings may be constructed, the area which will be developed for parking and the proportionate amount thereof, the location of roads, driveways and walks, and the points of ingress and egress including access

streets where required, the location and height of walls, the spaces for loading, the location, size, character and number of signs, the location and character and extent of landscaping, planting and other treatment for protection of adjoining property.

4.2.2 A professional traffic analysis indicating that the proposed development will be so related to streets and arteries that the traffic generated can be accommodated without causing objectionable volumes of traffic on streets.

4.2.3 A copy of any deed restrictions intended to be recorded.

4.3 Before any action thereon, the proposed planned industrial district plan, together with the required supplementary information, shall be referred to the Helena Planning Commission for study. Reasonable additional requirements may be required by the Helena Planning Commission for the protection of adjoining residential property.

4.4 The use of each building or premises shall be in accordance with the plan referred to in Sub Section 2, which use shall be limited to:

4.4.1 Research or testing laboratory

4.4.2 Offices

4.4.3 Printing or engraving plant

4.4.4 Radio or television broadcasting station or studio, but not including towers.

4.4.5 Manufacturing, fabricating, assembling or processing of the following:

4.4.5.1 Small electrical or electronic equipment
4.4.5.2 Jewelry
4.4.5.3 Cosmetics
4.4.5.4 Pharmaceuticals
4.4.5.5 Medical, dental or drafting instruments
4.4.5.6 Musical instruments, games or toys
4.4.5.7 Optical equipment, clocks, watches or similar precision instruments
4.4.5.8 Clay, leather, fabric, metal, wood or glass products of a handcraft nature
4.4.5.9 Clothing
4.4.5.10 Fur goods, except tanning or dyeing
4.4.5.11 Sporting goods
4.4.5.12 Furniture

4.4.5.13 Plastic products, not including processing or raw materials

4.4.6 Other uses similar to those listed in this article which do not create any danger to health or safety in surrounding areas and which do not create any objectionable noise, vibration, smoke, dust, odor, heat or glare.

4.4.7 Accessory structures and uses.

4.5 Area and dimensional regulations.

4.5.1 The structures permitted in this section shall observe a maximum height of two and one-half (2-1/2) stories or thirty-five feet (35').

4.5.2 A twenty-five foot (25') setback line from all property lines shall be required.

* The Helena Planning Commission and Helena City Council retains the authority to waive any provisions in this article or to impose greater requirements than herein stated.

Section 5. Mobile Home Community

5.1 Location of Mobile Home Community

5.1.1 The location of mobile home community shall be approved by the Helena Planning Commission.

5.1.2 The use districts within which such mobile home community are permitted. All districts provided protection of adjoining property is maintained.

5.1.3 The boundary of the mobile home community must be at least one hundred feet (100') from any permanent residential building located outside the mobile home community, unless separated therefrom by a natural or artificial barrier of fifty feet (50') or more.

5.2 Mobile Home Community Standards

5.2.1 No parcel of land containing less than five (5) acres and less than ten (10) mobile home spaces, available at the time of first occupancy, shall be used for a mobile home community.

5.2.2 The mobile home community shall be constructed so as to provide adequate light and air to avoid undue congestion; provided, however, there shall be not less than 7,500 square feet of area for each space provided on the site. This space ration shall include

access roads, automobile parking, accessory building space and recreation area.

5.2.3 The mobile home community shall be located on a well drained site, shall be so located that its drainage will not endanger any water supply, and shall be in conformity with all applicable health and sanitation regulations in force by the County Health Officer and the City of Helena.

5.2.4 Yards

5.2.4.1 Each mobile home community shall have a front yard of not less than twenty-five feet (25') extending for the full width of the parcel devoted to said use.

5.2.4.2 Each mobile home community shall have a rear yard and side yard on both sides of the parcel devoted to said use of not less than ten feet (10'). Twenty feet (20') Rear.

5.2.4.3 Where a side or rear yard abuts a street, the yard shall not be less than twenty-five feet (25') and all yards shall be landscaped and maintained.

5.2.5 No building or structure erected or stationed in the community shall have a height greater than two one-half (2-1/2) stories or thirty-five feet (35').

5.2.6 Each mobile home community shall be permitted to display on each street frontage, one identifying sign of a maximum size of thirty-two (32) square feet. Said sign shall contain thereon only the name and address of the mobile home community and may be lighted by indirect lighting only.

5.2.7 Each mobile home space shall be of sufficient size that, in addition to the manufactured unit, the following areas shall be provided:

5.2.7.1 Each mobile home space shall be at least fifty feet (50') wide and one hundred twenty-five feet (125') deep, and such space shall be clearly defined by permanent markers.

5.2.7.2 There shall be a front yard setback of at least twenty-five feet (25') from all access roads within the mobile home community.

5.2.7.3 Mobile homes shall be so harbored on each space that there shall be at least twenty feet (20') clearance between mobile homes or any attachments thereto; provided however, with respect to mobile homes parked end-to-end, the end-to-end clearance shall

be located no closer than twenty feet (20') from any building within the community.

5.2.7.4 There shall be at least two (2) off street parking spaces for each manufactured unit space which shall be on the same site or located in grouped parking bays specifically designed for such purpose close to the site served. Off street parking will be hard surfaced.

5.2.7.5 Each mobile home space shall be provided with a paved patio of at least two hundred (200) square feet; and may provide a metal storage locker or locker fabricated of some suitable material such as concrete blocks or brick, but shall not contain wood siding. Storage lockers may be located in locker compounds established in the rear of the mobile home spaces. Such lockers shall be located at least ten feet (10') from manufactured unit.

5.3 General Provisions

5.3.1 There shall be established and maintained within each mobile home community an automobile parking area for the use of guests. The number of parking spaces within the area shall be equal to one (1) for every four (4) sites.

5.3.2 Access roads within a mobile home community shall be provided with a suitable all weather surface no less than twenty-four feet (24') in width.

5.3.3 Each mobile home community that accepts a dependent trailer for parking shall be provided with one or more service buildings complying with State and Local laws and as approved by the Health Officer.

5.3.4 Each mobile home space shall be provided with a connection to a sanitary sewer line or to a sewer system approved by the County Health Department or the City of Helena.

5.3.5 An accessible, adequate, safe, potable water supply and sanitary sewer approved by the Health Officer, shall be provided in each mobile home community, to each mobile home site.

5.3.6 Refuse storage, collection and disposal shall be in conformity with the laws and regulations prescribed by the City of Helena or County Health Department.

5.3.7 There shall be provided a park and recreation area having a minimum of one hundred fifty (150) square feet of each mobile home space. Areas shall be consolidated into usable areas with minimum dimensions of not less than thirty feet (30').

5.3.8 Only factory prefabricated portable attachments or awnings may be attached to or become a part of any mobile home. No permanent addition of any kind shall be built onto, nor become a part of any trailer coach. Underpinning/skirting of mobile home/manufactured home is required.

5.3.9 Mobile homes shall not be used for commercial, industrial or other non-residential uses within the mobile home community.

5.4 Application for Permit

An application to the Helena Planning Commission for permission to establish a mobile home community shall be as regulated herein under this section of the Ordinance.

5.4.1 The following information shall be submitted to the Helena Planning Commission:

5.4.1.1 The location and legal description of the proposed mobile home community

5.4.1.2 Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home community.

5.4.1.3 The proposed use of buildings shown on the site

5.4.1.4 The location and size of all mobile home spaces

5.4.1.5 The location of all points of entry and exit for vehicles and internal circulation pattern

5.4.1.6 The location of all landscaping to be provided

5.4.1.7 The location of all lighting to be provided

5.4.1.8 The location of all walls and fences and the indication of their height and materials of construction

5.4.1.9 The location of all off street parking facilities

5.4.1.10 Such other architectural and engineering data as may be required to permit the Health Officer of Planning Commission to determine if the provisions of this Ordinance are being complied with.

5.4.1.11 A time schedule for development shall be prepared which shall demonstrate the applicant's readiness and ability to provide the proposed services. Said time shall be for a period of not more than one (1) year.

5.5 General Regulations

5.5.1 Additions or Alterations - Any additions or alterations to existing mobile home community hereinafter established shall be in conformity with the provisions of this Ordinance.

License fees for the operation of a mobile home community shall be set by the Helena City Council and may be found in the Revenue Licensing Schedule from the City Clerks Office.

The Helena Planning Commission and Helena City Council retains the authority to waive any provisions in this article or to impose greater requirements than herein stated.

5.5.2 Conformance - Every mobile home community in existence upon the effective date of this Ordinance may be maintained and operated for an indefinite period without being subject to the provisions of this Ordinance; provided, however, that such mobile home communities comply with all applicable health regulations and specifications.

5.5.2.1 All mobile home communities created or established after the effective date of this Ordinance shall conform to the specifications and requirements as set forth herein.

5.5.3 Maintenance of Register - Every mobile home community owner or operator shall maintain a register containing a record of all mobile/manufactured homes and occupants using the mobile home community. Such register shall be available to any authorized person inspecting the mobile home community and shall be preserved for the period of three (3) years.

5.5.5 Revocation of Permit - The City of Helena may revoke any permit to maintain and operate a mobile home community if the permitee fails to comply with the regulations of this Ordinance. The permit may be reissued if the circumstances leading to revocation have been remedied and the mobile home community is being maintained in full compliance with the law.

Section 6. Drive-In Theaters

6.1 General Regulations

6.1.1 The location of any drive-in theater shall be reviewed and approved by the Helena Planning Commission.

6.1.2 Drive-in theaters are permitted in the B-2 General Business District, M-1 Light Industrial District and M-2 Heavy Industrial District; provided, however, that the location shall be approved by the Helena Planning Commission.

6.1.3 The site must have access to a major public road.

6.1.4 The screen of a drive-in theater shall be placed a minimum of one hundred feet (100') from the public right-of-way and be located so as to be hidden from the view of traffic contiguous to the entrance and exits of the site.

6.1.5 The ingress and egress from the highway shall be signed to permit only one-way traffic.

6.1.6 Vehicle standing space shall be provided between the ticket office and the public right-of-way, for patrons awaiting admission, equal in quantity to not less than twenty percent (20%) of the capacity of the theater.

6.1.7 All ground area accessible to vehicles shall be treated with suitable material to prevent the formation of dust.

6.1.8 An opaque wall or fence shall be provided of adequate height to screen the patrons and vehicles in attendance at the drive-in theater from the view of surrounding properties.

6.1.9 All parking areas and access ways shall be adequately lighted, provided, however, that such lighting shall be shielded to prevent any glare or reflection onto a public street or onto neighboring properties.

6.1.10 The vehicular approach to the drive-in theater site from the public thoroughfare or highway should be so designed that uncontrolled left hand turns from the public thoroughfare or highway to the site shall be eliminated or reduced by either a frontage roadway or other suitable means.

6.1.11 Sight distances at all points of ingress and egress shall be no less than one thousand feet (1,000'), except where a traffic signal is installed at the entrance or exit of the site.

Section 7. Cemeteries

7.1 General Regulations

7.1.1 Cemeteries are permitted in the A-1 district provided, however, that the location of all cemeteries shall be reviewed and approved by the Helena Planning Commission and the Helena City Council.
7.1.2 No cemetery except a family plot or "Church Yard" cemetery shall be established on a site containing less than ten (10) acres.
7.1.3 The site proposed for a cemetery shall not interfere with the development of a system of streets or a highway in the vicinity of such site. In addition, such site shall have direct access to a public thoroughfare.
7.1.4 Any structures except grave markers and monuments shall be located not less than fifty feet (50') from any lot line or street right-of-way.
7.1.5 All graves or burial lots shall be located not less than twenty-five feet (25') from any lot line or street right-of-way.
7.1.6 All required yards shall be landscaped and maintained.

Section 8. Other Uses

8.1 Uses not covered in other sections.
Uses not covered elsewhere in this Ordinance and which are generally of a nature so as to be incompatible with most permitted uses may be allowed in any district except the "E&R" districts. The location shall be approved by the Helena Planning Commission and Helena City Council. In addition, a complete development plan and other information pertinent to the development or use shall be included at the discretion of the Helena Planning Commission. Such uses may include but are not limited to the following:

8.1.1 Airport or landing field
8.1.2 Mausoleum
8.1.3 Commercial, recreational or amusement development for temporary or seasonal periods.
8.1.4 Sanitary land fill operation
8.1.5 Practice golf driving range, par three golf course or miniature golf course

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ARTICLE XXV UTILITY & CELLULAR TOWER REGULATIONS

U-1 UTILITIES DISTRICT

Section 1. Use Regulations

Within a U-1 Utilities District, a building or land hall be used for the following purposes:

1.1 Public utilities such as sewage pumping or lift stations, power substations, gas peak shaving stations, and water pumping stations, etc.

1.2 Radio and television stations and towers, etc.

Section 2. Area and Dimensional Regulations

In all the above permitted uses, the area and dimensional regulations set forth in the following table shall be observed:

Minimum Floor Area	Minimum Yards			Minimum Lot
	Front	Rear	Side	
None	35	35*	35**	None

* Rear yard may be reduced to fifteen feet (15') if the adjoining property is zoned Commercial, Industrial or Utilities.
** If the adjoining property is zoned commercial, industrial, utilities, or institutional 2 or 3, interior side yard setbacks may be reduced to zero feet (0'); however, if the structure is not built to the side lot line, a minimum setback of at least ten feet (10') shall be maintained.

Section 3. Buffer Regulations

Upon any side or rear lot line which abuts a single family residential zoning district excluding A-1 not in a recorded subdivision district, there shall be a planted buffer strip along the rear and/or side lot line(s) abutting the residential properties. (See Greenbelt)

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U-2 COMMUNICATIONS TOWER DISTRICT

Section 1. Use Regulations

Upon adoption of this Section, no new communications tower (as defined herein) shall be permitted or constructed without first obtaining U-2 Communication Tower District Zoning for the tower site in accordance with the application and approval procedures set forth in this Section. Within a U-2 Communications Tower District, a building or land shall be used only for the following purposes:

1.1 Communications Towers as defined in this Section;

1.2 Communication Antennas as defined in this Section;

1.3 Wireless Communications Facilities as defined in this Section, but excluding radio and television stations and towers permitted in a U-1 Utilities District.

Section 2. Definitions

The following definitions shall apply to terms used in the regulations for a Communications Tower District:

2.1 **Communications Antenna -** A device used to transmit and/or receive wireless communication services as authorized by the Federal Communications Commission, including all mounts and supporting structures other than supporting communications towers as defined herein. Communications antennas shall include:

2.1.1 **Microwave dish** - parabolic antennas that emit microwave signals.

2.1.2 **Panel antenna** - vertical and horizontal plane antennas that aim radio signals in specific directions. (Also referred to as sector antennas.)

2.1.3 **Whip antenna** - cylindrical antennas which emit radio signals in a 360-degree horizontal plane and a compressed vertical plane. (Also referred

2.2 **Communications Tower** - Any ground-mounted structure that is designed and constructed primarily for the purpose of supporting one or more communications antennas. Communications towers shall include:

2.2.1 **Monopole towers** - cylindrical self-supporting towers constructed as a single spire.

2.2.2 **Self-Supporting or Lattice towers** - self-supporting towers with multiple sides of open-framed supports.

2.2.3 **Guyed towers** - towers anchored with guy wires.

2.2.4 **Camouflaged towers** - self-supporting towers concealed such that they blend in with their surroundings. Such towers may be constructed to resemble objects, such as a tree or a street light, or may be concealed another structure, such as a clock tower, church steeple or lamp post.

2.3 **Protected Residential Area** - Lots, subdivisions or otherwise designated areas planned or clearly intended for residential use, or areas currently in residential use, regardless of zoning classification or jurisdiction. A protected residential area shall include vacant lots carrying a residential zoning classification.

2.4 **Provider** - see Wireless Communication Service Provider.

2.5 **Wireless Communications Facilities** - Any and all buildings, structures, fixtures or other accessories (such as electrical boxes, equipment sheds, guy wires, etc.) installed, used or intended for use in conjunction with any of the following:

2.5.1 **Cellular Communications facilities** - low-powered transmitters used to transmit signals in a cell for cellular radio-telephone services (cellular phones), personal communication services (PCS), enhanced specialized mobile radios (ESMR), trunk mobile cellular radios, paging services similar cellular-based communications to the general public.

2.5.2 **Commercial Satellite facilities** - satellite earth stations which are greater than two (2) meters in diameter, and are used to send and/or receive satellite signals and similar communications.

2.5.3 **Microwave Relay facilities** - used to transmit radio signals between two or more fixed points by microwave antennas and similar transmission services.

2.6 **Wireless Communication Service Provider** - Any private company, corporation or similar such entity providing two-way interactive communications services e.g., not to include paging services) to the general public by way of Cellular Communications facilities as defined under Wireless Communications Facilities as defined in this Section.

2.7 **F.A.A.** - the Federal Aviation Administration

2.8 **F.C.C.** - the Federal Communications Commission

Section 3. General Regulations and Requirements

3.1 Purpose and Intent

3.1.1 The purpose of the Section in accordance with the purpose of the Zoning Resolution of the City of Helena to protect the public health, safety and welfare, is to establish minimum location requirements, siting criteria and development standards for wireless communications facilities, and to do so in such a way as to be consistent with the Federal Telecommunications Act of 1996, as amended. It is therefore a concurrent purpose of the Section to prevent discrimination between and among the various providers in the wireless communication industry.

As authorized by the Federal Telecommunications Act of 1996, as amended, City of Helena finds it necessary to enact and enforce these minimum standards and requirements, which are designed to assure safety; ensure compatibility and adjacent land uses; protect against the devaluation of property; preserve the character of existing communities and their design; protect revitalization areas, historic areas and other areas of special significance or public investment; avoid adverse visual impacts to the City landscape; and discourage the unnecessary proliferation of wireless facilities.

It is the intent of this Section to encourage and maximize the use of existing and approved (future) towers so that the construction of new communications towers be an option of last resort. To the extent feasible, co-location of antennas on existing towers, or their attachment to buildings, water towers and other suitable structures, should first be sought. However, where new tower construction is justified as being absolutely necessary, compatible design measures, camouflaging techniques and screening should be instituted to minimize any and all detrimental effects to the area in which it is to be located.

3.2 Lighting Restrictions

3.2.1 There shall be no lighting on any towers except when required by the F.A.A. In cases where the F.A.A. does require a tower to be lighted, only red blinking lights shall be used at night; white strobe lights will not be permitted for nighttime lighting. Written documentation of any F.A.A. directives to light a tower differently than provided herein must be submitted with the zoning application.

Any security lighting used at the facility shall be of a low-density nature, and shall not be directed or reflected away from/off of the site. Wattage of such lighting shall be restricted to the equivalent of a 150-watt bulb.

3.3 Co-Location Requirements

3.3.1 All towers constructed subsequent to the adoption of this Section, and their associated compounds, shall be designed and built to accommodate additional wireless communication service providers based on the height of the tower as follows:

3.3.1.1 Towers 80 to 159 feet in height shall accommodate a minimum of two (2) different providers, except as follows;

3.3.1.2 Towers 160 to 209 feet in height shall accommodate a minimum of three (3) different providers, except as follows:

3.3.1.3 Towers 210 to 300 feet in height shall accommodate minimum of four (4) different providers.

3.4 Maximum Utilization of Existing Sites

3.4.1 No new communications tower shall be constructed if space is structurally, technically and economically available for the proposed communications antenna(s) and related facilities on an existing tower, or on an alternative site (e.g., building or other structure), where such alternative location would cover the required service area without creating undue signal interference.

3.5 Permission to Co-Locate Required

3.5.1 Pursuant to Items 3.3. and 3.4. above, and to the stated purpose and intent of this Section, the owner of any existing communications tower that has space structurally and technically available for any additional communications antennas shall make such space reasonably and economically available to other providers.

3.6 Visual Impact

3.6.1 All new communication towers shall be designed to minimize adverse visual impacts on/from surrounding residential properties, the public right of-way, or historically significant or aesthetically-sensitive areas through landscaping, camouflaging and/or other similar techniques, given the topography of the tower site and the surrounding area.

3.7 Use Compatibility and Design Harmony

3.7.1 All new communications tower facilities must be compatible with the surrounding land uses, given the character of use(s) and development trends in the area around the tower site. Said tower facilities shall be designed, both structurally and with regard to finish or color, to be as much in harmony as possible with the natural setting of the site and/or the surrounding development pattern, as well as being up to the highest industry standards.

3.8 Safety

3.8.1 All communication towers must comply with wind loading and all other applicable structural safety standards, building and technical codes having jurisdiction, so as not to endanger the health and safety of residents, employees or travelers in the event of structural failure of the tower due to extreme weather conditions or other acts of God.

3.9 Security

3.9.1 A dark vinyl-coated, chain link steel fence shall be installed around the perimeter of the compound, with a minimum height of eight feet (8') as to the top of the fence (or barbed wire, if applicable).

3.10 Maintenance

3.10.1 The owner of a communications tower shall be responsible for maintaining the structural integrity, safety, appearance, screening, buffers, security and other installations required by this Section, and by any other applicable codes, ordinances, regulations, statutes or of approval imposed by the City of Helena or its authorized representative, in perpetuity for as long as said tower remains on a site.

3.11 Abandoned Facilities

3.11.1 Any wireless communications facility that ceases to be used for its original communications purpose shall be removed at the owner's expense. The owner of the facility shall provide the Building Official with a copy of the notice to the F.C.C. of the intent to cease operations, and shall have ninety (90) days from the date of such ceasing to remove the obsolete tower and all accessory structures and to restore the site to its natural condition.

In case of multiple providers sharing use of a single tower, notice will still be required from each provider as to their cessation of operations, and such provider will be required to remove its facilities with the ninety (90) day period prescribed above. At such time as all providers sharing use of a tower cease operation of their facilities located thereon, the owner of the tower shall complete the removal and restoration process as set forth herein.

3.12 Violations

3.12.1 Any violation or other failure to comply with any provision of this Section shall subject the violator to the fullest extend of the Remedies and Penalties for Violation.

Section 4. Area and Dimensional Requirements

For all of the above permitted uses, the area and dimensional regulations set for herein shall be observed:

4.1 Minimum Lot Area: None

4.2 Minimum Yard Setback: 15 feet* on all sides, including front and rear, as measured from the U-2 zoning district boundary to the required security fence.

* Yard setbacks may be reduced to zero feet (0') if the adjoining property is zoned Commercial, Industrial or Utilities.

4.3 All buildings, structures, facilities and accessories associated with the proposed tower are to be wholly contained within the required security fence. (Guy anchors may be fenced separately from the main compound.)

4.4 The yard setback areas required herein shall be preserved and maintained in accordance with a "buffer plan" approved as part of the required site plan. The City of Helena reserves the right to require a planted and/or landscaped buffer where appropriate in cases where existing natural vegetation is not available, or is otherwise inadequate for use as a buffer as determined by the Building Official.

Section 5. Height and Location Restrictions

In regard to the height and siting for all of the above permitted uses, the regulations set forth herein shall be observed:

5.1 In relation to a residence:

5.1.1 No U-2 Communication Tower zoning district boundary shall be located closer than five hundred feet (500') to any residence. Provided, however, that this requirement may be waived or otherwise modified with regard to a residence owned by the leaser of a tower site. However, such waiver or modification shall be contingent upon said owner/leaser submitting an affidavit indemnifying the City of Helena from any litigation, by the current and any subsequent owners, relating to the tower and zoning in question.

5.2 In relation to a Protected Residential Area:

5.2.1 No U-2 Communications Tower zoning district boundary shall be located closer than one thousand feet (1,000') to the nearest boundary (zoning or otherwise) of any protected residential area (as defined in this Section).

5.2.2 The maximum height of any tower whose zoning district boundary lies, at any point, one thousand feet (1,000') from a protected residential area shall be one hundred eighty feet (180').

5.2.3 For any tower whose zoning district boundary lies greater than one thousand feet (1,000') away from any protected residential area at its nearest point, the maximum allowable height of such tower may be increased one foot (1') for each additional eight feet (8') of distance from such protected residential area.

5.3 In relation to height generally, no tower shall exceed a maximum height of three hundred feet (300').

Section 6. Application and Justification

Sufficient justification must be submitted for the siteing of all new construction towers in the City of Helena. Determination as to the adequacy of the justification for any new tower will be made as a routine part of the zoning process, and shall be based upon, along with the other standard land use considerations of appropriateness, the review and evaluation of the application for a U-2 Communications Tower zoning designation. The following information and materials shall accordingly be considered the minimum application requirements when applying for U-2 Communications Tower zoning:

6.1 A detailed site plan showing, at minimum, the following:

6.1.1 the conceptual layout of the facility, including the location and dimensions of all improvements, setbacks, accesses, security installations (including fencing), etc.;

6.1.2 a description and drawing or photo simulation of the visual aspects of the proposed facility;

6.1.3 a buffer plan showing the nature of the setback space, both as it presently exists and as it will be after installation of the proposed facility; how it will address the requirements of Section 3, subsection f., Visual Impact, and Section 3, subsection g., Use Compatibility and Design Harmony; and the provisions that will be made for the ongoing maintenance of such space;

6.1.4 a current U.S.G.S. quadrangle map (1:24,000), or equivalent, showing the proposed site location and at least a 2-mile radius around the site;

6.1.5 a scaled elevation diagram of the facility, showing the type, height, finish, lighting, site improvements and other such details as necessary to convey an image of the facility at the proposed location; and,

6.1.6 any additional information as may be deemed necessary and required by the Building Official in order to conduct a proper evaluation of the proposed facility within the context of the purpose and intent of this Section.

6.2 A study prepared by a radio frequency specialist that includes a mapped coverage analysis of the proposed facility and its relationship to the next nearest adjacent "cells", and an inventory and evaluation of existing towers, alternative sites and available structural facilities (e.g., buildings, billboards, water towers, etc., which could be used for support in lieu of a new tower) considered within a 2-mile radius of the proposed location.

6.3 An inventory of all of the provider's existing Communications Tower and Communication Antenna sites in the City of Helena and outside the City of Helena within two (2) miles of the City line. This inventory must include the following information:

6.3.1 the location, parcel identification number and ownership of the Communications Tower;

6.3.2 site name and number, number of antennas and base transceiver stations; and if there are other installations on a site, the number of antennas and base transceiver stations for each of those providers as well;

6.3.3 names of co-locators;

6.3.4 the radio frequency range (in megahertz) and the wattage output of the equipment; and,

6.3.5 type and height of tower or structure;

6.3.6 for antenna-only sites, the type and use of building and/or structure(s);

6.3.7 name of the tower-owner's co-location coordinator; and,

6.3.8 a copy of the provider's F.C.C. license, or the application for such license, for each Communications Tower and Communications Antenna site.

In the event such inventory has already been provided, each successive application must include an update such that said inventory will be completely current and accurate.

6.4 A 1-year facilities plan that should include the information listed below. This plan will be returned to the applicant after it has been reviewed by the Building Official.

6.4.1 A written description of the type of technology the company/carrier is providing to its customers on a current basis.

6.4.2 The radio frequencies to be used for each technology.

6.4.3 The types of services and products offered by the company/carrier on a current basis.

6.4.4 A list of all proposed wireless communications facility sites (tower and antenna sites), within City of Helena and its included municipalities, and up to two (2) miles outside of the City, for the next year.

6.4.5 A description of the "search area" for each proposed facility site identified in subsection 6.4.4. above, including:

6.4.5.1 address and parcel ID number where known, or section, township and range for projected sites whose exact location is yet determined; and,
6.4.5.2 the projected elevation of the proposed antennas (above sea level);

6.4.6 A legible presentation map of the area(s) described in subsection 6.4.4 and 6.4.5. above.

6.5 Written documentation justifying the need for a new communications tower site to be located on the proposed site. This documentation must address, at a minimum, how the proposed tower is justified in relation to the following points:

6.5.1 a list, description and map of the potential co-location, non-residential use or alternative location sites that are located within the geographic service area of the proposed site;

6.5.2 documentation that requests for co-location have been made at least thirty (30) days prior to the filing of application for a U-2 Communications District;

6.5.3 a detailed explanation of why each such site was not technologically, legally or economically feasible, or why such efforts were otherwise unsuccessful;

6.5.4 an analysis of how and why the proposed site is essential to meet service demands for the geographic service area;

6.5.5 a description of how the proposed site and facilities relate to the provider's 1-year plan.

6.6 Registration of the name, address, telephone number of the officer, agent or employee who shall be authorized by the provider (who will be operating the wireless communication facility in question) as the single point of contact and party responsible for the accuracy of all information and certifications submitted, and for said provider's on-going compliance with all of the provisions of this Section (and any other applicable codes or regulations).

It shall further be the responsibility of the provider so named on the registration form (to be provided by the Building Official) to ensure that the identity, legal status, address and telephone number of the responsible party registered with the City of Helena is complete, current and totally accurate at all times, unless and until the provider submits notice of its intent to cease operation of the facility in question as set forth in Section 3, subsection 3.11., of this Section.

6.7 Certification that the proposed communications tower is structurally and technically designed and capable, and will be constructed, to meet the co-location requirements set forth in Section 3, subsection c. of this Section. Immediately upon completion of construction, as-built certifications of same shall be submitted as well.

6.8 A fee of five hundred dollars ($500.00) to cover additional review costs incurred by reviewing the materials submitted with each application as

required herein. This fee shall be in addition to any and all other fees for processing rezoning requests.

Section 7. Applicability and Exemptions

The regulations and requirements of this Section will become effective immediately upon adoption, provided that where the provisions of this Section conflict or differ with any other applicable provision of the City of Helena or any other regulatory agency, the more restrictive provision shall apply.

7.1 New Towers

7.1.1 Upon adoption of this Section, no new communications tower (as defined herein) shall be permitted or constructed without first obtaining U-2 Communication Tower District zoning for the tower site in accordance with the application and approval procedures set forth in this Section.

7.2 Conformance to Plan

7.2.1 Development and maintenance of all communications towers and facilities permitted under this Section shall be required to substantially conform to the detailed site plan approved by the Building Official by virtue of its rezoning of the property. Such approved plan shall include any modifications, additional requirements or restrictions deemed necessary and appropriate by the Building Official, and made a part of said plan in the motion for approval. Any deviation from the approved site plan that:

7.2.1.1 alters the nature, composition or maintenance of the required yard areas, whether landscaping was required or not;
7.2.1.2 changes the size of the property, required yards, area of the compound or size of any structure more than five percent (5%); or,
7.2.1.3 changes the location of any exterior element of the compound more than five feet (5') in any direction must be justified by the developer to, and approved in advance by the Building Official.

7.2.2 Provided, however, that no alteration to the approved height of the tower may be authorized without prior review and approval of the City of Helena Planning and Zoning Commission; and further, that the Building Official reserves the right to require the submission of any deviation(s) that may, in his or her opinion, substantially alter the concept of the approved plan to the Planning and Zoning Commission.

7.3 Pre-Existing Towers

7.3.1 Any communications tower or communications antenna for which a permit has been properly issued shall hereafter be considered a legal non-conforming use. However, given the purpose and intent of this Section is to minimize the proliferation of new towers and promote the co-location of new antennas onto existing towers, any communications antenna locating on a pre-existing properly permitted communications tower subsequent to adoption of this Section shall be exempt from the restrictions when the following provisions of exemption from this Section, as set forth in Section 7, subsection 7.4.5. below are met.

7.4 Exemptions

7.4.1 Amateur radio antennas and receive-only antennas that are no more than fifty feet (50') in height, and satellite earth station antennas two meters or less in diameter shall be exempt as provided for in the Federal Telecommunications Act of 1996 when no supportive tower is to be constructed.

7.4.2 Accessory facilities used exclusively for dispatch communications by public emergency agencies or government agencies.

7.4.3 Accessory facilities used exclusively for dispatch communications by private entities, provided such facilities do not exceed fifteen feet (15') in height above the rooftop of the building to which said facilities are accessory.

7.4.4 Communications towers, antennas and related necessary facilities used exclusively for internal communications by public utilities, provided that:

7.4.4.1 such facilities are subordinate and incidental to approved non-residential uses or structures on the same parcel;
7.4.4.2 such facilities do not exceed twenty feet (20') in height above a structure or building when mounted thereto, or sixty feet (60') in height when ground-mounted; and,
7.4.4.3 towers, poles or other support structures do not exceed thirteen inches (13") in diameter.

Determination of exemption of any such facilities exceeding the foregoing dimensions shall be made only after administrative review by the Building Official.

7.4.5 Communications antennas and related necessary facilities locating or co-locating on any pre-existing, properly permitted communications tower provided that:

7.4.5.1 no significant visible structural alterations to the existing tower will be necessary, and if structural strengthening is necessary to accommodate co-location, the tower type as defined in Section 2 shall remain the same as previously permitted;

7.4.5.2 there will be no increase in the total height or lighting of the facility, including the tower, antennas and all other associated facilities;

7.4.5.3 all setback and buffer requirements applicable to the existing tower at the time its permit was issued can and will still be complied with. Such facilities shall only be permitted through administrative review and approval by Building Official.

7.4.6 Communications antennas and related necessary facilities, but excluding any additional supporting tower structures, permitted as accessory uses that are subordinate and incidental to approved non-residential uses or Structures (e.g., buildings, water towers, etc.) on the same parcel. Exemption of such facilities from the requirements of this Section, and the subsequent permitting of same, shall be made only after administrative review and approval by the Building Official.

7.4.7 Camouflaged Towers and Antennas. Upon adoption of this Section, the Use Regulations of all other zoning districts shall also be hereby amended to allow camouflaged towers and communications antennas as a conditional use in any zoning district. The conditions of such allowance shall be that it can be clearly demonstrated that such location is in full accord with the Purpose and Intent of this Section; that the proposed facility satisfies the requirements of Section 3, subsection f., Visual Impact, and Section 3, subsection g., Use Compatibility and Design Harmony, to the fullest extent possible; and, that such facility meets the criteria set forth herein below.

The general criteria for the permitting of new antennas under this Sub-Item shall include the siting of an antenna on structures, whether new or existing, such that it can be made as unobtrusive as possible by blending it into the surrounding environment.

Any new structures on which such antennas are to locate shall hereafter be deemed to the "camouflaged towers" as defined previously in the Section. Such towers may also be permitted as

conditional uses in any zoning district, provided they meet the general criteria of being constructed such that they appear as structures that are normal customary or otherwise unobtrusive within the context of the surrounding environment. Such towers may be multi-functional, such as functioning as a working street light while simultaneously supporting a communications antenna, or may otherwise be made unobtrusive through the use of color, camouflaging, architectural treatment, incorporation into other buildings or structures, etc.. Whatever technique is utilized, all towers permitted under this Sub-Item must achieve a satisfactory appearance within the context of the surrounding environment.

Existing structures proposed to be used for the site of communications antennas must also meet the criteria set forth for new structures, and for the purposes of this Section, shall also be considered "camouflaged towers" when used to support a communications antenna.

In order for a permit to be issued under this Sub-Item, any and all new towers and antennas shall be subject to administrative review and approval by the Building Official. The Building Official shall determine the sufficiency of the camouflaging of each such tower and antenna, and shall base his/her decision whether or not to issue such permit thereon.

Section 8. Repeal of Existing Regulations

All ordinances and regulations, or parts of ordinances and regulations, in conflict with this Section shall be repealed upon adoption of this Section. Any previous resolution(s) referring to and/or authorizing such administration and regulation as provided for in this Section, prior to as if in place of this Section.

* The Helena Planning Commission and Helena City Council retains the authority to waive any provisions in this article or to impose greater requirements than herein stated.

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ARTICLE XXVI SIGN REGULATIONS

Section 1. Definitions

1.1 **Alter -** Shall include but not be limited to the following: The addition of surface area or height, changing of permanent copy or a sign face, changing of the location or type of light source, the location of a sign from one position to another.

1.2 **Awning -** A fabric, plastic or other non-rigid protective covering that extends from the exterior wall of a building and is supported by or attached to a frame.

1.3 **Business Center -** A unified building, occupied by 5 or more wholesale or light industrial establishments under separate ownership or occupancy.

1.4 **Canopy -** A rigid roof, supported at all corners or extremities by poles, posts or direct attachment to a building. A canopy typically has little vertical or wall space and is only as thick as necessary to create a functional roof.

1.5 **Commercial Message -** Any sign, wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity.

1.6 **Copy Space -** The complete area of a sign that would be a regular shape.

1.7 **Front Building Wall Area -** Shall be determined by multiplying the length of the wall (on unified buildings, between fire walls) and the distance between the ground level and the point where the roof attaches to or meets the wall. The front building wall shall be the wall in which the main entrance is located.

1.8 **Industrial Park -** A lot, parcel, or subdivision, in which five or more industrial, wholesale, or warehouse buildings, under separate ownership or occupancy, are located.

1.9 **Office Park -** A lot, parcel, or subdivision, in which five or more office buildings are located.

1.10 **Seasonal Business -** A business, which is operated, due to its nature, less than one continuous 60-day period during any 12-month period, including: fruit or vegetable stands, Christmas tree sales for profit, and income tax preparation.

1.11 **Shopping Center -** A group of three or more retail or service establishments located within one building or group of unified buildings, said buildings being under one ownership or management, and having an integrated parking area.

1.12 **Sign -** Any device, fixture, placard, display, or structure which directs attention to an object, product, place, service, person, building, or entity, or to communicate information of any kind to the public.

1.13 **Sign, Animated -** Any sign with irregular intensity of illumination or movement whether mechanical or electrical.

1.14 **Sign, Awning -** A sign attached to or incorporated into an awning.

1.15 **Sign, Building -** Any sign which is permanently fastened, attached, or supported by a building.

1.16 **Sign, Canopy -** A sign painted or otherwise depicted upon a canopy.

1.17 **Sign, Directory -** A sign which lists tenants or occupants of a building or project, and that includes unit numbers, arrows, or other directional information.

1.18 **Sign, Freestanding -** Any sign which is not attached to a building. This is a general category that includes "ground" and "monument" signs.

1.19 **Sign, Indirectly Illuminated -** A sign illuminated by an exterior light source.

1.20 **Sign, Instructional -** A sign, usually informational, that has a purpose secondary to the use of the development site on which it is located. This category includes but is not limited to signs with non-commercial messages such as "no parking," "entrance," "loading only," "telephone," and similar information and directives. No sign with a commercial message legible from a position off the development site on which the sign is located shall be considered instructional.

1.21 **Sign, Integral Roof -** A sign which is constructed as an integral or essential part of a normal roof structure such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than 6 inches.

1.22 **Sign, Marquee -** A sign, which is attached to any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building without additional supports.

1.23 **Sign, Monument -** A freestanding ground sign generally having a low profile with little or no open space between the ground and the sign and having a structure constructed of natural tone brick or stone.

1.24 **Sign, Non-Conforming -** A sign lawfully existing on the effective date of this ordinance, which does not conform to the requirements of this ordinance.

1.25 **Sign, Off-Premise -** A sign advertising a business, person, activity, goods, products, or services not located on the premises where the sign is located.

1.26 **Sign, Portable -** Any sign which is designed to be transported by means of wheels; signs made as A-frames or T-frames; menu and sandwich board signs; balloons used as signs; and umbrellas used for commercial messages.

1.27 **Sign, Projecting -** A sign which is affixed to any building wall or structure, which extends beyond the building wall or structure, more than 12 inches.

1.28 **Sign, Reader Board -** A sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign. A reader board shall be a building-mounted, freestanding, or portable sign; and can include electronically changing text messages.

1.29 **Sign, Roof -** A sign, erected, constructed, or maintained above the roof of a building.

1.30 **Sign, Suspended -** A sign which is suspended from the underside of a horizontal plane surface and is supported by such surface.

1.31 **Sign, Temporary -** A sign which is used only for a short, specifically limited time and is not permanently mounted.

1.32 **Sign, Vehicle -** Any sign attached to or painted on a vehicle parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

1.33 **Sign, Wall -** An outdoor advertising sign attached to an exterior wall of a building.

1.34 **Sign, Wind Blown -** Any banner, flag, pennant, spinner, streamer, moored blimp, or gas filled balloon, feather flag, or similar device which may be wind activated.

1.35 **Sign, Window -** Any sign that is placed upon the windowpanes of glass or within six inches of the windowpanes of glass, which is legible from the exterior of the building.

1.36 **Unified Building -** A building with individual portions separated by a fire wall(s), each portion of which is intended for occupancy by individual tenants or owners.

Section 2. Measurements and Interpretations

2.1 Computation of Copy Area of Individual Signs: The copy area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets the regulations of the zoning code and is clearly incidental to the display itself.

2.2 Computation of Copy Area of Multifaced Signs: Where the sign faces of a double-faced sign are parallel and the distance between the faces is three (3) feet or less, only one display face shall be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign shall be the area of the larger sign. In all other cases, the areas of all faces of a multifaced sign shall be added together to compute the area of the sign.

2.3 Computation of Height: The height of a sign shall be computed as the distance from the highest point of the sign structure to the elevation of the centerline of the adjacent public street or highway, or the ground elevation at the base of the sign, whichever distance is less. The centerline elevation shall be taken at a point which is defined by extending a horizontal line from the sign, which is perpendicular to the centerline of the street or highway. This definition applies only to freestanding signs.

2.4 Determination of Visibility or Legibility

2.4.1 Where this ordinance requires a determination of “visibility” or "legibility," the standard shall be based on the eyesight of an adult eligible to receive an Alabama driver's license (wearing any corrective lenses required by such license). Where the height of the person is material to the determination, the person shall be presumed to be more than 5 feet and less than 6 feet tall.

2.4.2 In determining visibility of a sign from a residential property, it shall be assumed that a two-story residence will occupy the property with second-story windows facing toward the sign.

Section 3. General Regulations

3.1 Signs shall not be located in, nor encroach upon the public right-of-way, unless specifically permitted by this ordinance.

3.2 Signs shall not be located, lighted, or constructed so as to constitute a hazard to the health and safety of individuals on the public right-of-way.

3.3 Except as provided in Section 5, the construction, relocation, or structural alteration of any permanent sign or any temporary sign larger than 10 square feet shall require a sign permit.

3.4 No wall sign shall project more than 12 inches from the wall, nor above the top of the building wall and which displays only one sign surface. Said signs may be attached to, but not above, a mansard roof or parapet wall. This shall not affect integrated roof signs, marquee signs or projecting signs, where such signs are allowed by this Article.

3.5 Signs shall be constructed and maintained to conform to the City's Building Codes.

Section 4. Signs Exempt from Regulation

Any sign inside a building, not attached to a window or door that is not legible from a distance of more than three feet beyond the lot line of the development site or parcel on which such sign is located shall be exempt from regulation under this ordinance.

Section 5. Signs Allowed Without a Permit

The following signs shall be allowed without a sign permit but, shall, to the maximum extent allowed by law, be subject to the other standards of this ordinance. Where a sign is erected pursuant to a statute or a court order, the sign may exceed the size standards of this ordinance or otherwise deviate from the standards set forth in this ordinance to the extent that the statute or court order expressly required the larger size or other deviation. In all other respects, such signs shall conform to the standards of this ordinance. This sub-section shall apply to the following types of signs:

5.1 Temporary signs required by a valid and applicable federal, state, or local law, regulation, or ordinance or posted by a public agency, acting in accordance with an adopted law or ordinance.

5.2 Signs required by an order of a court of competent jurisdiction.

5.3 In or adjoining areas designated for parking, loading or traffic movement, signs conforming with the Manual of Uniform Traffic Control Devices and bearing no commercial message.

5.4 Signs bearing no commercial message and installed by employees of the City of Helena, of Shelby County, or of a state or federal agency while acting in the course of their governmental duties.

5.5 Signs not legible from a distance of not more than three feet beyond the lot line of the development site or parcel on which such sign is located.

5.6 Temporary signs smaller than 32 square feet and expressly allowed under a provision of this ordinance.

5.7 Permanent signs that bear no commercial message, that are less than four square feet in size and, if freestanding, are less than four feet in height, where such signs are expressly allowed by this ordinance.

5.8 Flags expressly allowed by this ordinance, although some flagpoles or flag lighting may require building permits.

Section 6. Signs In Public Right-Of-Way

Only the following signs are permitted in the public right-of-way:

6.1 Signs installed by the City of Helena.

6.2 Signs installed by a transit company authorized to provide service to or through Helena.

6.3 Signs installed by Shelby County.

6.4 Signs installed by the State of Alabama.

6.5 Signs installed by a public utility with a franchise or other agreement with the City of Helena.

6.6 Any other person or entity expressly authorized by Alabama law to install a sign in the right-of-way.

6.7 Any person with an encroachment permit for the sign, in accordance with Section 22. Any other sign installed or placed in the public right-of-way shall be deemed an unlawful sign and an abandoned sign and shall be subject to immediate removal and disposal by the City, without compensation to the owner. The owner or other person placing the sign shall, nevertheless, be subject to the penalty provisions of Section 28.

Section 7. Regulations For Flags and Other Supplemental Permanent Signs

7.1 Building Marker. In addition to all other signs allowed on a building, each building with a floor area of more than 10,000 square feet may bear one building marker signs shall be permitted, subject to the following conditions:

7.1.1 Such signs shall not exceed three square feet in area.
7.1.2 Such signs shall contain no logo or commercial message.
7.1.3 Such signs shall be made of permanent material, such as bronze or masonry, and shall be permanently affixed to or made part of the building.
7.1.4 There shall be only one such sign on any building.
7.1.5 Such sign may bear information about the building and its construction or any noncommercial message.
7.1.6 Such signs shall be affixed to a building wall.

7.2 Flag. The display of flags is expressly allowed, subject to the following limitations:

7.2.1 There shall be no more than three flagpoles per principal building on any development site.
7.2.2 No flag flown shall bear any commercial message.
7.2.3 There shall be no more than two flags per pole.
7.2.4 No flag shall be larger than five feet by eight feet.
7.2.5 No flagpole in a residential district shall exceed twenty (20) feet in height; no flagpole in a nonresidential district shall exceed thirty (30) feet in height.
7.2.6 A flagpole shall have a setback of at least 5 feet from any property line.
7.2.7 No rooftop flagpoles shall be permitted in any zoning district.
7.2.8 No feather flags, permanent or temporary, shall be permitted in any zoning district.

7.3 Instructional Signs. In addition to all other signs allowed on a lot instructional signs, a lot may include instructional signs. An instructional sign shall not be larger than 4 square feet in sign face area; if freestanding; an instructional sign shall not be more than 3 feet in height. Instructional signs may carry any type of information except a commercial message. Typical instructional signs include, but are not limited to, "Restroom," "Phone," "No Parking," Entrance," "Exit," and generic directions such as "Office," "A Turn," or "Stores." No such sign shall carry any commercial message whatsoever, but it may bear any noncommercial message.

Section 8. Lighted Signs and Changing Signs

8.1 Nuisance Prohibited. Illuminated and other lighting effects shall not create a nuisance to adjacent property or create a traffic hazard, and all illuminated

signs or other lighting effects must be disconnected or turned off when storm warnings are in effect. Lights and lighting upon or from a building or upon or from a sign shall be designed and arranged so as not to cause a direct glare into residentially zoned property.

8.2 Limits on Specific Lighting Techniques. No person shall construct, establish or create, and no person shall maintain any stationary exterior lighting or illumination system or any interior system which may be viewed from a public street, highway or other public thoroughfare used by vehicular traffic, which contains or utilizes the following:

8.2.1 Any exposed incandescent lamp with a wattage in excess of forty (40)
8.2.2 watts when the same is located within fifteen (I5) feet of a street.
8.2.3 Any exposed incandescent lamp with an internal metallic reflector.
8.2.4 Any exposed incandescent lamp with an external reflector.
8.2.5 Any revolving beacon light.

8.3 Changeable Copy Signs (Reader Board or Marquee). A permanent sign in a nonresidential district may not include a section on which the copy is changed through a change of lighting, or through electronic means, or plastic lettering.

Section 9. Substitution of Messages

Any sign allowed under this ordinance may contain, in lieu of any other message or copy, any lawful noncommercial message that does not direct attention to a business operated for profit, or to a product, commodity or service for sale or lease, or to any other commercial interest or activity, so long as said sign complies with the size, height, area, and other requirements of this ordinance.

Section 10. Prohibited Signs

10.1 Animated signs, wind-blown signs (except temporary banners), vehicle signs, and strings of lights (except for temporary holiday decorations).

10.2 Portable signs (except as temporary signs).

10.3 Roof signs and projecting signs (except canopy signs).

10.4 Off-premise signs, except where specifically permitted by this ordinance.

10.5 Marquee or read board signs, both electronic or manual message changing.

Section 11. Off-Premise Advertising Signs

Off-premise advertising signs shall not be permitted in any zoning district.

Section 12. Regulations for Temporary Signs

12.1 Temporary Noncommercial Signs in Residential Districts. Temporary signs bearing noncommercial messages are expressly allowed in all residential zoning districts, subject to the following standards:

12.1.1 Such sign shall not exceed 32 square feet in size or 8 feet in height.
12.1.2 An individual may have more than one such sign on a property at one time, subject to the following limitations:
12.1.2.1 There shall not be more than one sign per issue, cause, event or candidate.
12.1.3 Such signs shall be placed only on private property.
12.1.4 Such signs shall not be placed on any public property or right-of-way or posted on any utility pole or device.
12.1.5 Separate illumination of such signs in residential districts is not permitted.
12.1.6 Removal
12.1.6.1 All temporary signs that relate to an election or other specific event shall be removed within 7 days after the event to which they pertain.
12.1.6.2 The person or persons who are responsible for the erection, placement, or distribution of any political sign, including the person whose candidacy the sign supports, are jointly and severally responsible for the removal of the political sign and the cost thereof.

12.2 Commercial Signs in Residential Districts. Temporary signs bearing commercial messages related to the sale or lease of property shall be allowed in all residential districts, subject to the following conditions:

12.2.1 Such sign shall contain no commercial message except information advertising the property on which it is located for sale, rent or lease, and information identifying the agency or other person offering the property.
12.2.2 The sign shall not exceed four (4) square feet in area or eight (8) feet in height.

12.3 Noncommercial Signs in Nonresidential Districts. Political Signs. In addition to all other signs allowed, temporary signs bearing noncommercial messages are expressly allowed in all nonresidential zoning districts, subject to the following standards:

12.3.1 Such a sign shall not exceed 32 square feet in size or 8 feet in height.
12.3.2 There may be more than one such sign on a property at one time, subject to the following limitations:
12.3.2.1 There shall not be more than one sign per issue, candidate, organization, cause or event.

12.3.2.2 The total area of all such signs located on one lot at one time shall not exceed 32 square feet, except that at any time that there is no temporary commercial sign on the property offering the property for sale, rent or lease, an additional 24 square feet of sign area is allowed for noncommercial signs.

12.3.3 Such signs shall be placed only on private property.

12.3.4 Such signs shall not be placed on any public property or right-of-way or posted on any utility pole or device.

12.3.5 Any noncommercial sign in size 32 square feet require a sign permit in accordance with Section 21. Other political signs shall not require a sign permit.

12.3.6 Separate illumination of such signs is not allowed, except as specified in this sub-section. Where a noncommercial sign is erected in place of another permitted sign or political copy is placed on an existing, lawful sign in a non-residential district, the illumination standards otherwise applying to the sign shall apply to the political sign or political copy.

12.3.7 All such signs that relate to an election or other specific event shall be removed within 7 days after the election to which they pertain.

12.4 Real Estate Signs/Nonresidential.

12.4.1 One temporary, non-illuminated sign, advertising the sale or lease of multiple dwelling or commercial land, is permitted for each property, plus one additional sign if the property has at least one hundred feet of street frontage on two (2) or more streets. Said sign(s) shall not exceed 24 square feet of copy area, nor 8 feet in height.

12.4.2 One temporary, non-illuminated sign, advertising the sale or lease of commercial floor space or multiple dwellings, is permitted for each property, plus one additional sign if the property has at least one hundred feet of street frontage on two (2) or more streets. Said sign(s) shall not exceed 12 square feet of copy area, nor 6 feet in height.

12.5 New Business Locations. A new business location is permitted one temporary sign, not to exceed 32 square feet of copy area, nor 8 feet in height. Said temporary sign shall be permitted for one continuous 30-day period; if the establishment's permanent sign is installed before the 30-day period expires, the temporary sign shall be removed on the date when the permanent sign is installed. Such sign may bear any noncommercial message or a message related to goods, products or services offered on the premises.

12.6 Banner Signs. Each retail business is permitted one temporary banner which shall not exceed 32 square feet of copy area and shall be attached to the building wall; for one continuous 7-day period, not to exceed two such periods in any calendar year. The banner shall be completely secured to a building or a sturdy frame on at least two opposite sides or at all four corners to prevent loose portions of the banner from moving in the wind to the extent that it would become a prohibited "animated sign" as defined in Section 1.

Such sign may bear any noncommercial message, or a message related to goods, products or services offered on the premises.

12.7 Seasonal Business.

12.7.1 A seasonal business is permitted one non-illuminated temporary sign which shall not exceed 6 square feet of copy area, nor 8 feet in height, for one continuous period not to exceed 60 days during a 12-month period.

12.7.2 A premise which is used by a seasonal business or businesses, for a period longer than 60 days during a 12-month period, shall be considered a permanent business location and shall provide attached signage in conformity with the provisions of this ordinance.

12.8 Holiday and Cultural Decorations. In addition to all other signs, in any zoning district, holiday or cultural decorations may be displayed for a period of not more than 45 consecutive days nor more than 60 days in any 1 year. Holiday or cultural decorations shall not contain a commercial message.

12.9 Temporary Signs on Construction Projects in Noncommercial Districts. In a B or M District, one temporary, non-illuminated sign, is permitted per abutting street. Such sign may bear any noncommercial message or a commercial message regarding the construction project on the premises or future occupant(s) of the premises. Such sign shall not exceed 12 square feet of copy area, nor 8 feet in height. The temporary construction sign shall be removed not later than the date on which the first permanent, freestanding sign for the same property or business is installed.

12.10 Temporary Accessory Signs for Residential Developments. As an accessory use to the permitted, temporary commercial activity of land development and sales, temporary commercial signs related to such development shall be allowed. For any subdivision or development containing not less than 5 lots, one temporary sign shall be allowed on the premises of the development where the premises borders a collector or arterial street. Such sign(s) shall not exceed 32 square feet of copy area nor 8 feet in height. No two such signs shall be located within 500 feet of each other. Where there is a landscaped median, the sign owner may request an encroachment permit from the Chief of Police in accordance with Section 22 for the location of the sign in the median; otherwise, such sign must be located on private property and not on the right-of-way.

Section 13. Signs Permitted in the A-1 Agriculture District

13.1 Signs permitted.

13.1.1 Maximum number: One per abutting street.
13.1.2 Maximum area: 32 square feet of copy area.
13.1.3 Maximum height: 8 feet.

13.1.4 Illumination: Indirectly illuminated.

13.2 All illuminated signs shall be indirectly illuminated in such a manner so as not to shine or reflect light off the premises.

13.3 Limitations on Messages. Signs in these districts may bear any noncommercial message, any commercial message related to a commercial activity lawfully conducted on the premises, or temporary commercial messages allowed under Section 12.2.

Section 14. Signs Permitted in the E-1, E-2, E-3, R-1, R-2, and R-3 Residential Districts

14.1 Signs permitted.

14.1.1 Where permitted: at the public street entrances to the neighborhood; may be erected in a landscaped median of a City street, if approved in accordance with Section 22 of this ordinance; otherwise such sign must be located on private property and not on the right-of-way.
14.1.2 Maximum number: One monument sign per public street entrance.
14.1.3 Maximum area: 24 square feet of copy area.
14.1.4 Maximum height: 6 feet from highest grade of sign location.
14.1.5 Illumination: Indirectly illuminated.
14.1.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

14.2 All illuminated signs shall be indirectly illuminated in such a manner so as not to shine or reflect light off the premises.

14.3 Limitations on Messages. Signs in these districts may bear any noncommercial message. The only commercial messages allowed on signs in these districts are those temporary signs allowed under Section 12.2.

Section 15. Signs Permitted in the R-4, R-5, and R-6 Residential Districts

15.1 Signs permitted.

15.1.1 Where permitted: at the public street entrances to the neighborhood; may be erected in a landscaped median of a City street, if approved in accordance with Section 22 of this ordinance; otherwise such sign must be located on private property and not on the right-of-way.
15.1.2 Maximum number: One monument sign per public street entrance.
15.1.3 Maximum area: 24 square feet of copy area.
15.1.4 Maximum height: 6 feet from highest grade of sign location.
15.1.5 Illumination: Indirectly illuminate.

15.1.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

15.2 All illuminated signs shall be indirectly illuminated in such a manner so as not to shine or reflect light off the premises.

15.3 Limitations on Messages. Signs in these districts may bear any noncommercial message. The only commercial messages allowed on signs in these districts are those temporary signs allowed under Section 12.2.

Section 16. Signs Permitted in the O-I Office and Institutional District

16.1 Signs permitted for Commercial Building.

16.1.1 Sign type: A wall sign, a freestanding sign, or both.
16.1.2 Maximum area: Total of 32 square feet of copy area.
16.1.3 Maximum height (monument sign): 8 feet from highest grade of sign location.
16.1.4 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or not illuminated.
16.1.5 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

16.2 Signs permitted for Office Park.

16.2.1 Where permitted: At the main entrance; buildings in an office park are not permitted a freestanding sign.
16.2.2 Maximum number: One
16.2.3 Maximum area: 80 square feet of copy area.
16.2.4 Maximum height: 10 feet from highest grade of sign location.
16.2.5 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or not illuminated.
16.2.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

16.3 Signs permitted for Institutional.

16.3.1 Maximum number: One per abutting street.
16.3.2 Maximum area: 32 square feet of copy area.
16.3.3 Maximum height: 8 feet from highest grade of sign location.
16.3.4 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or not illuminated.
16.3.5 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

16.4 All illuminated signs shall be indirectly illuminated in such a manner so as not to shine or reflect light off the premises.

16.5 Limitations on Messages. Signs in these districts may bear any noncommercial message. The only commercial messages allowed on signs in these districts are those temporary signs allowed under Section 12.2.

Section 17. Signs Permitted in the B-1, B-2, and B-3 Business Districts

17.1 Retail or Service wall sign.

17.1.1 Maximum area: Combined copy area not to exceed 40 percent of the front building wall area of the establishment.

17.2 Individual Retail or Service Establishment.

17.2.1 Sign type: Monument sign
17.2.2 Maximum number: One
17.2.3 Maximum area: 32 square feet of copy area
17.2.4 Maximum height: 8 feet from highest grade of sign location
17.2.5 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or internally illuminated.
17.2.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

17.3 Building occupied by two or more Retail or Service Establishments.

17.3.1 Sign type: Monument sign.
17.3.2 Maximum number: One.
17.3.3 Maximum area: 32 square feet of copy area.
17.3.4 Maximum height: 8 feet from highest grade of sign location.
17.3.5 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or internally illuminated.
17.3.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

17.4 Limitations on Messages. Signs in these districts may bear any noncommercial message, any commercial message related to a commercial activity lawfully conducted on the premises, or temporary commercial messages allowed under Section 12.2. Off-premise advertising signs may be allowed in these districts, subject to the limitations and standards of Section 11; otherwise, commercial messages related to activities, products, goods or services not offered on the premises where the sign is located are prohibited.

Section 18. Signs Permitted or Prohibited in the B-4 Business District

18.1 Design and graphics shall depict an approximation of signs used during the historic era of the district.

18.2 Dimensional Standards

18.2.1 Signs mounted to the buildings shall be reviewed by the Building Official on a case-by-case basis.
18.2.2 Freestanding signs shall be ground mounted (monument style) and shall be reviewed by the Building Official on a case-by-case basis.
18.2.3 Freestanding signs must observe all requirements for site distance, minimum setbacks from property lines and other standards as deemed necessary by the Building Official to ensure the safety of our citizens and aesthetics of the district.
18.2.4 Freestanding sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.
18.2.5 Freestanding sign for building with more than one retail or service establishment shall only have one sign.
18.2.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.
18.2.7 Maximum area: 32 square feet of copy area.
18.2.8 Maximum height: 8 feet from highest grade of sign location.
18.2.9 Illumination: Indirectly illuminate.
18.2.10 "Open for Business" or "Grand Opening" signs are allowed for 30 days only.

18.3 Signs Prohibited

18.3.1 Neon signs – Exterior Only.
18.3.2 Motorized signs.
18.3.3 Freestanding signs, except as provided above.
18.3.4 Flashing, traveling lights or intensely lighted signs.
18.3.5 Miscellaneous signs and posters, banners, pennants, twirling signs, balloons, and unofficial flags (See banner permitted uses).
18.3.6 Off premises signs which direct attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same property on which the sign is located, unless written approval is received by the Building Official.
18.3.7 Billboards
18.3.8 Sandwich board signs are prohibited within the right-of-way area.

18.4 Banner Permits

18.4.1 A business may obtain a banner permit from City Hall for the placement of a banner on the exterior of business premises for a two (2) week period. Fiver (5) permits are allowed per year and may run consecutively.
18.4.2 Unused permits cannot be "rolled over" or shared by other businesses.
18.4.3 Any banners not permitted will be removed by City Officials and possibly destroyed.

18.5 All illuminated signs shall be indirectly illuminated in such a manner so as not to shine or reflect light off the premises.

18.6 Limitations on Messages. Signs in this district may bear any noncommercial message, any commercial message related to a commercial activity lawfully conducted on the premises, or temporary commercial messages allowed under Section 12.2. Off-premise advertising signs may be allowed in these districts, subject to the limitations and standards of Section 11; otherwise, commercial messages related to activities, products, goods or services not offered on the premises where the sign is located are prohibited.

Section 19. Signs Permitted in the M-1 and M-2 Industrial Districts

19.1 Office building occupied by 1 or more businesses or firms.

19.1.1 Sign type: Wall sign, freestanding sign, or both.
19.1.2 Maximum area (wall sign): Combined copy area not to exceed 40 percent of the front building wall area of the establishment.
19.1.3 Maximum area (monument sign): A total of 32 square feet of copy area.
19.1.4 Maximum height (monument sign): 10 feet from highest grade of sign location.
19.1.5 Illumination: A minimum of 60 percent of the copy area shall be indirectly illuminated or not illuminated.
19.1.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

19.2 Wholesale, manufacturing, and warehouse facility.

19.2.1 A building or establishment located in an industrial park or business center is permitted a freestanding sign.
19.2.2 Sign type: A wall sign, a freestanding sign, or both.
19.2.3 Maximum area (wall sign): total copy area not to exceed 5 percent of the front building wall area.
19.2.4 Maximum area (monument sign): 80 square feet of copy area.
19.2.5 Maximum height (freestanding sign):10 feet from highest grade of sign location.
19.2.6 Illumination: A minimum of 60 percent of the copy area shall be indirectly illuminated or not illuminated.
19.2.7 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

19.3 Industrial Park

19.3.1 Where permitted: Monument sign at the main entrance.
19.3.2 Maximum number: One.
19.3.3 Maximum area: 80 square feet of copy area.

19.3.4 Maximum height: 10 feet from highest grade of sign location.
19.3.5 Illumination: A minimum of 60 percent of the copy area shall be indirectly illuminated or not illuminated.
19.3.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

19.4 An office park, industrial park, business center, or retail establishment with floor area in excess of 25,000 square feet, located within 1,000 feet of a U.S. Highway, but not abutting said Highway, is permitted one off-premise directional sign. Said sign shall be located within 50 feet of the public street entrance to the premises.

19.5 Limitations on Messages. Signs in these districts may bear any noncommercial message, any commercial message related to a commercial activity lawfully conducted on the premises, or temporary commercial messages allowed under Section 12.2. Off-premise advertising signs may be allowed in these districts, subject to the lin1itations and standards of Section 11; otherwise, commercial messages related to activities, products, goods or services not offered on the premises where the sign is located are prohibited.

Section 20. Signs Permitted in the SD Planned Special District

Signs in the Planned Unit Development Districts shall be constructed and erected as shown below in the applicable sections of this ordinance. Said signs shall comply with the regulations for specific uses as set forth in this ordinance. Signs in these districts may bear any noncommercial message, any commercial message related to a commercial activity lawfully conducted on the premises, or temporary commercial messages allowed under Section 13(b).

20.1 Single family residential subdivision.

20.1.1 Where permitted: at the public street entrances to the neighborhood; may be erected in a landscaped median of a City street, if approved in accordance with Section 22 of this ordinance; otherwise such sign must be located on private property and not on the right-of-way.
20.1.2 Maximum number: One monument sign per public street entrance.
20.1.3 Maximum area: 24 square feet of copy area.
20.1.4 Maximum height: 6 feet from highest grade of sign location.
20.1.5 Illumination: Indirectly illuminated.
20.1.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

20.2 Group residential dwellings
20.2.1 Where permitted: May be erected in a landscaped median of a City street, if approved in accordance with Section 22 of this ordinance;

otherwise such sign must be located on private property and not on the right-of-way.

20.2.2 Maximum number: One monument sign per abutting street.
20.2.3 Maximum area: 24 square feet of copy area.
20.2.4 Maximum height: 6 feet from highest grade of sign location.
20.2.5 Illumination: Indirectly illuminated.
20.2.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

20.3 Individual retail and service establishments wall sign.

20.3.1 Maximum area: combined copy area not to exceed 40 percent of the front building wall area of the establishment.

20.4 Individual retail or service establishment.

20.4.1 Sign type: Monument sign.
20.4.2 Maximum number: One
20.4.3 Maximum area: 32 square feet of copy area.
20.4.4 Maximum height: 8 feet from highest grade of sign location
20.4.5 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or internally illuminated.
20.4.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

20.5 Building occupied by two or more retail or service establishments or residential mixed use.

20.5.1 Sign type: Monument sign.
20.5.2 Maximum number: One
20.5.3 Maximum area: 32 square feet of copy area.
20.5.4 Maximum height: 8 feet from highest grade of sign location
20.5.5 Illumination: Minimum of 60 percent of the copy area shall be indirectly illuminated or internally illuminated.
20.5.6 Sign shall have a base or encasement of natural tone brick or stone that is included in maximum height.

20.6 Limitations on Messages. Signs in these districts may bear any noncommercial message, any commercial message related to a commercial activity lawfully conducted on the premises, or temporary commercial messages allowed under Section 12.2. Off-premise advertising signs may be allowed in these districts, subject to the lin1itations and standards of Section 11; otherwise, commercial messages related to activities, products, goods or services not offered on the premises where the sign is located are prohibited.

Section 21. Permitting Procedures

21.1 Permits Required.

21.1.1 Signs regulated by this ordinance but not covered by the provisions of Section 5 shall be erected, installed or created only in accordance with a duly issued and valid sign permit from the Building Official. Such a permit shall be issued only in accordance with the following requirements and procedures:

21.1.2 An application for construction, creation, or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawing to show the dimensions, design, structure, and location of each particular sign. One application and permit may include multiple signs on the same development site.

21.2 Permitting Applications. The following procedures shall govern the application for and issuance of all sign permits under this ordinance:

21.2.1 All applications for sign permits of any kind shall be submitted to the Building Official on an application form provided by the Building Official or in accordance with application specifications published by the Building Official.

21.2.2 Each application for a sign permit shall be accompanied by the applicable fees, which shall be established by the City Council from time to time by resolution.

21.2.3 Within five business days of receiving an application for a sign permit, the Building Official shall review it for completeness. If the Building Official finds that it is complete, the application shall then be processed. If the Building Official finds that it is incomplete, the Building Official shall within such five-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable subsections of this ordinance.

21.2.4 Within seven days of the submission of a complete application for a sign permit, the Building Official shall either:

21.2.4.1 Issue the sign permit, if the sign(s) that is or are the subject of the application conform in every respect with the requirements of this ordinance and other provisions of the City ordinances; or

21.2.4.2 Deny the sign permit if the sign(s) that is or are the subject of the application fail(s) in any way to conform to the requirements of this ordinance or other provisions of the City ordinances. In case of a denial, the Building Official shall specify in the rejection the subsection of this ordinance or other applicable ordinance with which the sign(s) is or are inconsistent.

21.3 Lapse of Sign Permit on Vacated or Unoccupied Property. A sign permit shall lapse automatically if the business license for the premises lapses, is revoked, or is not renewed. A sign permit shall also lapse if the business activity on the premises is discontinued for a period of one hundred eighty (180) days or more and is not renewed within 30 days of a notice to the last permitted, sent to the premises, that the sign permit will lapse if such activity is not renewed.

21.4 Permits for Temporary Signs. Temporary signs on private property shall be allowed only in accordance with the provisions of SECTION 12.

21.4.1 A temporary sign permit shall be required for any sign except political signs of less than 32 square feet Section 12 or a residential real estate sign Section 12.
21.4.2 A temporary sign permit shall allow the use of temporary signage for a
21.4.3 specified period subject to all of the requirements for temporary signs as set forth in this ordinance, Section 12.
21.4.4 A temporary sign shall become an illegal sign if not removed upon the expiration of the period covered by the permit.

Section 22. Right-Of-Way Encroachment Permit

22.1 When required any sign proposed for a location in a median or otherwise in the public right-of-way must obtain a sign permit and a right-of-way encroachment permit, which may be submitted simultaneously.

22.2 In addition to the contents otherwise required for an application for a sign permit, an application for a right-of-way encroachment for a sign shall contain the following: A legal description of the exact portion of the right-of-way affected;

22.2.1 Drawings showing the horizontal and physical locations and dimensions of the proposed sign and its relationship to the right-of- way.
22.2.2 Schematic drawings showing the effect of the proposed sign on what is commonly called the "clear sight triangle" for all movements at the affected intersection.
22.2.3 A proposed agreement for maintenance of the proposed sign and related landscaping, with evidence of the continuing financial capability of the proposing entity to provide maintenance costs of $1,000 or more per year.
22.2.4 An executed form, provided by the City Attorney, acknowledging that the proposed sign will exist on a permit or license from the City that is revocable for the convenience of the City on 30 days' written notice and acknowledging the responsibility of the proposing entity to remove the sign upon revocation of the permit.

22.3 All applications for right-of-way encroachment permits shall be submitted to the Building Official on the sign application form provided by the Building Official or in accordance with application specifications published by the Building Official.

22.4 Within five business days of receiving an application for a right-of-way location permit, the Building Official shall review it for completeness. If the Building Official finds that it is complete, the application shall then be processed. If the Building Official finds that it is incomplete, the Building Official shall within such five-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable subsections of this ordinance.

22.5 Within seven days of the submission of a complete application for a sign permit, the Building Official shall either:

22.5.1 Issue the right-of-way encroachment permit, if the Building Official finds all of the following:

22.5.1.1 The sign will not impair the movement of traffic.

22.5.1.2 The proposed sign will not impair the required clear-sight triangle for any traffic movement at the nearest intersection.

22.5.1.3 The proposed maintenance agreement is adequate to ensure maintenance of the sign and related landscaping in accordance with the same standards applied by the City in maintenance of its own signs and fixtures in the right-of- way.

22.5.1.4 The proposing entity has adequate financial resources or has provided guarantees of such resources, to provide maintenance to the sign and related landscaping at a cost of at least $1,000 per year for a period of ten or more years.

22.5.2 Deny the right-of-way encroachment permit if the sign(s) that is or are the subject of the application fail(s) in any way to conform to the requirements of this ordinance or other provisions of the City ordinances. In case of a denial, the Building Official shall specify in the rejection the subsection of this ordinance or other applicable ordinance with which the sign(s) is or are inconsistent.

22.6 A right-of-way encroachment permit may be revoked by the City Council after notice and a hearing. Both the entity originally proposing the sign and the entity then maintaining the sign, if not the same, shall be given notice of the hearing at least 10 days before the date of the hearing. The City Council may revoke the permit if it finds any of the following:

22.6.1 The entity agreeing to maintain the sign and landscaping is no longer
22.6.2 providing such maintenance and the lack of such maintenance has resulted in deterioration of the sign or of the landscaping.
22.6.3 The sign now interferes with the movement of traffic or will do so due planned street improvements.

22.6.4 The sign or related landscaping now impairs the clear-sight triangle for one or more traffic movements at the nearest intersection.

22.6.5 The City has determined that it can no longer allow such signs due to risk management considerations and is thus revoking all such permits in the City, regardless of whether a particular sign and landscaping currently conform to the requirements of this ordinance.

Section 23. General Administrative Provisions

23.1 Administrative procedures set forth in the International Building Code shall apply to permit requirements, inspection, enforcement, penalties, and appeals procedure with regard to the permitting and inspection process. The Building Code shall be adhered to with regard to requirements for sign maintenance and determination of unsafe signs.

23.2 Any person, firm, or corporation wishing to engage in the business of altering or erecting signs governed by the provisions of this ordinance, shall first obtain a business license from the City.

Section 24. Non-Conforming Status

24.1 A building or freestanding sign shall be considered to be a legal non-conforming sign if:

24.1.1 The sign was covered by a sign permit on the date of adoption of this ordinance, if one was required under any other or prior City ordinance; or

24.1.2 If no sign permit was required under prior applicable City ordinances for the sign in question, and the sign was in all respects in conformity with prior applicable City ordinances or was the subject of a variance to the terms of said ordinances, on the date of the adoption of this ordinance. Building or freestanding signs which do not qualify for legal non-conforming status shall be deemed unlawful.

24.2 A building or freestanding sign shall lose its legal non-conforming status if the sign is altered, except that a change of message or replacement of sign panels to accomplish a change of message shall not be considered an "alteration" for purposes of this provision. Any non-conforming sign which is damaged by explosion, fire, accident, or act of God, to the extent of more than fifty (50) percent of its appraised value immediately prior to said damage, shall not be restored except in conformity with the provisions of this ordinance.

24.3 All signs within the City of Helena must conform to the sign ordinance not later than 5 years from effect date of ordinance.

Section 25. Abandoned Signs

25.1 Any sign which no longer advertises a bona fide business, institution, person, event, location, product, or service.

25.2 Any off-premise sign which is not leased by, or no longer advertises, a bona fide business, institution, person, event, location, product, or service for a continuous period of 120 days.

25.3 Any sign which is abandoned shall be removed within 30 days after notification by the Building Official, that said sign is abandoned and non-conforming to the provisions of this ordinance. Abandoned signs which are not removed within 30 days of notification of abandonment shall be deemed unlawful.

Section 26. Removal of Signs

The Building Official shall adhere to the following regulations for removal and storage of signs in violation of the provisions of this ordinance.

26.1 With respect to any sign that constitutes a hazard to the public or a sign without proper certification that has been installed or placed on unimproved property, on public property or within public right-of-way, the sign may be immediately removed and impounded by the Building Official.

26.2 Any temporary or portable sign that is installed or placed on private property without a required permit or otherwise in violation of this ordinance may be immediately removed and impounded by the Building Official.

26.3 Signs that are not made subject to the impoundment provisions described in Subsections 26.1 and 26.2 above are subject to removal and impoundment ten days after appropriate notice has been given. Appropriate notice shall be deemed to have · been given if the City provides written notice to the owner or installer of the sign (or another responsible person). If the notice cannot be given after reasonable efforts to identify and locate the person or persons, the City may affix a notice of noncompliance to the sign itself. If the sign has not been removed or brought into compliance within ten days, the City may remove and impound the sign.

26.4 Removal of unlawful signs shall be done in a manner which, to the extent possible, preserves the value of the sign(s) and supports.

26.5 An owner or installer of any removed signs and supports, except for signs made of paper or cardboard, shall be notified if such person can be reasonably identified. The first attempt at notice shall be within 5 days of the removal of the sign and supports. The manner of notification shall be that which will best achieve notice under the circumstances including the use of

certified mail, hand delivery, or publication. Refusal of certified mail which has been properly addressed and posted shall not void the notice. Hand delivery may be employed where the addressee is within the City Limits. Publications may be used when the addressee or the addressee's whereabouts are unknown.

26.6 Said notice shall inform the recipient that the City of Helena is in possession of the sign and supports, why they were removed, where they may be reclaimed and applicable fees and storage period.

26.7 Said notice shall inform the recipient that the City of Helena is in possession of the sign and supports, why they were removed, where they may be reclaimed and applicable fees and storage period.

26.8 With the exception of signs made of paper or cardboard and their supports, which may be disposed of immediately, removed signs and supports shall be stored for a period not to exceed 30 days beginning the first day of effective notice. A storage charge of $50.00 per day will be levied beginning on the 4th day of that 30-day period. The owner of the sign may reclaim the sign and supports, during the 30-day storage period, upon payment of any storage charges and the cost of removing the signs and supports. If the sign has not been reclaimed during the 30-day storage period, the sign and supports may be disposed of. If, in the opinion of the Building Official, the sign and supports are not capable of being sold, they may be discarded; but if sold, the proceeds therefrom, shall first be applied to the storage and removal charges, if any, and the balance shall be mailed to the previous owner of the sign and supports, if possible, or if not, the balance shall become property of the City.

26.9 In addition to other remedies, the City shall have the right to recover from the owner or installer of such a sign, or the owner of the property on which it is located, or any other responsible person, the full costs of removal and disposal of the sign. The City shall certify the removal and may charge the owner or installer or other responsible person for the removal, payable within ten days after receipt of a statement of charges or the charges may be a special assessment and a lien on the property involved and subject to the provisions of state law. It is presumed that the person or entity whose identity is represented on the sign is a person responsible for installing the sign, which presumption may be rebutted by affidavit.

Section 27. Weather Provision

In the event of a natural disaster, which destroys or damages legally permitted ground mounted signs, a temporary sign may be erected, or an existing sign modified subject to the following limitations and requirements:

27.1 A temporary sign certificate shall be issued by the Building Division in conjunction with a complete building permit application for the replacement of the damaged sign. This certificate will allow a temporary sign, as stated above, for a period no more than six months from the date of issuance.

27.2 Damaged Sign Face. A temporary attachment or covering of plastic, or canvas may be installed over an existing sign, which was damaged during a natural disaster. The attachment shall be no larger than the previous legally permitted sign.

27.3 Damaged Structure. A temporary sign may be installed, in place of a previously permitted sign, not more than 32 square feet in sign space area and not more than five feet in height. The temporary sign shall meet the minimum setback requirements.

Section 28. Penalties

Any person, firm or corporation, or other organization which violates any of the provisions of this ordinance sha11be fined in accordance with the provisions of the City of Helena Municipal Code. Penalty, Violations of Code, Ordinance, or State Law; provided however, that in the event any such person, firm, or corporation desires to waive a trial and enter a plea of guilty before the magistrate, the magistrate is hereby authorized to accept such plea and impose a fine. The penalty shall be $250.00 each day any such violation continues.

Section 29. Examples of Approved Signs

29.1 Residential Signs

29.2 Business Signs

29.3 Renaissance Signs (B-4)

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ARTICLE XXVII OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 1. Definitions

The following off-street parking and loading terms, when used in this Article, shall have the meanings defined in this section:

1.1. **Access Boundary -** The portion of the parking area that consists of a travel lane bounded on either side by an area that is not part of the parking area.

1.1. **Bedroom (BR) –** A room for sleeping in.

1.2. **Dwelling Unit (DU) -** Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

1.3. **Employee -** The total number of employees on the largest working shift at the facility regardless of the time period during which this occurs or whether the person are full-time employees. The major shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

1.4. **Gross Floor Area (GFA) -** The total area of all floors of a building, as measured to the outside surfaces of exterior walls. Gross floor area includes halls, stairways, elevator shafts, on grade, semi- subterranean, and subterranean garages, lofts and mezzanines, basements, and finished or habitable attics and outside setting. GFA is measured from the exterior faces of exterior walls and from the center line of walls separating two buildings.

1.5. **Gross Leasable Area (GLA) -** The total floor area of a building for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use. GLA includes both owned and leased areas but does not include shared or common areas among tenants. Where the total floor area of a building is occupied or where a building has no shared or common area, GLA is the gross floor area measured by taking outside dimensions of the building at each floor level intended for occupancy or storage.

1.6. **Impervious Surfaces -** Constructed surfaces, such as rooftops, sidewalks, roads and parking lots, covered by impenetrable materials, such as asphalt, concrete, brick, stone and other materials, which seal surfaces, repel water and prevent percolation of runoff into the ground.

1.7. **Loading Area -** That area used to satisfy the requirements of this Ordinance for truck loading and unloading.

1.8. **Loading Space -** An off-street space or berth used for the unloading or loading of commercial vehicles.

1.9. **Lodging/Conference Rooms (LCP) -** The Lodging Conference Parking Factor (LCP) = the total conference room square footage divided by the total number of sleeping units (SUs).

1.10. **Lodging/Restaurants and Lounges (LRP) -** The Lodging Restaurant Parking Factor (LRP) = the total restaurant or lounge square footage divided by the total number of sleeping units (SUs).

1.11. **Lodging Room (LR) -** That portion of a hotel, motel, boarding room, bed and breakfast or similar facility intended for guest occupancy.

1.12. **Manufactured Home –** Any dwelling unit governed by the Department of Transportation.

1.13. **Occupancy Load -** The maximum number of persons which may be accommodated by the use as determined by its design or by fire code standards.

1.14. **Parking Aisle -** That portion of the parking area consisting of lanes providing access parking spaces.

1.15. **Parking Area -** An improved area on a lot exclusively used or designated for use as a temporary storage area for motor vehicles, containing access driveways, parking aisles, and parking spaces.

1.16. **Parking Space -** That portion of the parking area set aside for the parking of one (1) vehicle that must be 9 feet by 20 feet unless specifically noted elsewhere.

1.17. **Pervious Surfaces -** A range of materials and techniques for paving roads, parking lots and walkways that allow the movement of water and air around and through the paving material, thus allowing water runoff to infiltrate the soil below. Examples are pervious concrete, porous asphalt, porous turf, aggregate, and paving stones or bricks.

1.18. **Square Feet (SF) –** Means "gross square feet" and refers to total building gross floor area unless otherwise specified, not including areas used for off-street parking or loading spaces.

1.19. **Stacking Space -** An off-street space for eh temporary stacking of vehicles within an aisle intended to serve a drive-in teller window, take-out food window, dry cleaning/laundry pick-up or similar type of activity station.

1.20. **Sleeping Unit (SU) -** A room or space in a building in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both.

1.21. **Vehicle, Abandoned (On Public Right-of-Way) -** Any motor vehicle which is partially dismantled, inoperative, wrecked or junked which is left at any place on a public street or public right-of-way within the City for period of seventy-two (72) consecutive hours.

1.22. **Vehicle, Abandoned (On Private Property) -** Any unlicensed and/or inoperative motor vehicle left in a location visible from, but not on public right-of-way, for a period of 60 consecutive days or greater.

1.23. **Vehicle, Inoperative -** A motor vehicle which cannot be driven upon the public streets of reason including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair or incapable of being moved under its own power.

Section 2. Applicability

2.1 These off-street parking provisions shall apply to existing and new developments. Specifically, for all buildings or structures erected and all uses of land established within the City of Helena, parking facilities shall be provided as required by this section.

2.2 The off-street parking development standards shall also apply to all off-street parking facilities provided in the City but not required by this ordinance.

2.3 Exemptions. The following parking lot improvements shall be considered minor in nature in that the number or configuration of parking stalls is not altered, and shall be exempt from permit requirements:

2.3.1 Repair of any defects in the surface of the parking area, including holes and cracks.
2.3.2 Resurfacing, slurry coating, and restriping of a parking area with identical delineation of parking spaces.
2.3.3 Repair or replacement of damaged planters and curbs in the same location and replacement of damaged landscaping as originally approved by the City.

Section 3. Permit Requirements

3.1 Certification of Parking Requirements. Each application for zoning approval shall include the location, number and dimensions of off-street parking spaces, if required, and the means of access. This information shall be in sufficient detail to enable the Building Official to determine whether or not the requirements of this Article are met. The Building Permit for the use of any building, structure or land

where off-street parking space is required shall be withheld by the Building Official until the provisions of this Article are fully met.

3.2 No building shall be occupied, and no final inspection shall be given by the City until off-street parking is provided in accordance with the provisions of this Article.

Section 4. Basic Limitations for Off-Street Parking

4.1 Except as otherwise permitted herein, all required off-street parking spaces shall be independently accessible from a street at all times.

4.2 No compact parking spaces shall be permitted unless approved by variance pursuant to Article XX Variance. However, any compact parking spaces approved and constructed prior to the effective date of this regulation shall be allowed to continue.

4.3 On-street-parking within public or private streets, driveways or drives shall not be used to satisfy the off-street parking requirements.

4.4 Parking a vehicle on any portion of a lot, other than paved areas permitted by this Article (Off Street Parking and Loading Requirements), is prohibited.

4.5 Parking spaces shall not preclude direct and free access to stairways, walkways, elevators, any pedestrian access-way or fire safety equipment. Such access shall be a clear minimum width required by State law, no part of which shall be within a parking space.

4.6 Parking facilities shall be used for vehicle parking only. No sales, storage, repair work, dismantling, or servicing of any kind shall be permitted without necessary permits for such use.

4.7 Living or sleeping in any vehicle, trailer, or vessel is prohibited when parked or stored on private property.

4.8 Any vehicle, trailer, or vessel, including a recreational vehicle, that is inoperable and/or without current registration shall be stored entirely within an enclosed structure and shall not be parked or stored in any yard on residential property, except as may be provided by State law. Boats and other non-motorized vehicles, such as trailers, shall be movable by a towing vehicle customarily used for the type of vehicle being towed.

4.9 Except as may be otherwise provided by this title, landscape front and street side yard setbacks shall not be used for off-street parking spaces, turning or maneuvering aisles. However, entrance and exit drives to access off-street spaces are permitted.

Section 5. Parking Requirements

5.1 Minimum and Maximum parking requirements. Except as otherwise provided, the number of off-street parking spaces required by Table 6.1 (Required Spaces) shall be considered the range of parking (minimum and maximum) allowable for each use, unless an applicant for a project proposes to include parking in an amount less than the minimum parking or greater than the maximum parking allowed. Uses not listed.

5.2 Unless not listed. The number of parking spaces required for uses not specifically listed in Table 6.1, (Required Spaces) shall be determined by the Building Official or his/her designee based on common functional, product or compatibility characteristics and activities. Such determination is considered a formal interpretation of this title and shall be decided and recorded as such pursuant to Article XXXII (Interpretation of Code).

5.3 Required Spaces. Table 6.1 (Required Spaces) below sets forth minimum and maximum off-street parking requirements for the number of spaces. Except as otherwise specifically stated, the following rules apply to this table.

5.3.1. Where the number of seats is listed to determine required parking, seats shall be construed to be seats. Where permanent seats provided are either benches or bleachers, each 24 linear inches of the bench or bleacher shall be considered a seat.

5.3.2. When the calculation of the required number of off-street parking spaces results in a fraction of a space, the total number of spaces shall be rounded to the nearest whole number.

5.3.3. In addition to the requirements in Table 6.1 (Required Spaces), spaces shall be provided for trucks and other vehicles used in the business, of a number and size adequate to accommodate the maximum number of types of trucks and/or vehicles to be parked on the site at any one time.

5.3.4. Where maximum distance is specified from the parking area, the distance shall be the actual walking distance measured from the nearest point of the parking area to the nearest point of the building or main entrance portion of the building that such facility is required to serve.

5.3.5. Unless otherwise stated, the required parking shall be located on the same lot or within the same complex as the use.

5.4. Joint Use and Shared Parking. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use on the same or separate lots, except as provided herein:

5.4.1. Under circumstances wherein a combination of uses or other factors might require total parking facilities in excess of actual need, if so determined and certified by the Building Official, a commensurate reduction in parking may be approved by the Commission. Two uses, for example, may share one parking facility and the spaces provided therein when the parking demand for the uses occur at wholly separate times.

Furthermore, such uses need not be located on the same lot, so long as the requirements of §5.6. Remote Parking are met.

5.4.2. Shared parking for mixed-use developments. Subject to approval by the Planning and Zoning Commission, minimum parking requirements for a mixed-use development may be reduced by calculation of shared parking requirements for the development utilizing the shared parking demand information in Table 6.2 and the Worksheet shown in Figure 6.2.1. These parking reductions shall not be available to lodging or residential uses unless such uses are part of a development.

5.4.3. An agreement providing for the shared use of parking, executed by the parties involved, shall be filed with the Building Official. Shared parking privileges shall continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, parking shall be provided as otherwise required by this chapter.

5.5. Parking Reductions. Parking reductions may be allowed as part of site plan approval only if it is demonstrated to the satisfaction of the Commission that a combination of the following factors or measures are proposed by the development plan, including, but not limited to:

5.5.1. There are no material adverse impacts on parking conditions in the immediate vicinity.

5.5.2. The development plan mitigates vehicular traffic impacts by proposing limited access to and from public streets.

5.5.3. The development plan proposes the creation of new or upgraded sidewalks to help foster non-vehicular accessibility.

5.5.4. These parking reductions shall not be available to lodging or residential development unless such uses are part of a development that also includes non-lodging and non-residential uses.

5.6. Remote Parking. All residential and lodging uses shall have the required parking spaces provided on the lot(s) on which such use is located. For all other uses, if the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on land within 800 feet of the main entrance to such principal use. Said land shall not be used for other purposes unless adequate provisions for parking have been made for such other use. However, remote parking areas must be zoned the same as the principal use or as may be permitted upon appeal to the Planning and Zoning Commission.

5.7. Maintenance of Parking Capacity. No off-street parking facility shall be reduced to less than the amount required for the use involved.

5.8. Cultural Resources Parking Exemption. Any new uses within the confines of an existing structure in a nonresidential zone, designated as a historic resource or a contributor to a historic district, as defined in Article XXI-B B-4 Business Renaissance District, are exempt from providing any additional parking. If an

existing structure is expanded, additional parking will be required to accommodate the expansion, as set forth in Table 6.1.

5.9. Reserved for future use for electric vehicle parking.

Section 6. Parking Spaces Requirements Per Use

6.1 Spaces Required Based on Usage

Use	Space Requirements	
	Minimum	Maximum
Lodging		
Bed and Breakfast Inn	1 Space per 2 Bedroom Unit	1.5 Space per 2 Bedroom Unit
Hotel – Sleeping Units Only	1 Space per Sleeping Unit	1 Space per Sleeping Unit Plus 1 Space per 250 SF of Public Space
Hotel – With Conference/ Event Rooms 0 – 20 LCP	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 800 SF of Event/Function Room	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 400 SF of Event/Function Room
Hotel – With Conference/ Event Rooms 20 – 40 LCP	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 400 SF of Event/Function Room	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 200 SF of Event/Function Room
Hotel – With Conference/ Event Rooms 40 – 60 LCP	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 200 SF of Event/Function Room	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 100 SF of Event/Function Room
Hotel – With Conference/ Event Rooms 60+ LCP	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 100 SF of Event/Function Room	1 Space per SU Plus 1 Space per 250 SF of Public Space Plus 1 space per 50 SF of Event/Function Room
Hotel – With Eating Establishment 0 – 10 LRP	1 Space per SU Plus 1 Space per 12 Seats	1 Space per SU Plus 1 Space per 250 SF of Office Plus Seating for Restaurants and Lounges as applicable
Hotel – With Eating Establishment 11 – 30 LRP	1 Space per SU Plus 1 Space per 10 Seats	1 Space per SU Plus 1 Space per 250 SF of Office Plus Seating for Restaurants and Lounges as applicable
Hotel – With Eating Establishment 31 – 50 LRP	1 Space per SU Plus 1 Space per 8 Seats	1 Space per SU Plus 1 Space per 250 SF of Office Plus Seating for Restaurants and Lounges as applicable
Hotel – With Eating Establishment 51+ LRP	1 Space per SU Plus 1 Space per 6 Seats	1 Space per SU Plus 1 Space per 250 SF of Office Plus Seating for Restaurants and Lounges as applicable
Tourist Home – Short Term Rental	1.5 Space per 2 Bedroom Unit	1.5 Space per 2 Bedroom Unit

Residential		
Accessory Dwelling	1 Space per DU	1 Space per DU
Group Housing – 6 or Fewer Residents	2 Space per DU plus 1 Space for Company vehicle	2 Space per DU plus 1 Space for Company vehicle plus 1 Space per employee
Group Housing – More than 6 Residents	1 Space per Employee Plus 1 Space per 5 Beds	1 Space per Employee plus 1 Space per 5 Beds
Manufactured Home	2 Space per DU	2 Space per DU
Multi-Family – Efficiency or 1 Bedroom	1 Space per DU	1 Space per DU
Multi-Family – 2 Bedroom	2 Space per DU	2 Space per DU
Multi-Family – 3+ Bedroom	2 Space per DU	2 Space per BR
Multi-Family – Visitor Parking	1 Space per 10 DU	1 Space per 5 DU
Single Family Dwelling	3 Space per DU not Including any Garage Space	1 Space per BR not including and Garage Space
Townhome	3 Space per DU Plus 1 Space	3 Space per DU Plus 1 Space
Two Family Dwelling	2 Space per DU Plus 1 Space	2 Space per DU Plus 1 Space
Retail, Services, Office, and Commercial		
Animal Hospital/Veterinary Services (may include accessory grooming and boarding)	1 Space per 500 SF of GFA	1 Space per 250 SF of GFA
Bank – Drive Thru Only	1 Space per 2 Employees plus 3 Stacking Spaces per Teller Lane	1 Space per 2 Employees plus 3 Stacking Spaces per Teller Lane
Bank – No Drive Thru	1 Space per 250 SF	1 Space per 250 SF
Bank – With Drive Thru	1 Space per 300 SF Plus 3 Stacking Spaces per Teller Lane	1 Space per 300 SF Plus 3 Stacking Spaces per Teller Lane
Business Support Services	1 Space per 500 SF of GFA	1 Space per 350 SF of GFA Plus 0.5 Space per Employee
Famers Market	1 Space per 300 SF of GLA	1 Space per Vendor
Funeral Home – With Chapel, Slumber, or Parlor	1 Space per 50 SF of chapel, slumber room, parlor floor area available for the accommodation of moveable seats in the largest assembly room Plus 1 space per 2 employees	1 space per 4 seats of chapel capacity or per 40 SF of floor area available for the accommodation of moveable seats in the largest assembly room Plus 1 space per 2 employees
Funeral Home – Without Chapel, Slumber, or Parlor	1 Space per 300 SF of GFA Plus 1 Space per Employee Plus 1 Space for Company Vehicle	1 Space per 150 SF of GFA Plus 1 Space per Employee Plus 1 Space for Company Vehicle
General Services or Repair	1 Space per 500 SF of GFA	3 Spaces per 1,300 SF of GFA
Health and Fitness	1 Space per 300 SF of GFA	1 Space per 150 SF of GFA
Laundromat	1 Space per 250 SF of GFA	0.5 Space per Washing Machine
Medical – Office	2 Spaces per Examination Room Plus 1 Space per Employee	2 Spaces per Examination Room Plus 1 Space per Employee
Medical – Physical Therapy	1 Space per 250 SF of GFA Plus 1 Space per Employee	1 Space per 250 SF of GFA Plus 1 Space per Employee
Personal Services – Barber/ Beauty Shop	1 Space per 250 SF of GFA	2 Spaces per Chair Plus 1 Space per 2 hair drying Stations Plus 1 Space per Employee

Personal Services – Dry Cleaning	1 Space per 500 SF of GFA Plus 3 Stacking Spaces for Drop Off Lane if Applicable	1 Space per 500 SF of GFA Plus 3 Stacking Spaces for Drop Off Lane if Applicable
Personal Service - Nail Salon/ Spa	1 Space per 250 SF of GFA	1 Space per 150 SF of GFA
Plant Nursery – Commercial Greenhouse	2 Spaces per Acre	2 Spaces per Acre
Plant Nursery – Grower Only	1 Space per Employee Plus 2 Spaces for company vehicles. Applicant may appeal for additional spaces to accommodate trucks and other vehicles used in connection with this use	1 Space per Employee Plus 2 Spaces for company vehicles. Applicant may appeal for additional spaces to accommodate trucks and other vehicles used in connection with this use
Plant Nursery – Retail	1 Space per 500 SF of GLA	1 Space per 500 SF of GLA Plus 1 Space per 1,000 SF of Permanent Outdoor Sales or Storage
Recreational – Billiards	2 Spaces per Table Plus 1 Space per 150 SF of GFA	4 Spaces per Table Plus 1 Space per Employee
Recreational – Bowling Alley	2 Spaces per Lane Plus 1 Space per 150 SF of GFA	4 Spaces per Lane Plus 1 Space per Employee
Recreation – Dance Hall	1 Space per 300 SF of GFA	1 Space per 300 SF of GFA
Recreation – Family Entertainment	1 Space per 4 Seats Plus 1 Space per Employee	1 Space per 4 Seats Plus 1 Space per Employee
Recreational – Golf Course	5 Spaces per Hole Plus 1 Space per Employee	90 Spaces
Recreational – Golf Driving Range	1.5 Spaces per Tee	60 Spaces
Recreational – Golf Miniature	1.5 Spaces per Hole Plus 1 Space per 2 Employees	54 Spaces
Recreational – Indoor Play Facility	1 Space per 350 SF of GLA	1 Space per 350 SF of GLA
Recreational – Movie Theater	1 Space per 5 Seats	1 Space per 2.5 Seats Plus 1 Space per Employee
Recreational – Other	1 Space per 300 SF of GFA	1 Space per 300 SF of GFA
Recreational – Skating Rink	1 Space per 400 SF of GFA	1 Space per 200 SF of GFA
Recreational – Swimming	1 Space per 3 Occupants at Maximum Level	1 Space per 2 Occupants at Maximum Level
Recreational – Tennis	1.5 Spaces per Court	1.5 Spaces per Court
Recreational – Other	1 Space per 300 SF of GFA	1 Space per 300 SF of GFA
Restaurant – Bakery	1 Space per 300 SF of GFA	1 Space per 200 SF of GFA
Restaurant - Bars, Saloons, Cocktail Lounges, and Taverns	1 Space per 250 SF of GFA	1 Space per 125 SF of GFA
Restaurant – Carry Out/ Delivery	1 Space per 300 SF of GFA Plus 1 Space per Employee	1 Space per 300 SF of GFA Plus 1 Space per Employee
Restaurant – Catering/ Commercial Kitchen	1 Space per 500 SF of GFA Plus 1 Space per employee	1 Space per 500 SF of GFA Plus 1 Space per employee
Restaurant – Coffee Shop	1 Space per 200 SF of GFA	1 Space per 200 SF of GFA

Restaurant – Drive In	1 Space per Outdoor Dining Table Plus 1 Space per Employee Plus Drive-In Spaces	1 Space per Outdoor Dining Table Plus 1 Space per Employee Plus Drive-In Spaces
Restaurant – Drive Thru	1 Space per 100 SF of GFA Plus 4 Stacking Spaces per Drive Thru	1 Space per 100 SF of GFA Plus 4 Stacking Spaces per Drive Thru
Restaurant – Sit Down	1 Space per 6 Seats Plus 1 Space per 2 Employees on Shift or 1 Space per 80 SF of GFA, whichever is greater	1 Space per 3 seats Plus 1 space per Employee of 1 space per 40 SF GLA, whichever is greater
Restaurant - Sit Down with Outdoor Dining Area	1 Space per 6 Seats Plus any Spaces designated for carry-out including outdoor dining	1 Space per 3 seats Plus any Spaces designated for carry-out including outdoor dining
Retail – Art Gallery	1 Space per 350 SF of GFA	1 Space per 350 SF of GFA
Retail – Bulk Merchandise	1 Space per 1,000 SF of GFA	1 Space per Employee Plus 1 Space per Company Vehicle but not less than 1 Space per 500 SF of GFA
Retail – Convenience Store	1 Space per 300 SF of GFA	1 Space per 300 SF of GFA
Retail – Drug Store	1 Space per 250 SF of GFA	1 Space per 250 SF of GFA
Retail – Enclosed Up to 50,000 SF of GFA	1 Space per 400 SF of GFA	1 Space per 200 SF of GFA
Retail – Enclosed 50,001 to 90,000 SF of GFA	1 Space per 450 SF of GFA	1 Space per 225 SF of GFA
Retail – Enclosed 90,001 or More SF of GFA	1 Space per 500 SF of GFA	1 Space per 250 SF of GFA
Retail – Equipment Small	1 Space per 500 SF of GLA Plus 1 Space per 300 SF of Office Area	1 Space per 500 SF of GLA Plus 1 Space per 300 SF of Office Area
Retail – Equipment Large	1 Space per 500 SF of Office Area	1 Space per 500 SF of Office Area
Retail – eSales Fulfillment	1 Space per 250 SF of GFA	1 Space per 250 SF of GFA
Retail – Liquor/Package	1 Space per 200 SF of GFA	1 Space per 250 SF of GFA
Retail – Outdoor	1 Space per 7,500 SF Plus 1 Space per 250 SF of Office Area	1 Space per 7,500 SF Plus 1 Space per 250 SF of Office Area
Retail – Specialty	1 Space per 400 SF of GFA	1 Space per 200 SF of GFA
Retail – Vehicle Parts	1 Space per 150 SF of GFA	1 Space per 150 SF of GFA
School – Dance/Music Studio	0.25 Space per Student Plus 1 Space per Employee	1 Space per 125 SF of GFA
School – Tutoring Center	0.25 Space per Student Plus 1 Space per Employee	1 Space per 125 SF of GFA
Vehicle Fuel Station – With Retail	1 Space per Pump Plus 1 Space per Employee	1 Space per Pump Plus 1 Space per Employee
Vehicle Fuel Station – With Maintenance/ Repair	1 Space per Pump Plus 1 Space per Employee Plus 2 Spaces per Repair Bay	1 Space per Pump Plus 1 Space per Employee Plus 2 Spaces per Repair Bay
Vehicle Fuel Station – With Indoor Storage	1 Space per Pump Plus 1 Space per Employee Plus 1 Space per 250 SF of GFA of Storage Area	1 Space per Pump Plus 1 Space per Employee Plus 1 Space per 250 SF of GFA of Storage Area
Vehicle Fuel Station – With Restaurant	1 Space per Pump Plus 1 Space per Employee Plus 1 Space per 250 SF of GFA of Restaurant Area	1 Space per Pump Plus 1 Space per Employee Plus 1 Space per 250 SF of GFA of Restaurant Area

Vehicle Fuel Station – With Car Wash	1 Space per Pump Plus 1 Space per Employee Plus 2 Spaces per Wash Bay	1 Space per Pump Plus 1 Space per Employee Plus 2 Spaces per Wash Bay

6.2 Typical Shared Parking Demand by Use and Time of Day

Parking Use	Weekday 8am - 5pm	Weekday 5pm – 12am	Weekday 12am – 8am	Weekend 8am – 5pm	Weekend 5pm – 12am	Weekend 12am – 8am
Residential	60%	100%	100%	80%	100%	100%
Office	100%	20%	5%	5%	5%	5%
Commercial	90%	80%	5%	100%	70%	5%
Lodging	70%	100%	100%	70%	100%	100%
Restaurant	70%	100%	10%	70%	100%	20%
Entertainment	40%	100%	10%	80%	100%	50%
Movie Theater	40%	80%	10%	80%	100%	10%
Institutional (Non-Church)	100%	20%	5%	10%	10%	5%
Institutional (Church)	10%	5%	5%	100%	50%	5%

6.3 Shared Parking Reduction Example Worksheet

Shared vs. Conventional Demand	Conventional Demand	Weekday 8am - 5pm	Weekday 5pm – 12am	Weekday 12am – 8am	Weekend 8am – 5pm	Weekend 5pm – 12am	Weekend 12am – 8am
Residential	100	60	100	100	80	100	100
Office	100	100	20	5	5	5	5
Commercial	100	90	80	5	100	70	5
Lodging	100	70	100	100	70	100	100
Restaurant	100	70	100	10	70	100	20
Total Needs	500	390	400	220	325	375	230
Conventional Demand Need = 500 Spaces							
Shared Parking Demand (Greatest of Any Column Total Needs) = 400 Spaces							
Shared Parking Reduction = 100 Spaces							

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ARTICLE XXVIII SUPPLEMENTARY REGULATIONS AND MODIFICATIONS

Section 1. Regulation Supplement

The regulations set forth in this Article supplement or modify the district regulations appearing elsewhere in this Ordinance.

Section 2. Use Modifications

2.1 Temporary structures for use incidental to construction work may be permitted in any district during the period that construction work is in progress, but such temporary building shall be removed upon completion or abandonment of the construction work.

2.2 Utility structures, including, but not limited to, poles, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission of distribution of electric power or to provide telephone or telegraph service and pipe lines, vents, valves, hydrants, regulators, meters and other facilities necessary for the transmission and distribution of gas, oil, water or other fluids, may be constructed, erected, repaired, maintained or replaced within any district within the City of Helena. This is not to be construed to include the erection or construction of buildings or electrical substations.

2.3 Railroad facilities, including main line tracks, switching spurs, control signals, poles, and wires or similar facilities (but not yards or service facilities) needed for operating railroad trains, may be constructed, repaired in any district, and these as well as terminal facilities, including passenger or freight stations, team tracks and storage yards are permitted in the "M" Districts.

Section 3. Height Modifications

3.1 Chimneys, cooling towers, elevator bulkheads, head houses, fire towers, gas tanks, steeples, penthouses, stack, tanks, water towers, ornamental towers and spires, wireless television or radio towers or necessary mechanical appurtenances, where permitted, may be erected to any height not in conflict with existing or hereafter adopted ordinances of the City of Helena except that where permitted in connection with residential uses such structures shall be limited to a height of twenty-five feet (25') above the maximum height of structures permitted in that district.

3.2 The limitation on number of stories shall not apply to buildings used exclusively for storage purposes, provided such buildings do not exceed the height in feet permitted in the district in which located.

3.3 Public - Semi-Public service buildings, including but not limited to hospitals, schools and churches, when permitted in a district with height limitations of less than sixty feet (60'), may be erected to a maximum height of sixty feet (60'), provided side yards increased by one foot (1') for each foot of additional building height above the height limitation for the district in which the building is located.

3.4 Area modifications for lots of record. Where a lot of record at the time of the effective date of this Ordinance has less width than herein required for the district in which it is located, said lot may nonetheless be used as a building site provided the yard space and other requirements conform as closely as possible in the opinion of the Helena Planning Commission to the requirements for the district in which it is located.

Section 4. General Yard Modifications

4.1 Every part of a required yard shall be open to the sky unobstructed by any structure or part thereof, and unoccupied for storage, servicing or similar use, except as provided herein.

4.2 Sills, beltcourses or ornamental features may project into any yard not to exceed six inches (6").

4.3 Cornices or eaves may project into any required yard not to exceed twenty-four inches (24").

4.4 Terraces, uncovered porches, underground fallout shelters or ornamental features which do not extend more than five feet (5') above grade may project into a required yard, provided such projections not be closer than two feet (2') to any lot line.

4.5 More than one multiple dwelling, institutional, commercial or industrial building may be located upon the front, side and rear yards required by the district regulations and for multiple dwellings the open space between buildings measured at the story building, thirty feet (30') when one or both are two-story buildings, and forty feet (40') when one or both are three or more story buildings.

4.6 Where an open space is more than fifty percent (50%) surrounded by residential or institutional buildings, the minimum width of the open space shall be at least twenty feet (20') for one story buildings, thirty feet (30') for two story buildings and forty feet (40') for three or more story buildings.

4.7 In a residential district, no required yard except the rear yard shall be used for the location of a private swimming pool, and if constructed said pool shall be enclosed by a fence of not less than four feet (4') in height,

provided that the owner of any existing pool shall be allowed a period of six (6) months from the effective date of this Ordinance in which to provide a fence for such pool as herein required. No mechanical appurtenance or pool shall be within ten feet (10') of any lot line.

4.8 The minimum dimension of a yard upon which any entrance or exit of a multiple dwelling faces shall be twenty feet (20').

4.9 Wherever yards are provided between commercial or industrial structure, they shall have a minimum width of not less than six feet (6').

Section 5. Front Yard Modifications

The required front yards heretofore established shall be modified in the following cases:

5.1 Where forty percent (40%) or more of the frontage on the same side of a street between two intersecting streets is presently developed or may hereafter be developed with buildings that have (with a variation of five feet (5') or less), a front yard greater or lesser in depth that herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

5.2 Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is presently developed or may hereafter be developed with buildings that do not have a front yard as described above, then: (See 5.2.1 or 5.2.2).

5.2.1 Where a building is to be erected on a parcel of land that is within four hundred feet (400') of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings, or

5.2.2 Where a building is to be erected on a parcel of land that is within one hundred feet (100') of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

5.3 Through lots shall provide the required front yard on both streets.

5.4 Corner lots shall provide a front yard on each street side. However, the buildable width of a lot record need not be reduced to less than twenty-eight feet (28'); provided that the side yards shall in no case be reduced to less than that otherwise required for the zone district. No accessory building shall project into the front yard on either street.

5.5 Service station pumps and pump islands may be located within a required front yard, but in no case shall they be closer than fifteen feet (15') to any street line.

Section 6. Rear Yard Modifications

The rear yards heretofore established shall be modified in the following cases:

6.1 Where a lot abuts upon an alley; one-half (½) of the alley width may be considered as part of the required rear yard.

6.2 An unenclosed balcony, porch steps or fire escapes may project into a rear yard for a distance not exceeding ten feet (10').

6.3 Accessory buildings and structures may be built in a rear yard, but such accessory buildings and structures shall not occupy more than thirty percent (30%) of the required rear yard and shall not be nearer than three feet (3') to any side or rear lot line, except that when a garage is entered from an alley; it shall not be located closer than seven feet (7') to the alley line.

Section 7. Walls and Fences

Walls or fences may be located within the yards except as provided herein:

7.1 No wall or fence in a front yard shall exceed a height of three feet (3'), except as required for a retaining wall.

7.2 No wall or fence in a rear or side yard shall exceed a height of six and one-half feet (6-1/2'), except as required for a retaining wall.

7.3 In any residential district, no fence, structure or planting which obstructs visibility shall be maintained within twenty-five feet (25') of any street intersection.

Section 8. Greenbelt Requirements

8.1 Intent

8.1.1 For the purpose of this Ordinance, greenbelt are intended to buffer or separate incompatible land uses.

8.2 Definition

8.2.1 A greenbelt shall be a planting strip so planted that within one (1) full growing season after installation, said planting shall provide a

visually impervious barrier, uniformly dense at all heights from the ground, and a minimum of four feet (4') in height, throughout the entire length of the planting strip. The entire surface area of the greenbelt shall be planted with vegetation. Within three (3) full growing seasons after installation, said planting shall be reached a minimum matured height of six feet (6') or greater.

8.2.2 Any combination of evergreen trees, evergreen trees and shrubs, evergreen and deciduous trees, is acceptable as long as the visual barrier will be uniformly dense at the minimum heights required.

8.3 Greenbelt Requirements

8.3.1 Where natural vegetation exists on a piece of property when application is made for a building permit, a twenty foot (20') wide strip of the existing natural vegetation shall be maintained adjacent and parallel to the rear and both side property lines. The strip of natural vegetation shall be undisturbed until the Building Official has evaluated it with regard to compliance with the greenbelt regulations of this Ordinance. The Planning and Zoning Commission may require supplemental plantings in order to bring the natural vegetation into compliance with the provisions of this Ordinance.

8.3.2 The Helena Planning Commission may, in appropriate cases, require a fence or wall in-lieu-of, or in addition to the required greenbelt.

Section 9. Private Tennis Courts

9.1 All tennis courts constructed in a single family or two family residential district shall meet the following minimum requirements:

9.1.1 The tennis court must be located in the rear yard.

9.1.2 The tennis court may not be located any closer than twenty-five feet (25') from any property line and residential structure.

9.1.3 All fencing must meet the requirements as set out in this Ordinance.

9.1.4 All exterior lighting fixtures shall be constructed to direct the beam below the horizontal plane of the fixture and shall reflect away from any adjacent property.

9.2 Tennis courts for multi-family and commercial uses shall meet the standards deemed by the Helena Planning Commission to be appropriate upon review of the specific proposal.

ARTICLE XXIX SHORT TERM RENTAL

Section 1. Definitions

Dwelling – Any building or portion thereof which is designed or used exclusively for residential occupancy.

Dwelling Unit – Any portion of a building used as a separate abode for a family having its own cooking and kitchen accommodations and toilet facilities.

Non Owner-Occupied Short Term Rental - A residential dwelling unit that is not owner-occupied containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests and is not inhabited by the property owner as their primary residence.

Owner-Occupied Short Term Rental - An owner-occupied residential dwelling unit containing not more than four (4) sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests and is inhabited by the property owner as their primary residence.

Short Term Rental – The transient use of any dwelling or any part of a dwelling for overnight occupancy.

Short Term Rental Manager – Any person or entity that arranges rental, cleaning, listing, advertising, or otherwise assists in the operation of a short term rental for profit. Short term rental manager does not include listing services or online platform for short term rental listings.

Transient – A person(s) occupying a dwelling or dwelling unit by rent for less than thirty (30) continuous days.

Section 2. Generally

Non-Owner Occupied Short Term Rental dwellings are permitted in B1, B2, and B4 zones. The following sections notwithstanding, no person or company shall operate a short term rental business within the corporate limits of the City of Helena outside of districts of B1, B2, and B4, without obtaining a variance in accordance with Article XXX of the City of Helena Zoning Ordinance.

2.1 It shall be unlawful for any person, company, or entity to list, advertise, or hold out for rental, any room or building as a short term rental without first obtaining a business license under City of Helena Ordinance 734-07 Amended, and including said business license number on the advertisement or listing.

2.2 The name and telephone numbers of a rental manager shall be conspicuously posted within the short term rental property unit. The responsible party shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short term rental period to address problems or complaints associated with the short term rental property. Short Term Rental Manager must maintain residence within 20 miles geographically of the farthest unit.

2.3 A dwelling or dwelling unit must be located on the site, able to be occupied.

2.4 All building and fire codes must be met.

2.5 No events, such as concerts, weddings, or other events are permitted at any rental unit location.

2.6 Maximum Occupancy is limited to the total number of bedroom(s) times two provided within the rental unit.

* Children 8 and younger shall not be counted toward the maximum occupancy.

2.7 The short term rental shall comply with applicable municipal ordinances including but not limited to all noise, trash, parking, and sign regulations outlined in the City of Helena Zoning Ordinance.

2.8 A short term rental property shall not be occupied for a period less than twenty-four (24) hours.

2.9 No dwelling or dwelling unit shall be used as a short term rental in excess of thirty (30) consecutive days for same transient.

2.10 All property owners and/or their agents shall comply with all Fair Housing Act compliance guidelines.

2.11 Property owners and/or their agents shall verify the renter's identity with a government-issued form of identification prior to the execution of any rental agreement.

2.12 Short-term rental properties shall utilize 24/7 secure video surveillance at the front, rear, and sides of the property and maintain recordings for no less than 30 days. Renters must agree to external surveillance at time of booking.

2.13 No off-street parking shall be permitted forward of the front building line. A minimum of 1.5 designated off-street parking spaces per two (2) bedrooms shall be provided. Parking on the street is not permitted.

Section 3. Non-conforming Uses

Short term rentals currently in existence within the corporate limits of Helena will be allowed to continue operations within any zoning district in accordance with the provisions of nonconforming use. The below items must be met with supporting documentation to be provided.

3.1 Property is currently being used for short term rental as its sole purpose.

3.2 Property has been sole purpose use of short term rental for a minimum ninety (90) days before this ordinance becomes effective.

3.3 Property and all items associated must be in compliance with Article XXIX Business License pursuant to the Business License Code of the City of Helena must be obtained within ten (10) calendar days of this ordinance becoming effective."

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ARTICLE XXX BOARD OF ADJUSTMENTS

Section 1. Creation and Membership

1.1 The Board of Adjustment is hereby established. The word "Board" when used in this Ordinance shall be construed to mean the Board of Adjustment.

1.2 The appointment, procedure and actions of said Board of Adjustment shall be governed and controlled by Title 11, Chapter 52, Article 4, Section 11-52-80, Code of Alabama, 1975, as the same may be amended.

Section 2. Meetings, Procedures and Records

2.1 Meetings of the Board shall be held at such times as the Board may determine, or upon call of the Chairman. Such Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

2.2 The Board shall adopt and publish its own rules or procedure and keep minutes of its proceedings, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Section 3. Appeals to Board

3.1 An appeal from the decision of the Building Inspector may be taken to the Board of any person aggrieved, or by any officer, department, board or agency of the City of Helena affected by such decision.

3.2 Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing with the Building Official and with the Board a notice or appeal specifying the grounds thereof.

3.3 The Building Official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the Building Official certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court on application or notice to the Building Official and on due cause shown.

Section 4. Hearing of Appeals

4.1 The Board shall set a reasonable time for the hearing of an appeal taken within the time specified by its rules, give public notice thereof, as well as due notice to all adjacent property owners, and decide the same within a reasonable time. Upon the hearing of such appeal, any party may appear in person, or by agent or attorney.

Section 5. Powers Duties

The Board, in appropriate cases and subject to appropriate conditions and safeguards, shall have the following powers:

5.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Official in the enforcement or application of this Ordinance.

5.2 To authorize upon appeal in specific case a variance from the terms of this Ordinance, such as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, but where the spirit of the Ordinance shall be observed and substantial justice done. Such special conditions shall be limited to exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of this Ordinance, or exceptional situation or condition of such piece of property as would result in peculiar, extraordinary and practical difficulties. However, the granting of the variance shall not allow a structure or use in a district restricted against such structure or use, except as specifically provided for in this Article. No variance shall be authorized unless the Board finds all of the following conditions exist.

5.2.1 That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.

5.2.2 That the granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.

5.2.3 That the condition from which relief or a variance is sought did not result from action by the applicant.

5.2.4 That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any

other respect, impair the health, safety, comfort, morals or general welfare of the inhabitants of the City of Helena.

5.3 The Board may modify the strict application of there provisions of this Ordinance and cause a permit to be issued upon such reasonable conditions as it may prescribe in the following cases:

5.3.1 The extension of a district for a distance of not more than fifty feet (50') where the boundary line of a district divides a lot or tract held in single ownership at the time of the passage of this Ordinance.

5.3.2 The determination of the proper district applicable to particular land in cases of ambiguity or doubt arising from a difference between the street layout actually on the ground and the street layout as shown on the zone map.

5.3.3 The reconstruction of a building, the use of which is non-conforming, which has been destroyed, or partially destroyed, by explosion, fire, act of God or the public enemy.

5.3.4 Reduction in the parking and loading requirements of this Ordinance whenever the character or use of a building or premises is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship, such as extreme financial difficulty, structural difficulty or similar condition, upon the use of the property.

5.3.5 The erection of a temporary building for commerce or industry in the "R" districts which is incidental to the residential development, such permit to be issued for a period of not more than one year.

Section 6. Appeals from Action of Building Official

6.1 In exercising the above mentioned powers the Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partially, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have all powers of the Building Official. The concurring vote of three (3) members of the Board shall be necessary to reverse or modify any order requirement, decision or determination of the Building Official.

6.2 To defray a portion of the costs occasioned thereby, no appeal from the decision of the Building Official, and no application for an exception, variance or other matter, shall be entered on the docket of, or heard by, or ruled on by the Board until there has been paid to the offices of the Board by the appellant or applicant a fee of one hundred fifty dollars

($150.00) and cost of giving legal notice, which fee shall be remitted to the City Clerk of the City of Helena. If, no appeal from the decision of the Building Official pertaining to an interpretation of the provisions of this Ordinance, the applicant is successful in reversing the decision of the Building Official, the one hundred fifty dollars ($150.00) fee shall be returned to the applicant. No fee shall be required for an interpretation of this Ordinance when there is a variance between the street layout on the ground and the street layout as shown on the district zoning map.

6.3 Neither the City of Helena nor any officer, agent, or employee of the City acting in his/her official capacity, nor any agency of the City shall be required to pay a fee under this Article.

Section 7. Appeals from Action of the Board

7.1 Any party aggrieved by any final judgement or decision of the Board may, within fifteen (15) days thereafter, appeal therefrom to the Circuit Court of like jurisdiction by filing with the Board a written notice of appeal, specifying the judgement of decision from which appeal is taken. In case of such appeal, the Board shall cause a transcript of the proceedings in the case to be certified to the court to which the appeal is taken and the case shall in such court be tried de novo.

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ARTICLE XXXI ADMINISTRATION

Section 1. Enforcement

1.1 The duty of administering and enforcing the provisions of this Ordinance is hereby conferred upon the Building Official. It shall also be the duty of all officers and employees of the City of Helena and especially of all members of the police and fire departments to assist the Building Official by reporting to him/her new construction, reconstruction or new land uses and apparent violations of this Ordinance.

Section 2. Building Permits

2.1 All applicants for building permits for the construction of any building or for the alteration of any building where such alteration will cause or increase in the land coverage of such building, shall be accompanied by an acceptable drawing or plat in duplicate drawn to scale showing the lot plan, the location of the building on the lots as constructed or altered, accurate dimensions of the building and lot, and such other information as may be necessary to enable the Building Official to determine that the proposed structure and use of land will conform to the provisions of this Ordinance. All dimensions shown on these drawings or plats relating to the location and size of the lot to be built upon shall be based on an actual survey and it shall be in a form acceptable to the Building Official. The original copy of such applicants and plats shall be kept in the office of the Building Official and the duplicate copy shall be kept with the building permit at the building at all times during construction.

Section 3. Certificates of Occupancy

Certificates of occupancy shall be required for any of the following and shall be obtained from the Building Official:

3.1 Occupancy and use of a building hereafter erected, except for a single family dwelling.

3.2 Change in use of land or an existing building, including an increase in the number of dwelling units.

3.3 Any change in the use of a non-conforming use.

3.4 No fee shall be charged for an original and two (2) copies of a certificate of occupancy as required herein, but for each additional copy there shall be a charge of one dollar ($1.00), which shall be remitted to the City Clerk of the City of Helena.

ARTICLE XXXII INTERPRETATION OF ORDINANCE

Section 1. Minimum Requirements

1.1 In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, morals and the general welfare. Where this Ordinance imposes greater restrictions upon the use of a building or land or upon the open spaces, yard area or lot area, than are imposed or required by other ordinances, rules, regulations, or permits, or by easement, covenants or agreements, the provisions of this Ordinance shall govern. Where any other ordinances, rules, regulations, permits, or any easements, covenants or agreements impose greater restrictions upon the use of a building or upon the height, bulk or size of building or structure, or require larger open spaces, yard area or lot area that are required under the regulations of this Ordinance, such provisions shall govern.

Section 2. City Not Subject to Ordinance

2.1 Any provision of this Ordinance to the contrary not withstanding, the city in exercise any governmental function, power or authority, shall not be subject to the provisions of this Ordinance or in anyway limited thereby in the exercise of such governmental function, power of authority.

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ARTICLE XXXIII AMENDMENTS AND CHANGES

Section 1. Requirements for Change

1.1 Whenever the public necessity, convenience, general welfare or good zoning practice warrants such action, the City Council, by the favorable vote of four (4) of the members, may amend, supplement, modify or repeal the regulations or zoning district boundaries herein established.

Section 2. Petition for/or Initiation of Change

2.1 A proposed change of the zone district boundaries or of the regulations may be initiated by the City Council, the Helena Planning Commission, or by petition of one or more owners or authorized agents of such owners of property within the area proposed to be changed.

Section 3. Action on Petition

3.1 Any proposed amendment, supplement, modification or repeal shall first be submitted to the Helena Planning Commission for its recommendations and report.

3.2 After the City Council shall be received the recommendation of the Helena Planning Commission on the proposed change, or if no recommendation is received from the Helena Planning Commission within sixty (60) days of the date of application, the City Council may proceed to hold a public hearing in relational thereto, giving notice as required by law.

3.3 The proposed change may be deemed by the applicant to have been denied if the City Council takes no final action upon the same within one hundred fifty (150) days after the filing of the application, or within ninety (90) days after receipt of the recommendation by the Helena Planning Commission provided that this sentence shall not be construed to divest the City Council of jurisdiction to take final action on such proposed change at any time prior to any litigation instituted thereon against this Council or the City by the applicant.

Section 4. Fees

4.1 Before any action shall be taken as provided in this Article, the applicant petitioning for a change shall deposit with the City Clerk the sum of one hundred fifty dollars ($150.00) to process the application, plus the cost of legal notice, plus cost of certified mailing to all adjoining property owners. Under no conditions shall said sum or any part thereof be refunded for failure of such proposed amendment to be enacted into law. No action

shall be initiated for a zoning amendment affecting the same parcel of land more often than once every twelve (12) months, provided, by resolution of the City Council of the City of Helena that such action may be initiated at any time.

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ARTICLE XXXIV VIOLATION AND PENALTY

Section 1. Penalty

1.1 In addition to all other means provided by law for the enforcement of the provisions of this Ordinance, any person violating any of the provisions thereof shall, upon conviction, be fined not more than one hundred dollars ($100.00) and cost of court for each offense. Each day such violation continues shall constitute a separate offense.

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ARTICLE XXXV VALIDITY

Section 1. Severability of Ordinance

1.1 If any section or provision of this ordinance, including any part of the zoning map which is part of this Ordinance, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

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APPENDIX

Rules of Procedure of the Helena Planning Commission

The Zoning Ordinance was adopted as part of a program for developing the Helena Comprehensive Plan; zoning is one of the tools to carry out this plan.

The Helena Planning Commission is organized to advise the City Council directly on all applications for changes in the Zoning Ordinance.

All map change applications will be compared to all parts of the Helena Comprehensive Plan in effect at that time and any other plan, study, or program or improvement in effect or having official status or endorsement.

Section 1. Authority

1.1 The Helena Planning Commission is established under authority granted by the City Council of the City of Helena under Ordinance No. _____ as provided in Title 11, Article 1, 1975 Alabama Code.

1.2 The Commission shall be governed by these Rules of Procedure and the Zoning Ordinance of the City of Helena.

Section 2. Membership

2.1 Composition: The membership of the Commission shall be composed of nine (9) members, namely, the Mayor, one of the administrative officials of the municipality selected by the Mayor, and a member of the council to be selected by it as members ex-officio, and six (6) persons shall be appointed by the Mayor.

2.2 Terms of Membership: The terms of ex-officio members shall correspond to their respective official tenures, except that the terms of the administrative official selected by the Mayor shall terminate with the term of the Mayor selecting him. The term of each appointed member shall be six (6) years or until the successor takes office.

2.3 How Replaced: Vacancies occurring otherwise than through the expiration of term shall be filed for the unexpired term by the Mayor in the case of members selected or appointed by him, by council in the case of councilman member selected by it.

Section 3. Officers

3.1 Chairman: A chairman shall be elected by the members of the Commission. His term shall be for one (1) year beginning with the date of election, and he shall be eligible for re-election. The Chairman shall decide upon all points of order and procedure, subject to these Rules of Procedure unless directed otherwise by the majority of the Commission in session at the time. The Chairman may appoint any subcommittee deemed necessary to investigate any matter before the Commission.

3.2 Vice-Chairman: A Vice-Chairman shall be elected by the Commission from among its regular members in the same manner and for the same term as the Chairman. He shall serve as an acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman.

3.3 Secretary: The City Clerk shall perform the administrative and clerical functions of the Committee. He/she shall keep all records, handle all correspondence and notices for the Committee.

Section 4. Applications

4.1 Procedure for Filing: The Helena Planning Commission shall hear all requests for change in the Zoning Ordinance of the City of Helena and shall transmit their recommendations to the City Council. The applicant must file his/her application for a hearing in the office of the City Clerk of the City of Helena.

4.2 All applications shall be made upon the form furnished for that purpose and all information shall be complete and fees paid before the application shall be considered as having been filed. Before any action shall be taken as provided in these Rules of Procedure, the applicant petitioning for amendment shall deposit with the City of Helena the sum of one hundred fifty dollars ($150.00) to cover the approximate cost of handling his/her application, along with cost of legal notice. Applications must be filed by 4:30 P.M., twenty-one (21) days prior to the date of hearing.

4.3 Hearing: Any party may appear in person, by agent or by attorney at the hearing. The order of each hearing shall be as follows:

4.3.1 The Chairman, or such person as he shall direct, shall give a preliminary statement of the case.

4.3.2 The applicant shall present the argument in support of his/her application.

4.3.3 Persons opposed to the application shall present the argument against the application.

4.3.4 Both sides will be permitted to present rebuttals to opposing testimony.

4.3.5 The Chairman shall summarize the evidence which has been presented, giving the parties opportunity to make objections and corrections.

4.4 Witnesses may be called and factual evidence may be submitted, but the Helena Planning Commission shall not be limited to consideration of such evidence as would be admissible in a court of law. The Commission may view the premises before arriving at a decision.

4.5 As application for a rehearing may be made in the same manner as provided for in an original hearing. The application for rehearing shall be denied by the Commission if from the record it shall appear that there has been no substantial change in facts, evidence or conditions. The one hundred fifty dollar ($150.00) application fee shall be returned to the applicant if the rehearing results in a reversal of opinion by the Commission, otherwise the fee shall be retained.

4.6 Decisions: Upon agreement of a majority of the members voting, decisions of the Commission may be made in executive session not more than fifteen (15) days from the time of the hearing or thirty (30) days from the date of receipt of application.

4.7 The final decision of the Helena Planning Commission shall be shown in the record of the case as entered in the minutes of the Commission and signed by the Chairman and City Clerk. Such record shall show the reasons for the determination.

4.8 The concurring vote of majority of the members voting shall be necessary to recommend in favor of the applicant or to decide in favor of any matter before the Commission.

Section 5. Meetings

5.1 Meeting Place: Regular meetings of the Commission shall be held in the Helena Municipal Building, provided, that if the Commission Chairman so directs, meetings may be held at any other place in the City.

5.2 Special Meetings: Special meetings of the Commission may be called at any time by the Chairman. Written or oral notice of the time and place of special meetings shall be given to each member of the Commission.

5.3 Cancellation of Meetings: Whenever there are no applications, public hearings, or other business for the Commission, the Chairman may dispense with a regular meeting by giving written or oral notice to each member of the Commission.

5.4 Conduct of Meetings: All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

5.4.1 Roll call

5.4.2 Approval of minutes or previous meeting

5.4.3 Hearing of cases

5.4.4 Unfinished business

5.4.5 New business

5.5. No Commission member shall take part in the hearing or decision of any case in which he/she shall be personally or financially interested.

Section 6. Quorum

6.1 Quorum: A quorum shall consist of five (5) members of the Commission. When less than five (5) members are present for any hearing, then those that are present shall agree to and announce the time and place for a continued hearing.

Section 7. Minutes

7.1 The minutes of every meeting of the Commission shall be kept in a permanent volume in the office of the City Clerk and shall be a public record. These minutes shall show the record of every action taken by the Commission and the reason therefor and every resolution acted upon by the Commission.

Section 8. Amendments

8.1 These rules may, within the limits allowed by law, be amended at any time by the Helena Planning Commission upon its own initiative.

Section 9. Effectiveness

9.1 These Rules of Procedure shall become effective when duly adopted by the Helena Planning Commission.

Rules of Procedures of the Board of Adjustment

Section 1. Composition

1.1 The membership of the Board shall consist of five (5) members appointed by the City Council of the City of Helena, each to be appointed for a term of three (3) years, which Board shall elect one (1) of its members to serve as Chairman.

1.2 The Chairman shall call all meetings to order and shall declare all adjournments. He shall rule upon all points of order and procedure unless he shall be overruled by a majority of the Board present. His term as Chairman shall be for one (1) year, or until such time thereafter as a successor shall be duly elected. Any Chairman may be re-elected to succeed himself in the office of Chairman.

1.3 A Vice-Chairman shall be elected in the same manner as the Chairman for a term of one (1) year, or until such time thereafter as his successor shall be elected, and he shall serve in the absence of the Chairman with the same powers and duties herein delegated to the Chairman.

Section 2. Functions

2.1 The Board of Adjustment shall hear and consider only those applicants filed with the City Clerk which applications shall request the Board to render a decision in one or more of the following instances:

2.1.1 To hear and appeal from the decision of the Building Official

2.1.2 To grant variances in specific cases from the strict applications of the terms of the Ordinance under certain conditions.

2.1.3 To modify the application of the terms of the Ordinance in certain cases

Section 3. Procedure for Filing

3.1 All applications for hearings before the Board must be filed in the office of the City Clerk of the City of Helena upon forms furnished for that purpose. Before any action will be taken on any application by the Board, the applicant shall have deposited with the City of Helena in the office of the City Clerk, the sum of one hundred fifty dollars ($150.00) cost of giving legal notice, to cover approximate cost of processing the application. The Board will not hear any application unless all information called for by the application form shall have been furnished.

3.2 The Board will not hear any application unless same has been properly filed at least twenty-one (21) days prior to the meeting date of the Board on which the application is proposed to be heard.

Section 4. Hearings

4.1 Any interested party may appear before any hearing of the Board, either in person or by his/her agent or attorney. Each application will be heard in substantially the following manner:

4.1.1 The Chairman or such member of the Board as he may direct, shall present a preliminary statement of the matters to be considered in the application.

4.1.2 The applicant and the parties opposed to the application shall be permitted to present arguments to the Board, and may offer supporting testimony to their position, subject to whatever reasonable limitations the Chairman may wish to impose thereon.

4.1.3 The Board will endeavor to consider only such argument and testimony as is pertinent to the application but is not limited to consideration of only such evidence as would be admissible in a court of law.

4.1.4 If the Board has not already viewed the premises described in the application, it may continue its hearing on the application until it has viewed the premises.

4.1.5 The Board shall render its decision on any application heard by the Board not later than thirty (30) days from the date of the hearing.

4.1.6 The Board may grant a continuance of any hearing for a period not in excess of sixty (60) days.

4.1.7 The Board may grant more than one (1) continuance of any hearing but shall not continue any hearing for an aggregate or more than one hundred twenty (120) days.

Section 5. Application for Rehearing

5.1 All applications for a rehearing shall be made in the same manner as are applications for original hearings. Any application for rehearing will be denied by the Board if it appears that there has been no substantial change in facts or physical conditions since the original hearing.

Section 6. Meetings

6.1 Meetings of the Board shall be held at the call of the Chairman at such other times as the Board may determine.

6.2 Conduct of Meetings: All meetings of the Board will be open to the public. The order or business at each meeting will be substantially as follows:

6.2.1 Roll call

6.2.2 Approval of minutes of the previous meeting

6.2.3 New business, including the hearing of pending applications

6.2.4 Unfinished business

6.2.5 Adjournment of meeting

6.3 Any Board member who is financially interested in a decision of the Board on any application, before the Board will excuse himself during the hearing on said application and will neither question witnesses nor cast a vote.

6.4 Quorum: A quorum at any meeting of the Board shall consisting of four (4) Board members, except when considering variances in which case three (3) Board members will constitute a quorum. When less than a quorum of the Board is present for any meeting, those members present shall, by majority vote, set a new date for the meeting not later than the next regular meeting date of the Board, or by majority vote, may continue all applications before the Board to the next regular meeting of the Board.

Section 7. Minutes

7.1 The Board shall cause minutes of each of its meetings to be kept in a permanent volume in the offices of the City Clerk, which minutes shall be available and open to inspection by the public. The minutes shall show the action taken by the Board on each application heard. The minutes shall be signed by the Chairman of the Board and attested by the City Clerk.

Section 8. Amendments

8.1 These rules may be amended from time to time by the Board of Adjustment, by resolution duly adopted at any of its regular meetings, when so authorized by the vote of at least four of its members.

APPENDIX A

Section 1. Household Pets

The term "Household Pets" shall mean a small domesticated animal, bird, or fish one keeps for companionship and that is customary recognized as a household pet.

Section 2. Independent Posting Material

Any material that is man made or shaped and is customarily used as a material for fencing.

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APPENDIX B

Lot sizes less than 15,000 square feet must have sanitary sewers available for development.

Lot sizes of 15,000 square feet must have sanitary sewers if the city trunk line is within five hundred feet (500').

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