

**TOWN OF PERDIDO BEACH  
PERDIDO BEACH, ALABAMA**

**LAND USE AND ZONING ORDINANCE**

**ORDINANCE NUMBER 2011- 02**

**RECOMMENDED BY THE PLANNING COMMISSION ON  
SEPTEMBER 1, 2010**

**ADOPTED BY THE TOWN COUNCIL ON THIS 10th DAY OF May, 2011**

\_\_\_\_\_  
**PATSY W. PARKER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**LYNN THOMPSON, TOWN CLERK**

**TOWN OF PERDIDO BEACH TOWN COUNCIL**

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Rhoe Albert Thompson - Place 1  
William Kelley - Place 2  
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Patricia Larsen - Place 4  
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## **Article I Purpose, Enactment, and Short Title**

### **1.1 Authority**

Title 11, Subtitle 2, Chapter 52, Article 4, Section 11-52-70 Code of Alabama, 1975, as amended, grants authority to each municipal corporation in the State of Alabama to divide the territory within its corporate limits into business, industrial and residential zones or districts and may provide the kind, character and use of structures and improvements that may be erected or made within the several zones or districts established and may, from time to time, rearrange or alter the boundaries of such zones or districts and may also adopt such ordinances as necessary to carry into effect and make effective the provisions of Article 4.

### **1.2 Purpose**

Pursuant to Section 11-52-72 Code of Alabama, 1975, as amended, the purposes of the regulations contained within this ordinance are to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

In their interpretation and application, the provisions of this ordinance shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.
- (c) Deemed to neither limit nor repeal any other powers granted under state statutes.

### **1.3 Short Title**

This ordinance shall be known and may be cited as the "*Land Use and Zoning Ordinance for the Town of Perdido Beach*" and may be referred to as the "*Perdido Beach Land Use and Zoning Ordinance*".

### **1.4 Conflict with Other Laws**

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

**1.5 Disclaimer of Liability**

This ordinance shall not create liability on the part of the Town of Perdido Beach Town Council or its assigns, the Town of Perdido Beach Planning Commission, the Town of Perdido Beach Zoning Board of Adjustment, Town of Perdido Beach Advisory Committees, or any officer or employee thereof for any damages that may result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**1.6 Severability and Validity**

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

**1.7 Definitions**

For reference in using this ordinance, the definitions of terms used herein are located in Article XXII.

**1.8 Enactment**

This Land Use and Zoning Ordinance for the Town of Perdido Beach, Alabama, is hereby adopted by the Town of Perdido Beach Town Council on this **10th** day of **May, 2011** as Ordinance **2011- 02**. This ordinance shall take effect and be in force from and after the date of its adoption. The zoning map approved for the Town of Perdido Beach identified as “Town of Perdido Beach Zoning Map 2011, First Edition” is hereby adopted and made a part of this ordinance.

**Certificate of Publication**

This is to certify that Ordinance **2011-02** of the **Town of Perdido Beach, Alabama**, was published by posting on four (4) bulletin boards in the Town from **May 11, 2011** to **May 16, 2011**, at the following locations:

- (1) Town Hall
- (2) Perdido Beach VFD
- (3) Saint Andrews by the Sea Church
- (4) Perdido Beach Baptist Church

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Lynn Thompson, Town Clerk

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

### **Section 2.1**

The following zoning districts are hereby established for the Town of Perdido Beach:

- RA Rural Agricultural District: This zoning district provides for large, open, non-subdivided land which is vacant or is being used for agricultural, forest, or other rural purposes and is limited to residential density of one dwelling unit per lot.
- CR Conservation Resource District: This zoning district provides for open, non-subdivided land which is environmentally constrained and is used for agricultural, forest, or other rural purposes.
- ER Single Family Estate District: This zoning district provides for low density residential development consisting of single family dwellings on large lots and is limited to one dwelling unit per lot.
- R-1 Single Family District: This zoning district provides for medium density residential development consisting of single family dwellings on medium lots and is limited to one dwelling unit per lot.
- R-2 Single Family District: This zoning district provides for high density residential development consisting of single family dwellings on small lots and is limited to one dwelling unit per lot.
- B-1 Professional Business District: This zoning district provides for office type buildings and land uses which are most compatible with, and are located near residential areas and which typically provide services and associated sales related to those services.
- B-2 Local Business District: This zoning district provides for all uses allowed in Zoning District B-1 and for limited retail convenience goods and personal service establishments in or near to residential neighborhoods.
- OR Outdoor Recreation District: This zoning district is intended to preserve open areas for outdoor recreational activities as defined in Article XXII of this ordinance.
- MR Marine Recreation District: This zoning district is intended to be similar in nature to the Outdoor Recreation District with the addition of a focus on marine recreational activities as defined in Article XXII of this ordinance.
- I-1 Industrial District: This zoning district is intended to provide a suitable, protected environment for manufacturing, research, and wholesale establishments which are clean, quiet and free of hazardous or objectionable emissions and which generate little industrial traffic.

### **Article III Rural Districts**

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

3.1.1 *Generally.* This zoning district provides for large, open, non-subdivided land which is vacant or is being used for agricultural, forest or other rural purposes.

3.1.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

3.1.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

3.1.4 *Special exceptions.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

3.1.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	40-Feet
Minimum Rear Yard Set Back	40-Feet
Minimum Side Yards Set Back	15-Feet
Maximum Density	1 Dwelling Unit per lot
Minimum Lot Area	3 Acres
Minimum Lot Width at Street Line	210-Feet

#### **Section 3.2 CR Conservation Resource District**

3.2.1 *Generally.* This zoning district provides for open, non-subdivided land which is environmentally constrained and which is vacant or is being used for agricultural, forest or other rural purposes.

3.2.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

3.2.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

3.2.4 *Special exceptions.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

3.2.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Town of Perdido Beach Land Use and Zoning Ordinance

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	100-Feet
Minimum Rear Yard Set Back	100-Feet
Minimum Side Yards Set Back	50-Feet
Maximum Density	1 Dwelling Unit per lot
Minimum Lot Area	5 Acres
Minimum Lot Width at Street Line	250-Feet

## **Article IV Residential Districts**

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

4.1.1 *Generally.* This zoning district provides for low density residential development consisting of single family dwellings on large size lots.

4.1.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

4.1.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

4.1.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

4.1.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed:

Maximum Height of Structure in Feet	34.75-Feet
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	40-Feet
Minimum Rear Yard Set Back	40-Feet
Minimum Side Yards Set Back	15-Feet
Maximum Density	1 Dwelling Unit per lot
Minimum Lot Area	80,000 Square Feet
Minimum Lot Width at Street Line	165-Feet

### **Section 4.2 R-1 Single Family District**

4.2.1 *Generally.* This zoning district provides for medium density residential development consisting of single family dwellings on medium size lots.

4.2.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

4.2.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

4.2.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

4.2.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed

Maximum Building Height of Structure in Feet	34.75-Feet
Maximum Height of Structure in Habitable Stories	2

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Minimum Front Yard Set Back	30-Feet
Minimum Rear Yard Set Back	30-Feet
Minimum Side Yards Set Back	10-Feet
Maximum Density	1 Dwelling Unit per lot
Minimum Lot Area per Dwelling Unit	30,000 Square Feet
Minimum Lot Width at Street Line	60-Feet

**Section 4.3 R-2 Single Family District**

4.3.1 *Generally.* This zoning district provides for high density residential development consisting of single family dwellings on small size lots.

4.3.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

4.3.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

4.3.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

4.3.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	30-Feet
Minimum Rear Yard Set Back	30-Feet
Minimum Side Yards Set Back	10-Feet
Maximum Density	1 Dwelling Unit per lot
Minimum Lot Area per Dwelling Unit	15,000 Square Feet
Minimum Lot Width at Street Line	50-Feet

## **Article V Commercial Districts**

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

5.1.1 *Purpose and Intent.* The purpose and intent of the B-1 Professional Business District is to provide for office and personal service type buildings; associated retail sales; land uses with low traffic volumes anticipated throughout the day with limited peak traffic conditions in the morning and evening; and land uses which are most compatible with and located near residential areas.

5.1.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

5.1.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

5.1.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

5.1.5 *Mixed uses.* Mixed residential and commercial uses may be permissible as conditional uses, subject to the standards and procedures established in *Section 18.11: Conditional Uses* and subject to the following criteria:

- (a) The commercial uses in the development may be limited in hours of operation, size of delivery trucks, and type of equipment.
- (b) The residential uses shall be designed so that they are compatible with the commercial uses.
- (c) Residential and commercial uses shall not occupy the same floor of a building.
- (d) Residential and commercial uses shall not share the same entrances.
- (e) The number of residential dwelling units shall be controlled by the dimensional standards of the B-1 district. A dwelling unit density of .5 (1/2) dwelling units per 1,000 square feet of the gross floor area devoted to commercial uses, may be allowed (structures with less than 2,000 square feet devoted to commercial uses shall be allowed one dwelling unit). In no case, however, shall the overall dwelling unit density for a mixed use project exceed four (4) dwelling units per acre.
- (f) Building height shall not exceed two (2) stories or 34.75 feet.
- (g) A minimum of thirty (30%) percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for

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parking (parking lot islands may not be used unless existing native vegetation is maintained).

(h) The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible.

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

5.1.6 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	30-Feet
Minimum Rear Yard Set Back	25-Feet
Minimum Side Yards Set Back	15-Feet
Minimum Lot Area	20,000 Square Feet
Maximum Impervious Surface Ratio	60%
Minimum Lot Width at Street Line	60-Feet
Maximum Individual Building Size Allowed	8,000 Square Feet

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

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

**Section 5.2 B-2 Local Business District**

5.2.1 *Purpose and Intent.* The purpose and intent of the B-2 Local Business District is to provide for all uses allowed in Zoning District B-1 and for limited retail convenience goods and personal service establishments servicing nearby residential neighborhoods.

5.2.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

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5.2.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

5.2.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

5.2.5 *Mixed uses.* Mixed residential and commercial uses may be permissible as conditional uses, subject to the standards and procedures established in *Section 18.11: Conditional Uses* and subject to the following criteria:

- (a) The commercial uses in the development may be limited in hours of operation, size of delivery trucks and type of equipment.
- (b) The residential uses shall be designed so that they are compatible with the commercial uses.
- (c) Residential and commercial uses shall not occupy the same floor of a building.
- (d) Residential and commercial uses shall not share the same entrances.
- (e) The number of residential dwelling units shall be controlled by the dimensional standards of the B-2 district. A dwelling unit density of one (1) dwelling units per 2,000 square feet of the gross floor area devoted to commercial uses, may be allowed (structures with less than 2,000 square feet devoted to commercial uses shall be allowed one dwelling unit). In no case, however, shall the overall dwelling unit density for a mixed use project exceed four (4) dwelling units per acre.
- (f) Building height shall not exceed two (2) stories or 34.75 feet.
- (g) A minimum of thirty (30%) percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained).
- (h) The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible.
- (i) Off-street parking spaces for the mixed residential and commercial uses shall be the sum total of the residential and commercial uses computed separately (See *Article XV: Parking Loading Requirements*).

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5.2.6 *Area and dimensional values.* In addition to the requirements of Article XII *General Requirements* and except as allowed by Section 18.6 *Variances*, and Article XX *Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	30-Feet
Minimum Rear Yard Set Back	25-Feet
Minimum Side Yards Set Back	15-Feet
Minimum Lot Area	20,000 Square Feet
Maximum Impervious Surface Ratio	60%
Minimum Lot Width at Street Line	60-Feet
Maximum Individual Building Size Allowed	8,000 Square Feet

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

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

## **Article VI Recreation Districts**

### **Section 6.1 OR - Outdoor Recreation District**

6.1.1 *Generally.* This zoning district is intended to provide for outdoor recreation activities. (Defined in Article XXII)

6.1.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

6.1.3 *Conditional use.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

6.1.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

6.1.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	40-Feet
Minimum Rear Yard Set Back	40-Feet
Minimum Side Yards Set Back	20-Feet
Minimum Lot Area	3 Acres
Maximum Impervious Surface Ratio	30%
Minimum Lot Width at Street Line	No Minimum

### **Section 6.2 MR Marine Recreation District**

6.2.1 *Generally.* This zoning district is intended to provide for water related recreation activities. (Defined in Article XXII)

6.2.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

6.2.3 *Conditional use.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

6.2.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

6.2.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Building Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	25-Feet
Minimum Rear Yard Set Back	25-Feet
Minimum Side Yards Set Back	10-Feet
Minimum Lot Area	80,000 Square Feet
Maximum Impervious Surface Ratio	30%
Minimum Lot Width at Street Line	60 feet

**Article VII Reserved for Future Use**

## **Article VIII Industrial Districts**

### **Section 8.1 I-1 Industrial District**

8.1.1 *Generally.* This zoning district provides for a suitable, protected environment for light manufacturing, research and wholesale establishments which are clean, quiet and free of hazardous or objectionable emissions and generate little industrial traffic.

8.1.2 *Permitted uses.* The uses and structures identified with a “P” on the Table of Permitted Uses attached to this ordinance.

8.1.3 *Conditional uses.* The uses and structures identified with a “C” on the Table of Permitted Uses attached to this ordinance.

8.1.4 *Special exception.* The uses and structures identified with an “S” on the Table of Permitted Uses attached to this ordinance.

8.1.5 *Area and dimensional values.* In addition to the requirements of *Article XII General Requirements* and except as allowed by *Section 18.6 Variances*, and *Article XX Nonconformities*, the area and dimensional values set forth below shall be observed.

Maximum Height of Structure in Feet	34.75
Maximum Height of Structure in Habitable Stories	2
Minimum Front Yard Set Back	25 feet
Minimum Rear Yard Set Back	25 feet
Minimum Side Yards Set Back	15 feet*
Minimum Lot Area	40,000 square feet
Maximum Impervious Surface Ratio	80%
Minimum Lot Width at Street Line	60 feet

\*Except where abutting a residential district, in which case there shall be a minimum yard setback of twenty-five (25) feet abutting the residential district.

**Article IX Reserved for Future Use**

## **Article X Overlay Districts**

### **Section 10.1 Wetland Protection Overlay District**

10.1.1 *Purpose.* The wetlands within Perdido Beach, Alabama are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soil limitations. In their natural state, wetlands serve man and nature. They provide for: habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, wise use of forested wetlands is essential to the economic well-being of Perdido Beach. A considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare of the Town of Perdido Beach. It is, therefore, necessary for the Town to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.

The purpose of the wetland protection overlay district is to promote wetland protection, while taking into account varying ecological, economic development, recreational and aesthetic values and to protect wetlands from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge and wildlife habitat.

10.1.2 *Area of application.* The wetland protection overlay district applies to wetlands under the planning and zoning jurisdiction of Town of Perdido Beach. The Generalized Wetland Map adopted as part of this ordinance shows the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands. The Generalized Wetland Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of this ordinance. The Generalized Wetland Map shall be kept on file at Town Hall and at the office of the Zoning Administrator.

10.1.3 *Wetland protection district boundaries.* The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 permit will be required prior to any activity. The Generalized Wetland Map does not represent the boundaries of jurisdictional wetlands within the jurisdiction of the Town of Perdido Beach and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the *Clean Water Act*, as amended. Any local government action under this section does not relieve the land owner from federal or state permitting requirements.

10.1.4 *Permit requirements.* A U.S. Army Corps of Engineers wetlands jurisdictional determination is required if the proposed planned development contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland Map as defined herein, through a site visit by staff or their assigns. The setback for development from a wetland must be a minimum of thirty (30) feet.

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If the area proposed for development is located in or within the wetland protection district boundary, as determined from the Generalized Wetland Map, a U.S. Army Corps of Engineers jurisdictional determination shall be required prior to the issuance of a Land Use Certificate. If the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit or Letter of Permission is required, a Land Use Certificate will be issued only following issuance of the Section 404 Permit or Letter of Permission. As a pre-requisite to issuance of a Land Use Certificate, any person making application for subdivision approval on property which contains wetlands, or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland Map, as defined herein, through a site visit by authorized staff, applicant must obtain a U.S. Army Corps of Engineers wetlands jurisdictional determination. If the Corps determines that wetlands are present and that a Section 404 Permit or Letter of Permission is required, development may not proceed until the Section 404 Permit or Letter of Permission is issued.

10.1.5 *Subdivisions in the Wetland Protection Overlay District.* Where a parcel of land proposed to be subdivided contains an area of wetlands delineated as jurisdictional by the Army Corps of Engineers, said wetlands shall be subject to Section 404(b)(1) guidelines concerning fill material disposal into wetlands. Lots may be platted where sufficient upland areas exist to provide a building site for the principal structure and necessary ancillary facilities with a minimum thirty (30) feet setback from such wetlands. Fill may be used where necessary to provide access to lots where approval for such fill has been received from the Army Corps of Engineers and other appropriate governmental agencies.

Wetlands delineated as jurisdictional by the Army Corps of Engineers and not permitted for fill shall be set aside as common area or shall be contained within an easement dedicated to protect the wetland. Said common area or maintenance easement shall extend a minimum of thirty (30) feet beyond the limits of the wetland. A party responsible for maintenance of such area must be designated and obligated in connection with any request for a Land Use Certificate.

**Article XI Reserved for Future Use**

## **Article XII General Requirements**

### **Section 12.1 General Requirements and Provisions**

12.1.1 *Generally.* The general provisions contained in this Article XII shall apply in all zoning districts unless specifically provided otherwise.

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

12.1.3 *Use of structures.* No structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, or be used, except for a use permitted in the zoning district in which such structure is located. Use is further subject to the special provisions specified in this ordinance.

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

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

12.1.6 *Signs.* No sign or sign structure shall be erected except in conformity with the sign provisions of this ordinance.

12.1.7 *Storm water management.* No development may precede except in conformity with the storm water management provisions of this ordinance.

12.1.8 *Erosion control.* No development may proceed except in conformity with the erosion control provisions of this ordinance.

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

### **Section 12.2 Temporary Structures**

12.2.1 Temporary structures for use incidental to construction work shall be permitted in any zoning district during the period that construction work is in progress provided construction is ongoing and proceeding at a pace reasonably calculated to complete the permitted construction. Such structures must be removed within sixty (60) days from completion of the permitted construction or after construction is ceased.

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12.2.2 A recreational vehicle may be occupied as living quarters on a temporary basis for up to eighteen (18) months pending the repair or rebuilding of a primary dwelling following any disaster which may render the primary dwelling uninhabitable. Extensions in excess of this period may be given upon demonstration of a need to continue temporary use. A recreational vehicle, when used as temporary living quarters, may only be occupied by the owner/occupant of the primary dwelling being repaired or rebuilt and must be located on the same parcel as the subject primary dwelling. In addition, the recreational vehicle must meet the location and setback requirements specified for accessory structures in residential districts (See *Section 13.1.2(a)*). An approved Land Use Certificate (See *Section 18.2*) shall be obtained from the Zoning Administrator prior to the use of a recreational vehicle as temporary living quarters in order to ensure compliance with this ordinance. Occupancy (18 months) time-line shall start from the issuance of the Land Use Certificate.

12.2.3 *Model Home Sales Centers.* Model home sales centers are intended to facilitate the sale of the model design or of products similar in design to the model. Model home sales centers shall be of a temporary nature and may be allowed in any residential zoning district or residential component of a major project by the issuance of a Temporary Use Permit.

(a) Model home sales centers located within residential zoning districts, or within a residential component of a major development, shall be restricted to the promotion of a product or products permitted within the residential zoning district or major development in which the model home or model sales center is located and further subject to the following:

(1) Model homes shall only be permitted in dwellings that have not been previously used as a residence.

(2) A model home sales center is not intended to allow the full scope of real estate activities and shall be restricted primarily to the sale and marketing of the model or products similar to the model which are located or to be located in the major project where such model home is located. A model home shall not include offices for builders, contractors, developers or similar activities.

(3) Model homes occupied by a sales office and/or representative must have all required landscaping, all-weather parking, and handicap access on-site or adjacent to the site.

(4) A temporary use permit for a model home sales center shall be issued initially for a period of no more than two (2) years. Extensions in excess of this period shall be given upon demonstration of a need to continue the temporary sales center use.

(b) All model home sales center site plans shall adequately address the following standards:

(1) Traffic circulation and safety within the site as follows:

a. All parking spaces shall be arranged in a manner for convenient and safe access for vehicles and pedestrians.

b. No parking spaces shall be arranged to necessitate that vehicles be moved in order for other vehicles to enter or exit a site.

(2) Minimum parking requirements:

- a. Four (4) parking spaces for each model home sales center.
- b. One (1) paved parking space for disabled persons per parking lot shall be provided (included as part of the number of required parking spaces), along with a paved access aisle and barrier-free access to the home. Parking shall be constructed in accordance with the *Americans with Disabilities Act*.
- c. All parking spaces shall be constructed of concrete, asphalt, or other all-weather surface.

(c) Setbacks and Lighting

- (1) Vehicular use areas shall be set back a minimum of five (5) feet from the property line.
- (2) Lighting shall be limited so as not to cause glare or light onto adjacent properties.

### **Section 12.3 Utility Structures**

In compliance with applicable ordinances and regulations, utility structures, including, but not limited to, poles, pedestals, wires, cross arms, transformers attached to poles, guy wires, insulators, conduits and other facilities necessary for the transmission or distribution of electric power or to provide telephone or cable service and pipe lines, vents, valves, hydrants, regulators, meters and other facilities necessary for the transmission or distribution of gas, oil, water or other fluids, may be constructed, erected, repaired, maintained, or replaced within any district in Perdido Beach. Excluded from this authorization for placement of structures are transportation, communication and utility uses as defined in *Article XXII, Definitions*.

### **Section 12.4 Height Modifications**

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

### **Section 12.5 Yard Requirements**

12.5.1 Every part of a required yard setback or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend more than 2-feet into the yard setback requirements. (For additional provisions see *Section 22.2, Definitions* “Accessory Structure” and “Structure”)

12.5.2 Yard setback requirements shall be modified subject to the following conditions:

- (a) Through lots shall provide the required front yard setback on each street.
- (b) Decks and unroofed porches may project into a required front yard setback for a distance not to exceed five (5) feet and a required rear yard setback not to exceed ten (10) feet.
- (c) Uncovered steps and handicap ramps may project into a required front, or side yard setback for a distance not to exceed five (5) feet and a rear yard setback not to exceed ten (10) feet.
- (d) On a corner lot, the side yard setback from the side lot line which abuts a street shall be a minimum of twenty (20) feet.
- (e) Where a subdivision has been approved prior to the enacting of this ordinance with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.

### **Section 12.6 Substandard Lots of Record**

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

### **Section 12.7 Density**

*Density.* Density means the number of dwelling units per lot, excluding wetlands. If density is established on a “per acre” basis, then to determine the maximum number of dwelling units permitted on a lot, multiply the lot area, in acres, excluding wetlands, by the maximum density allowed in the zoning district. Where fractional numbers result, the figure shall be rounded to the nearest lower number.

### **Section 12.8 Rules for Determining Zoning District Boundaries**

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

Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, land lot lines, center lines of streets, highways, alleys, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and they shall be construed to follow such lines.

Where district boundaries are approximately parallel to the center lines of streets, highways, streams, reservoirs, or other bodies of water, or said lines extended, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning

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map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the zoning map.

(c) Where a public road, street or alley or other public property is officially vacated or abandoned, the ordinances applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street or alley.

(d) The final determination of a district boundary shall be made in conformance with the legal description contained in the adopted ordinance. Should the description be incomplete the Town Council is empowered to determine the legislative intent and shall adopt an amending ordinance making the needed corrections.

## **Article XIII      Design Standards**

### **Section 13.1    Accessory Uses and Structures**

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

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

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

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

13.1.3 *Observation towers.* An observation tower may be located above the main roof level of a family dwelling provided the finished floor area including stairways shall not exceed 180 square feet and the total structure height including such tower may not exceed the height limit (in feet) for the zoning district in which it is located. Observation towers shall not include dwelling unit amenities or be used as residences.

### **Section 13.2    Satellite Dishes and Radio and TV Antennas**

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

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13.2.2 *Radio and TV antennas.* Private radio and TV antennas for individual homes or for amateur use are permitted as accessory structures in any district and may be placed on roofs or in rear or side yards but shall be no closer than ten (10) feet from any interior or rear lot line.

**Section 13.3 Residential Docks, Piers and Related Structures**

13.3.1 *General requirements.*

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

13.3.2 *Residential dwellings.* Boat docking facilities including docks, piers, boat slips, decks, boathouses and related structures shall be permitted as an accessory use to a residential dwelling provided no boat repair or services for compensation are rendered there from.

- (a) *Number of piers.* A maximum of one (1) pier shall be permitted per lot.
- (b) *Number of boat slips.* A maximum of three (3) boat slips shall be permitted per pier.
- (c) *Number of boathouses and pier decks.* A maximum of one (1) boathouse and one (1) pier deck shall be permitted per pier.
- (d) *Pier deck area.* The sum of the area of a boathouse and pier deck shall not exceed 1,600 square feet per pier. Pier decks and boathouses shall be a maximum of forty (40) feet in length and forty (40) feet in width and may be screened. Pier decks and boathouses may be covered with a roof having a maximum dimension of forty (40) feet in length and forty (40) feet in width and a maximum height of twenty (20) feet above mean high water. The maximum area enclosed with walls shall not exceed one hundred (100) square feet. Access to sun decks shall be within the confines of the pier deck.

**Section 13.4 Home Occupations**

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

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- (a) The area used for a home occupation shall not exceed twenty (20%) percent of the gross floor area in the principal building.
- (b) The home occupation shall be confined entirely to the principal building or an accessory structure located on the same lot as the principal building.
- (c) No display of products shall be visible from the street and only articles made on the premises may be sold; except that non-durable articles (consumable products) that are incidental to a service, which service shall be the principal use in the home occupation, may be sold on the premises.
- (d) The home occupation must be carried on solely by family members and no person outside the family may be employed on the premises.

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

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

**Section 13.5 Utilities**

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

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

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

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

**Section 13.6 Buildings and Access**

13.6.1 *Buildings to be on lots.* Every building hereafter erected, converted, enlarged, reconstructed, moved, or structurally altered shall be located on a lot which provides access to a public street.

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13.6.2 *Access.* Each principal building shall be placed on a lot which provides access to a public street and in such a manner as to provide that there is Emergency Vehicle Access available to every building located on the lot. Subdivisions shall be provided with access as required by the Town of Perdido Beach Subdivision Regulations.

13.6.3 *Commercial Delivery Access.* Access to commercial use lots must be provided to avoid blocking streets or interfering with traffic flow.

**Section 13.7 Bed and Breakfast Establishments**

13.7.1 *Purpose.* A bed and breakfast establishment may be permitted as identified on the Table of Permitted Uses attached to this ordinance.

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

- (a) No more than eight (8) guest rooms shall be included in any one establishment.
- (b) Except for serving meals to overnight guests, the establishment shall not engage in the restaurant business. Guest rooms shall not contain cooking facilities.
- (c) Guest stays shall be limited to no more than two continuous weeks.
- (d) At least one off-street parking space shall be provided for each guest room, plus two for the owner.
- (e) All requirements, standards, and conditions contained in *Section 18.11 Conditional Uses* shall be met when appropriate.

**Section 13.8 Storm water Management**

A storm water management plan is required for all major projects. Such plan shall be prepared by a licensed engineer and shall be submitted in conjunction with an application for a Land Use Certificate. No land disturbance or construction for such project may proceed until a Land Use Certificate has been approved. The Zoning Administrator shall determine that reasonable provisions for properly handling surface drainage have been made in the applicant's design.

**Section 13.9 Erosion Control**

13.9.1 *Purpose and Intent.* In keeping with the purpose of this ordinance to promote health, safety, and general welfare, the goal of this section is to prevent and control water pollution, prevent and control soil erosion, protect spawning grounds, protect fish and aquatic life, control building sites, control placement of structures and land uses, preserve ground cover and scenic beauty, and promote sound economic growth. This will be done by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity.

13.9.2 *Definitions.* Words and phrases used in this Section 13.9 shall have the meanings as set forth in this sub-section. Words and phrases not defined in this sub-section but defined elsewhere

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in this ordinance shall be given the meanings as there set forth. All other words and phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

*Agricultural activity.* Planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. This includes waterways, drainage ditches, diversions, terraces, excavating, filling, and similar practices on farm fields.

*Best management practice (BMP).* Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment, or pollutants from being carried in runoff to waters of the Town or State.

*Construction site.* An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

*Erosion.* The process by which the land's surface is worn away by the action of wind, water, ice or gravity.

*Erosion and sediment control plan.* A plan developed to address pollution caused by soil erosion and sedimentation during land disturbing construction activity.

*Qualified Credentialed Inspector (QCI).* An operator, operator employee, or operator designated person who has successfully completed initial training and annual refresher Qualified Credentialed Inspection Program (QCIP) training, and holds a valid certification from an approved training entity.

*Qualified Credentialed Professional (QCP).* A staff member of the Alabama Department of Environmental Management (ADEM) designated by the Director of ADEM, a licensed Professional Engineer, an Alabama Natural Resources Conservation Service Professional designated by the State Conservationist, a Certified Professional In Erosion And Sediment Control, or other registered professionals (geologists, soil scientists, land surveyors, landscape architects) currently holding appropriate professional licenses issued by the State of Alabama.

*Sediment.* Settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

*Site.* The entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

*Water(s).* Includes, but is not limited to, water on or beneath the surface of the ground, including natural or artificial watercourses, streams, rivers, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground.

*Watercourse.* A natural or artificial channel through which water flows.

13.9.3 *General Design Principles.* The following principles apply to all land disturbing activities within the jurisdiction of the Town of Perdido Beach and should be considered when preparing construction plans and/or submissions required under this ordinance:

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- (a) To minimize the potential for soil erosion, development should fit the topography and soils of the site. Areas with extreme slopes where cuts and fill would be required should be avoided.
- (b) Natural vegetation should be maintained and protected wherever and whenever possible. Areas immediately adjacent to watercourses, wetlands and lakes should be left undisturbed wherever possible.
- (c) All construction activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
- (d) Sediment basins, silt traps and filters should be installed prior to the beginning of construction to remove as much sediment as possible from runoff leaving the site or entering watercourses, wetlands, lakes or reservoirs.
- (e) The selection of soil erosion and sedimentation control measures should be based on the size of the project, the frequency of climatic events likely to accelerate erosion, the season during which the project is being constructed, and the potential for damage should erosion and sedimentation occur.
- (f) In the design of erosion and sedimentation control measures the requirements for proper maintenance will be considered.
- (g) Provision should be made to accommodate the increased runoff caused by altered surface and soil conditions both during and after land disturbance activity. Drainage ways should be designed so that their final gradients and resultant velocities will not cause erosion.
- (h) Provision should be made for the proper transport of soil from the site without tracking or spilling soil along the transport route.
- (i) Permanent vegetation and erosion control structures should be installed and temporary structures removed prior to the issuance of final Certificate of Occupancy.
- (j) Any land disturbance activity which takes place in a right-of-way will require approval from the governing agency with authority over such right-of-way.

13.9.4 *Design Criteria, Standards and Specifications.* All erosion and sediment control measures, including, but not limited to those required to comply with this ordinance, shall meet the design criteria, standards and specifications given in the most current version of the Alabama Handbook for Erosion Control, Sediment Control and Storm Water Management on Construction Sites and Urban Areas.

13.9.5 *Specific Requirements.* Control of erosion and sediment through the entire duration of the land disturbing activity is the responsibility of the person who applies for approval of a land use. The following measures shall be utilized where required necessary to comply with this ordinance.

- (a) Runoff from off-site and flowing through the lot where the project is located may be diverted around the land disturbing activity by means of swales, channels, ditches,

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culverts or storm sewers. The diversion may be a temporary installation, utilized only until the land disturbing activity is complete, or it may be a permanent part of the proposed improvement on the land. Such diversion shall not be such that it causes drainage or erosion problems down stream or to other nearby land and does not require impact to existing wetlands not covered by existing permits

(b) Any detention basin proposed for the site should be utilized during construction as a sediment basin to trap as much soil as possible. Such basins shall be designed for this purpose, utilizing over excavation for temporary sediment storage, temporary perforated standpipes and or stone filters as required by proper engineering design and available best management practices.

(c) Temporary sediment traps may be required in areas where runoff exits the site and is likely to carry sediment from eroded soils on the site. The temporary traps shall be sized proportionate with the expected flow rate from the site.

(d) Ingress and egress to the site shall be by way of coarse stone drive(s) of sufficient length to cause soil picked up by the tires of vehicles to be dropped before a vehicle enters the roadway. Drives shall be designed and situated so that they provide maximum protection against tracking of soil or mud onto a roadway. For residential property the stone drive should coincide with the final location of the drive to the residence.

(e) Drain inlets and entrances to culverts shall be protected with an installation of acceptable inlet protection.

(f) All disturbed ground left inactive for a period of thirteen (13) days shall be seeded, sodden or stabilized with mulch or equivalent.

(g) Storage piles of soil left for longer than 3 days shall be completely encircled with silt fence. If left inactive or unused for longer than twenty-one (21) days the pile shall also be seeded, sodden, or covered with a mulching fabric or tarpaulins.

(h) Stone check dams shall be used in open drainage courses to slow velocities of the run off .

(i) Based on individual site characteristics, silt fence shall be installed along the down slope edges of all disturbed areas on the site. Silt fence shall be installed in such a manner as to prevent sediment from leaving the site.

(j) *Prevention of wetland degradation.* Temporary sediment barriers shall be installed where needed on all exposed slopes which meet or exceed four horizontal to one vertical (4:1) and are within thirty (30) feet of wetlands, waters of the Town or State, or any surface water feature not bounded entirely by the limits of the development site. These shall be placed and maintained such that drainage will not overflow or bypass the barrier and shall remain in place until the slope is leveled or permanently stabilized.

(k) *Dust control.* All development which will result in exposure of bare soil during dry periods shall follow short-term stabilization methods as follows:

- (1) Maintain soils in a damp condition as determined by sight or touch.

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(2) Establish a stabilized surface through watering or other approved methods.

(1) *Stabilization*. Within ten (10) days of ceasing activity or when construction activities are not scheduled to occur for at least thirty (30) days, an operator shall implement at least one (1) of the following long-term stabilization techniques for any disturbed surface area:

(1) Re-vegetation that results in seventy-five percent (75%) ground coverage provided that an active watering system is in place at all times.

(2) Establish a stabilized surface through watering with physical access restriction surrounding the area or other approved methods.

13.9.6 *Maintenance of Erosion Control Measures*. All erosion control measures shall be maintained throughout the course of the construction or until the growth of vegetation has made them unnecessary. If silt fence is temporarily removed to allow access to a portion of the site it shall be re-installed at the end of the work day. The applicant and land owner are responsible for the maintenance of all erosion control measures.

13.9.7 *Erosion Control Plan*. An erosion control plan shall be submitted with each application as follows:

(a) *Minor Projects*. The erosion control plan for single family home sites shall be made a part of the site plan provided with the application for a Land Use Certificate. It shall be prepared by an Alabama Licensed Professional Land Surveyor, Engineer, Architect, Landscape Architect, Certified Professional in Erosion and Sediment Control, QCI, Licensed Home Builder or Licensed General Contractor. The site plan shall show, as a minimum, the direction of surface slopes, any watercourses on the lot, and the location of all erosion control installations proposed.

(b) *Major Projects*. The erosion control plan for Major Project sites shall conform to the following:

(1) The plan shall be prepared by an Alabama Licensed Professional Land Surveyor, Engineer, Architect, Landscape Architect or QCP.

(2) The plan shall be drawn to a scale adequate to clearly show the site and the required information. In no case shall the plan be drawn to a scale less than 1"=100'.

(3) The plan may incorporate one or more sheets as necessary to clearly convey the intent of the plan. The plan may also incorporate text to explain any specifics of the plan and cover the specifications for the materials required or convey the development phasing.

(4) As a minimum the plan shall show all existing and proposed:

a. Site boundaries, lots, and internal division lines.

b. All watercourses (with sizes), ponds, lakes, wetlands.

c. Apparent floodplains, floodway fringes, and floodways.

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- d. Soil types and their erodability which may be based on the information provided in the Soil Survey of Baldwin County, Alabama as published by the U.S. Dept. of Agriculture, Natural Resources Conservation Service.
- e. Vegetative cover such as crops, grass, weeds, and/or trees. (The use of exotic species as proposed vegetative cover requires approval by the issuer of the Land Use Certificate.)
- f. Utilities, structures, roads and other improvements.
- g. Existing contours at an interval not greater than two (2) feet. An adequate number of spot elevations may be provided in lieu of the contours.
- h. Locations and dimensions (where applicable) of all proposed erosion control measures.

13.9.8 *Permits*

- (a) *General.* A Land Disturbance Permit shall be obtained for all minor and major projects. The permit shall be on a form provided by the Zoning Administrator. For minor projects, a Land Use Certificate shall be used in lieu of a Land Disturbance Permit.
- (b) *Permit Conditions.* All permits shall require the applicant to:
  - (1) Notify the Zoning Administrator or its designated representative at least 24 hours before beginning any major project land disturbing activity.
  - (2) Notify the Zoning Administrator or its designated representative of any modifications of the erosion control plan within seven (7) days of change.
  - (3) Install and maintain all erosion control measures as identified in the erosion control plan.
  - (4) Maintain all road drainage systems, storm water drainage systems and other facilities as identified in the erosion control plan.
  - (5) Remove sediment resulting from land disturbing activities from adjacent surfaces and/or drainage courses in accordance with all State and Federal regulations.
  - (6) Allow the Zoning Administrator to enter the site to verify compliance with the erosion control plan.
  - (7) Submit a revised plan for approval if the nature of the project changes from that proposed under the extant permit.
  - (8) Submit copies of all necessary State and Federal permits associated with such project.
- (c) *Permit Fees.* All fees for a Land Disturbance Permit shall be paid prior to permit issuance.
- (d) *Length of Permit Validity.* In the event that the land disturbing activities are not started within six (6) months and/or the work is not completed within three (3) years from the date of the permit said permit shall become invalid and a new permit shall be obtained.

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13.9.9 *Exemptions.* This ordinance shall apply to any land disturbing activity undertaken by any person on any land except for the following activities. These activities may be subject to regulation by State and Federal Agencies.

(a) The construction of single family residences when such construction is located on lots exceeding three (3) acres and construction activity disturbs less than one (1) acre and is not a part of a larger common plan of development or sale.

(b) Such minor land disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion.

(c) Agricultural uses.

(d) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation; or any road construction or maintenance project, or both undertaken by the Town of Perdido Beach.

## **ARTICLE XIV   Manufactured Housing Provisions**

### **14.1   General**

Manufactured housing includes *modular homes* and *manufactured homes*. Only manufactured housing as defined in this ordinance shall be allowed to be installed in the Town of Perdido Beach, Alabama. Manufactured Housing will comply with the provisions of this Article XIV and be permitted as required under Article XVIII related to Land Use Certificates and Building Permits. Manufactured housing may be installed in zoning districts as authorized in the Table of Permitted Uses.

(a) The terms *install* and *installer* shall have the meaning given to them in Section 24-5-31, Code of Alabama, 1975, as amended, and as augmented by the regulations of The Alabama Manufactured Housing Commission.

(b) Applications for approval for installation of manufactured housing must be accompanied by such documents as are listed on the Permit Application form.

(c) The term *manufactured home* shall have the meaning given in Section 24-5-31, Code of Alabama, 1975, as amended.

(d) The term *modular home* shall have the meaning given in Section 24-4A-2, Code of Alabama, 1975, as amended.

(e) The Alabama Manufactured Housing Commission regulates the construction, transportation and site location and installation of *manufactured homes* and *modular homes* in Alabama in compliance with Section 24-6-2, Code of Alabama, 1975, as amended.

### **14.2 Installers**

Only Certified Installers who have been trained and certified by the Alabama Manufactured Housing Commission (AMHC) may install manufactured housing in the Town of Perdido Beach. Such Installers must also obtain a business license from the Town of Perdido Beach. All such licenses will be required prior to the issuance of a Land Use Certificate or Building Permit and subsequent Certificate of Occupancy.

### **14.3   Compliance**

(a) *Manufactured homes* shall be installed in compliance with 24 CFR Parts 3280 and 3285 Model Manufactured Home Installation Standards and the standards established by Sections 24-5-30 and following, Code of Alabama 1975, as amended, and as supplemented by the regulations of The Alabama Manufactured Housing Commission. *Modular homes* shall be installed in compliance with Sections 24-4A-1 and following,

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Code of Alabama, 1975, as amended, and as supplemented by the regulations of the Alabama Manufactured Housing Commission.

(b) Manufactured housing shall be deemed to be real property and taxed as such.

(c) Manufactured *homes*, including foundation enclosure, must satisfy the U.S. Department of Housing and Urban Development construction standards for Wind Zone II as set out in 24 C.F.R. Sections 3280.305(c)(1) and 3280.305(c)(2).

#### **14.4 Compatibility**

Following are minimum guidelines for compatibility.

(a) *General Appearance:* The general appearance of installed manufactured housing shall be similar in appearance to existing conforming homes in nearby locations.

(b) *Roof pitch, overhang, and materials:* The general shape, appearance, and roofing material of the manufactured housing shall meet the compatibility requirements and should have pitched roofs with eaves overhanging three (3) inches or more.

(c) *Exterior finish:* Materials should be used for exterior finishes which are generally used in areas near the location where the manufactured housing is to be installed.

(d) *Positioning on Lot, orientation:* Manufactured housing shall, unless otherwise specifically approved, be installed so that the front door of the manufactured housing is parallel to the street the lot faces.

(e) *Garage, carports, etc.:* Garages, carports, landings, stairs, porches, entrance platforms, ramps, or other means of entrance for manufactured housing shall meet the compatibility requirements of this Article and be constructed in accordance with the building code in effect at the time.

(f) *Towing devices:* All towing devices on a *manufactured home*, including but not limited to wheels, axles, hitches, and transportation lights, must be removed.

(g) *Foundation enclosure:* The foundation of a *manufactured home* must include an enclosure under exterior walls, unpierced except for ventilation and access, and must conform to the regulations of The Alabama Manufactured Housing Commission. The type of materials and the method used for the enclosure shall be consistent with those used for other conforming homes in nearby locations.

## **Article XV      Parking and Loading Requirements**

### **Section 15.1    Generally**

Adequate off-street automobile storage or parking spaces which comply with all requirements of this Article shall be provided for the customary use of each lot with vehicular access to a street or alley.

### **Section 15.2    Design Standards and Improvement Requirements**

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

15.2.2 *Paving standards for non-residential development.* Parking spaces and driveways shall be improved with a suitable hard surface approved by the Planning Commission.

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

15.2.4 *Landscaping.* Parking lots for non-residential use lots shall be landscaped in accordance with *Section 17.5*.

### **Section 15.3    Storage and parking of trailers and commercial vehicles**

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

(1) In no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.

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

(3) Recreational vehicles shall not be occupied either temporarily or permanently while parked or stored in any residential district except as provided by *Section 12.2.2: Temporary Structures*

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- (4) No recreational vehicle, trailer or commercial vehicle may be located on a lot in any residential district if such lot does not contain a dwelling.
  
- (b) No Junk vehicle may be parked or stored in any residential district unless it is totally within a completely enclosed building.

## **Article XVI Sign Requirements**

### **Section 16.1 Intent**

The intent of this article is to reinforce the traditional view of Perdido Beach as a unique, pleasant and livable community. To accomplish this, the standards shall govern the location, size, setback and height of signs in order to ensure safe construction, light, air, and open space; to reduce hazards at intersections; to prevent the accumulation of trash; and to enhance the livability of the entire community.

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

Monument: A permanent sign whose base is on the ground, is generally wider than the sign, and is contiguous to the top of the sign.

Pole: A permanent sign with supporting structural elements narrower than the sign face itself.

Hanging: A sign and its structural elements generally mounted perpendicular to a wall of a building or under a canopy.

Incidental: Small signs two or three feet in total height that direct traffic and people to appropriate locations.

Signs designed for the Use of Replaceable Copy:

16.1.2 *Permits and Exceptions.*

(a) Permit Required. It shall be unlawful to erect, alter or relocate any sign without first obtaining a Sign Permit. When a Sign Permit has been issued, it shall be unlawful to change, alter or otherwise deviate from the approved permit. A Sign Permit shall become null and void if the sign for which the permit was issued has not been completed within a period of six months after the date of issuance.

(1) Design Requirements: signs over thirty-two (32) square feet in area or with unusual structural features shall be designed, signed and certified by an Alabama Registered Professional Engineer.

16.1.3 *Permit Exceptions.* The following signs do not require a permit:

(a) One general identification sign per building entrance such as a nameplate, street number, not to exceed three square feet;

(b) Decorative flags, banners and bunting authorized by the Town Council

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(c) Memorial signs, tablets or corner stones, names of buildings and date of erection when consisting of a cut masonry surface or when constructed of bronze or similar materials not exceeding three (3) square feet;

(d) Up to four (4) incidental signs or symbols (e.g. entrance, exit, caution, slow, no trespassing) located on and pertaining to a parcel or property not to exceed two (2) square feet in area per sign;

(e) Identification signs at the entrance drive of residences which do not exceed three (3) square feet, located on private property.

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

(1) In residential zoning districts eight (8) square feet where the property being advertised has a front line of less than 500 linear feet, or sixteen (16) square feet where the property being advertised has a front lot line of 500 linear feet or more.

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

(g) One (1) construction sign per street frontage located on property where construction is actually in progress under a current Building Permit. This shall be a ground sign not to exceed sixteen (16) square feet for residential structures and thirty-two (32) square feet for non-residential structures. This sign shall be removed before a Certificate of Occupancy is issued;

(h) Addresses are required on the face of commercial buildings fronting the public ROW. The numbers are to be a total of no more than three (3) square feet. This addressing signage does not impact the total allowable sign area.

16.1.4 *Temporary signs.*

(a) In residential districts or for residential uses, temporary signs shall not exceed eighteen (18) total square feet at any one time, and shall not exceed twelve (12) square feet for any single sign. Signs are allowed for seventy-two (72) hours.

(b) For all other districts and uses, temporary signs shall not exceed forty-eight (48) total square feet at any one time, and shall not exceed twenty (20) square feet for any individual sign. Signs are allowed for seventy-two (72) hours.

16.1.5 Window signs are permitted that advertise goods or services available within the building and collectively cover twenty (20%) percent or less of the window glass surface area.

16.1.6 *Canopies.* One non-illuminated under canopy sign per business, not to exceed three (3) square feet, not lower than eight (8) feet clear above the walkway surface.

16.1.7 *Vacant Buildings.* Buildings or tenant spaces that are unoccupied for a period of thirty (30) days or more shall have blanks inserted in all signs.

## **16.2 Sign Standards**

16.2.1 *Residential.* Two (2) monument signs are permitted for each subdivision/neighborhood subject to the following:

- (a) Each sign area shall not exceed thirty-two (32) square feet or seven (7) feet in height.
- (b) The total freestanding sign area for the entire subdivision/neighborhood shall not exceed ninety-six (96) square feet. All other signs are not permitted.

16.2.2 *Non-Residential.*

- (a) One building sign shall be allowed for each street frontage of a lot. Sign area may not transfer from one frontage to another.
- (b) One (1) monument sign shall be allowed for each street frontage of each premise. Corner lots and double frontage lots may not transfer area from one frontage to another.

16.2.3 *Size.* The aggregate surface area per lot for all permitted signs in non-residential districts shall be limited to the following:

- (a) One (1) square foot for each two (2) linear feet of building frontage for each street frontage.
- (b) No more than forty-eight (48) square feet per lot in any business district for each street frontage.

## **16.3 Height and Projection**

16.3.1 Monument signs shall not exceed seven (7) feet above the natural ground level.

16.3.2 Building signs shall not extend higher than the building surface upon which they are mounted.

16.3.3 Building signs shall not project more than twelve (12) inches from the building surface upon which they are mounted.

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

Where a single building or lot contains two (2) or more separate activities or establishments, each activity or establishment shall be permitted a wall sign area based on the portion of the building occupied. The multiple-occupancy lot or building may be permitted one (1) monument directory sign. The directory sign surface shall not exceed sixteen (16) square feet and the height shall not exceed eight (8) feet. The sign shall be monument style, not pole type.

## **16.5 Logos**

In complexes such as shopping centers, or office parks, an additional free-standing sign bearing the name or logo of the center, or park shall be allowed with a maximum height of eight (8) feet and a maximum surface area of fifty (50) square feet.

## **16.6 Gasoline Pricing Signs**

One (1) sign advertising the price of gasoline is permitted. It shall not exceed sixteen (16) square feet per sign face and an aggregate area of thirty-two (32) square feet. Monument signs shall not exceed five (5) feet in height. The sign shall count toward the aggregate size permitted for the lot.

## **16.7 Temporary Event Signs or Banners**

All temporary event signs or banners must be permitted. Permits are subject to the following:

16.7.1 Permits shall be valid for a period no longer than fourteen (14) days,

16.7.2 Signs shall not exceed twelve (12) feet horizontal and four (4) feet vertical.

## **16.8 Off-premise Directional Signs**

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

## **16.9 Prohibited Signs**

16.9.1 The following signs are expressly prohibited and subject to immediate removal:

- (a) Any sign erected or painted upon a sloping roof, fence, tree, standpipe, or utility pole.
- (b) Any sign which is a copy or imitation of official traffic control signs.
- (c) Signs, which flash or illuminate intermittently, revolve, and animated signs except time and temperature or public service signs.
- (d) Signs, which emit visible smoke, vapor, particles, or odor.
- (e) Signs which cause radio or television or other communication interference.
- (f) Any sign placed on any public right-of-way; unless approved by the Town Council.
- (g) Any sign attached or made a part of a vehicle, trailer, or portable system parked on or adjacent to public right-of-way for the purpose of advertising.
- (h) Any tethered inflatable signs.
- (i) Signs in non-residential zoning districts that are located within fifteen (15) feet of a residential district boundary.

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- (j) Illuminated or neon signs that produce glare or reflection onto residential property.
- (k) All signs, which are no longer functional or are abandoned shall be removed or relocated at the owner's expense within thirty (30) days.
- (l) Flicker flags or similar pole, line, or string mounted flagging.

**Section 16.10 Sign illumination**

Illumination should be external and mounted on the ground. However, the Planning Commission upon finding that sign illumination is in keeping with the character of the community and in conformance with the overall goals and objectives of the Comprehensive Plan may approve alternative illumination methods upon an application.

## **Article XVII Landscaping and Buffers for Lots other than Single-Family Residential Lots**

### **Section 17.1**

The purpose of this section is to ensure the harmonious development of lots other than those used for single family residences and to ensure the protection of the residential neighborhoods of Perdido Beach.

#### 17.1.1 Lots shall be of sufficient size

Lots shall be of sufficient size to be used for the purpose intended, to provide adequate parking and loading facilities and to otherwise comply with the provisions of the ordinance.

#### 17.1.2 Where a lot used for other than single-family residence abuts or is across a roadway from any part of a single-family residential lot, a buffer zone shall be required.

Where a business district abuts any part of a residential district, a buffer zone ten (10) feet wide shall be required on the business lot and/or where an industrial district abuts any part of a residential or business zone, a buffer zone of twenty (20) feet shall be required on the industrial lot.

A buffer zone shall be part of the yard requirements and shall be screened according to the following regulations:

- (a) *Wall or Fence.* If a wall or fence is provided as a screen, it shall be six (6) feet high and of a construction and a design approved by the Planning Commission. Said wall or fence shall be maintained in good repair by the owners of the property.
- (b) *Screen Planting Strip.* If a planting strip is provided as a screen, it shall be at least ten (10) feet in width, shall be planted with materials in sufficient density and of sufficient height [but in no case less than six (6) feet high at the time of planting] to afford protection to the residential or business district from the glare of lights, from blowing papers, dust and debris, from visual encroachment, and to effectively reduce the transmission of noise. Screen planting shall be maintained in a clean and neat condition and in such manner as to continuously accomplish its purpose. The use of existing native species of plant material is strongly encouraged in landscaped buffers. Existing natural ground cover should be retained where possible by avoiding scraping, grading and sodding within the landscaped buffer. Where the planting requirements of this section require additional trees or shrubs to be installed in an existing natural area, it should be done in a manner which minimizes disturbances to native species.
- (c) No primary entrances or exits shall direct traffic into adjacent residential districts. Adequate space for service and supply vehicles to get in and out or turn around shall be provided.

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(d) Noise, air pollutants (including but not limited to dust emissions), and surface runoff shall not exceed background levels by more than 10%.

**Section 17.2 Special Exceptions.**

More stringent design and landscape standards may be required by the Zoning Board of Adjustment for Special Exceptions permitted in any district.

**Section 17.3 Landscape Plan**

A landscape plan may be required for any development but is mandatory for all business and industrial developments. Such plan shall be submitted to the Planning Commission prior to issuance of a Land Disturbing Permit as required under Section 17.6. The plan shall clearly show what existing trees, shrubbery and other vegetation will be retained; and what trees, shrubbery and other vegetation will be added to complete the final landscaping of the property. No trees greater than six (6) inches in diameter shall be removed unless it can be shown that the tree is a safety hazard to pedestrians, property or vehicular traffic; that it is diseased or weakened by age, storm, fire or other injury; that it is necessary to construct proposed improvements without incurring significant additional costs; or that it is necessary for the installation of solar energy equipment. In such case, the developer shall be required to plant replacement trees at least six (6) feet tall and one (1) inch in diameter for each tree removed and the landscape plan shall show the placement of the proper number of required new trees. The plan shall include complete, concise and clear renderings and any other documentation required by the Planning Commission. Replacement trees and other vegetation to be installed shall be native species or noninvasive exotics which are not likely to out-compete native vegetation and do not require excessive pesticides, fertilizer, or water to maintain growth.

17.3.1 There shall be a minimum of one (1) tree planted for every twenty-five (25) feet or fraction thereof of lot frontage, fifty (50%) percent of which shall be shade trees having a maximum height of seventy (70) feet and maximum crown of seventy (70) feet.

17.3.2 A minimum of five (5) feet side and rear landscaping may be required in the landscape plan depending on the topography and arrangement of parking facilities. If required, such areas shall be planted with a combination of trees, shrubs and grass or other ground cover adequate to break the expanse of contiguous parking areas and to present an attractive appearance as determined by the Planning Commission.

17.3.3 All new businesses primarily related to car, truck or other vehicle service and repair shall be so designed and constructed that no service or repair bays shall be directly visible from the roadway on which the building fronts; and so that cars, trucks of other vehicles stored on the premises prior to and after the service or repair are properly screened from view.

### **Section 17.4 Tree Protection**

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

In the event that the Town of Perdido Beach adopts a “Tree Ordinance” then the provisions of that ordinance will supersede this provision.

### **Section 17.5 Parking Lots**

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

- (a) A landscaped area of at least five (5) feet wide shall be provided between parking areas and any adjacent public streets or contiguous properties.
- (b) Interior portions of the parking area shall be broken by provision of landscaped islands [a minimum of six (6) feet wide] between every ten (10) to fifteen (15) parking spaces. Each island shall provide at least one (1) shade tree having a minimum height of six (6) feet at planting.
- (c) A continuous landscape strip a minimum of five (5) feet wide shall be provided between every four (4) rows of parking.
- (d) Landscaped areas shall be protected from vehicular encroachment by the use of curbing or wheel stops.
- (e) The owner, tenant and/or agent, if any, shall be jointly and severally responsible for watering and maintaining all landscaping in a healthy, neat, and orderly condition, replacing it when necessary, and keeping it free of refuse and debris.
- (f) If landscaping is required under this section, then such landscaping shall include the placement of shade trees at intervals of approximately six (6) parking spaces. Such trees shall be a minimum height of six (6) feet at planting.

### **Section 17.6 Landscape Plan Content**

17.6.1 Whenever the provisions of this section apply, a landscape plan shall be submitted for review. The landscape plan may be submitted in conjunction with a Land Use Certificate for a structure or may be submitted through a separate Land Use Certificate.

The landscape plan must be drawn to scale, with a narrative and any necessary calculations, and include the following:

- (a) Dimensions and North Arrow.
- (b) Preserved trees.

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- (c) Locations of proposed signs and lightning.
- (d) Locations of proposed sidewalks, other paths and/or ingress and egress locations and widths.
- (e) Proposed location and spacing of all required plantings.
- (f) Overhead and underground utilities existing and proposed.
- (g) Subject property zoning and current use and adjoining property zoning with its current use.

Compliance with an approved landscape plan is conditional to the issuance of a Certificate of Occupancy.

### 17.6.2 Nuisance Trees and Shrubs Excluded.

Harmful nuisance trees and shrubs, as referenced in *Alabama Invasive Plant Council's List of Alabama's Invasive Plants by Land-Use and Water-Use Sectors*, shall be excluded from any landscape plan and shall be removed from the existing vegetation.

### 17.6.3 Maintenance,

The maintenance of all landscaped areas shall be the responsibility of the property owner. Failure to maintain such landscaped buffers in an attractive and healthy state shall be considered a violation of this chapter subject to enforcement in accordance with this ordinance.

## **17.7 Recommended Species**

### 17.7.1 *Shrubs. (deciduous)*

Aesculus sylvatica (buckeye) Alnus serrulata (smooth alder) Amelanchier arborea (downy serviceberry, shadbush, Juneberry) Amorpha fruticosa (false indigo, Indigo bush) Baccharis halimifolia (sea myrtle, groundsel bush) Callicarpa americana (American beautyberry, French mulberry) Calycanthus floridus (Carolina allspice, sweet shrub) Castanea pumila (chinquapin) Ceanothus americanus (New Jersey tea, red root) Cephalanthus occidentalis (buttonbush) Clethra alnifolia (summer sweet) Cornus alternifolia (pogoda dogwood, alternate-leaved dogwood) Corylus americana (American hazelnut or filbert) Diervilla sessilifolia (southern bush honeysuckle) Dirca palustris (leatherwood, ropebark) Erythrina herbacea (coral bean) Euonymus americana (strawberry bush, brook euonymus, hearts-a-bustin') Euonymus atropurpurea (wahoo, burning bush) Forestiera acuminata (swamp privet) Fothergilla major (witch alder) Frangula caroliniana (Carolina buckthorn) Hibiscus coccineus (wild red mallow) Hydrangea arborescens (wild hydrangea) Hydrangea quercifolia (oakleaf hydrangea) Hypericum hypericoides ssp. hypericoides (St. Andrew's cross) Hypericum prolificum (shrubby St. John's wort) Ilex verticillata (winterberry, black alder) Itea virginica (Virginia willow, sweetspire, tassel-white) Lindera benzoin (spicebush) Lycium carolinianum (Christmas berry, matrimony vine) Lyonia ligustrina (male-berry, male-blueberry) Physocarpus opulifolius (ninebark) Rhododendron atlanticum (dwarf, or coastal azalea) Rhododendron canescens (wild, piedmont, or sweet azalea) Rhododendron calendulaceum

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(flame azalea) *Rhododendron viscosum* (swamp azalea) *Rhododendron arborescens* (smooth azalea) *Rhus hirta* (staghorn sumac) *Rhus copallinum* (dwarf or winged sumac) *Rhus glabra* (smooth sumac) *Ribes cynosbati* (prickly gooseberry, dogberry) *Rosa carolina* (Carolina rose) *Rosa setigera* (Illinois or prairie rose) *Sambucus canadensis* (elderberry, common elder) *Sideroxylon lanuginosum* ssp. *lanuginosum* (chittamwood, gum elastic tree) *Spiraea tomentosa* (steeplebush, hardhack) *Staphylea trifolia* (bladdernut) *Stewartia malacodendron* (silky camellia) *Styrax americanus* (American silverbells) *Symphoricarpos orbiculatus* (coralberry, Indian currant) *Vaccinium arboreum* (sparkleberry, farkleberry) *Vaccinium corymbosum* (highbush ueberry) *Viburnum acerifolium* (maple leaf viburnum) *Viburnum dentatum* (southern arrowwood) *Viburnum nudum* (possumhaw viburnum) *Viburnum nudum* var. *cassinoides* (wild raisin) *Viburnum prunifolium* (black haw, nanny berry) *Viburnum rufidulum* (southern or rusty black haw)

### 17.7.2 *Shrubs (evergreen)*

*Epigaea repens* (trailing arbutus) *Gordonia lasianthus* (loblolly bay, gordonia) *Ilex glabra* (inkberry, bitter gallberry) *Ilex vomitoria* (yaupon) *Illicium floridanum* (Florida anise tree) *Juniperus communis* (common juniper) *Kalmia latifolia* (mountain laurel) *Leucothoe axillaris* (coast leucothoe) *Myrica cerifera* (wax myrtle, southern bayberry, candleberry) *Rhododendron carolinianum* (Carolina rhododendron) *Rhododendron catawbiense* (purple rhododendron, red laurel) *Sabal minor* (dwarf palmetto) *Serenoa repens* (saw palmetto)

### 17.7.3 *Trees (deciduous)*

*Acer barbatum* (Florida maple, southern sugar maple) *Acer leucoderme* (chalk maple) *Acer negundo* (box elder) *Acer rubrum* (red maple) *Acer saccharum* (sugar maple) *Aesculus flava* (sweet buckeye, yellow buckeye) *Aesculus glabra* (Ohio buckeye, horse chestnut) *Aesculus pavia* var. *pavia* (red buckeye) *Betula lenta* (cherry birch) *Betula nigra* (river birch) *Carpinus caroliniana* (blue beech, hornbeam, muscle wood) *Carya alba* (mockernut hickory) *Carya cordiformis* (bitternut, swamp hickory) *Carya illinoensis* (pecan) *Carya ovata* (shagbark hickory) *Celtis laevigata* (sugarberry, hackberry) *Celtis occidentalis* (hackberry, sugarberry) *Cercis canadensis* (redbud) *Chionanthus virginicus* (fringe tree, old man's beard) *Cladrastis kentukea* (yellowwood) *Cornus florida* (flowering dogwood) *Cotinus obovatus* (smoke tree) *Crataegus mollis* (downy hawthorn) *Crataegus crus-galli* (cockspur hawthorn) *Cyrilla racemiflora* (leatherwood, yiti) *Diospyros virginiana* (persimmon) *Fagus grandifolia* var. *caroliniana* (beech) *Fraxinus americana* (white ash) *Fraxinus pensylvanica* (green ash) *Gleditsia triacanthos* (honey locust) *Gymnocladus dioica* (Kentucky coffee tree) *Halesia diptera* (American snowdrop tree, two-winged silverbell) *Halesia tetraptera* (Carolina silverbell) *Hamamelis virginiana* (witch hazel) *Ilex decidua* (possum-haw, deciduous holly) *Juglans cinerea* (butternut, white walnut) *Juglans nigra* (black walnut) *Liquidambar styraciflua* (sweet gum) *Liriodendron tulipifera* (tulip tree) *Magnolia acuminata* (cucumber tree) *Magnolia pyramidata* (pyramid magnolia) *Magnolia tripetala* (umbrella tree) *Magnolia virginiana* (sweetbay, swampbay) *Malus angustifolia* (southern crabapple, wild crabapple) *Nyssa sylvatica* (black gum, tupelo) *Ostrya virginiana* (ironwood, hop hornbeam) *Oxydendrum arboreum* (sourwood) *Platanus occidentalis* (sycamore, plane-tree) *Populus deltoides* (eastern cottonwood) *Prunus americana* (wild plum) *Prunus angustifolia* (chickasaw plum) *Prunus mexicana* (Mexican plum) *Prunus serotina* (black cherry) *Ptelea trifoliata* (wafer ash, common hop tree) *Quercus alba* (white oak) *Quercus bicolor* (swamp white oak)

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Quercus coccinea (scarlet oak) Quercus falcata (southern red oak, Spanish oak) Quercus laurifolia (laurel oak) Quercus lyrata (overcup oak) Quercus macrocarpa (bur oak) Quercus marilandica (blackjack oak) Quercus muhlenbergii (chinkapin oak, chestnut oak) Quercus phellos (willow oak) Quercus prinus (rock chestnut oak) Quercus rubra (red oak) Quercus shumardii (shumard oak) Quercus stellata (post oak) Quercus velutina (black oak) Salix nigra (black willow) Sassafras albidum (sassafras) Taxodium distichum (bald cypress) Ulmus americana (American elm) Ulmus rubra (red elm, slippery elm)

17.7.4 *Trees (evergreen)*

Chamaecyparis thyoides (white cedar) Ilex opaca (American holly, Christmas holly) Juniperus virginiana (eastern red cedar) Magnolia grandiflora (southern magnolia) Magnolia macrophylla (umbrella tree) Persea borbonia (red bay) Pinus echinata (shortleaf pine) Pinus elliotii (slash, pitch, or yellow slash pine) Pinus glabra (spruce pine) Pinus palustris (longleaf pine) Pinus taeda (loblolly pine) Pinus virginiana (Virginia pine) Prunus caroliniana (cherry laurel) Quercus virginiana (live oak, coastal live oak, southern live oak) Tsuga canadensis (eastern hemlock)

## **Article XVIII Ordinance Administration and Enforcement**

### **Section 18.1 Administration, Interpretation and Enforcement**

18.1.1 The duty of administering and enforcing the provisions of this ordinance is hereby conferred upon the Zoning Administrator or such other person, agency, or authority as is appointed by the Council of the Town of Perdido Beach. The term Zoning Administrator as used in this ordinance will include any such other person, agency, or authority as has been appointed by the Council of the Town of Perdido Beach for the purpose of administration of this ordinance.

18.1.2 The Zoning Administrator is authorized and empowered to administer and enforce the provisions of this ordinance to include receiving applications, inspecting sites, and issuing Land Use Certificates for projects, uses and structures which are in conformance with the provisions of this ordinance.

18.1.3 The Zoning Administrator shall keep records of all permits and certificates issued and maps, plats, and other documents with notations of all special conditions involved. The Zoning Administrator shall file and safely keep copies of all sketches and plans submitted, and the same shall form a part of the records of the Zoning Administrator's office and shall be made as a public record.

18.1.4 Where the exact location of a boundary cannot be determined by the methods described in *Section 12.8: Rules for Determining Zoning District Boundaries*, the Zoning Administrator shall interpret the map and render a decision. Any such decision may be appealed to the Zoning Board of Adjustment.

18.1.5 In any case where a requested use is not specifically provided, such use is prohibited unless the Town Council elects to amend this ordinance to include it.

### **Section 18.2 Land Use Certificates**

18.2.1 *Authorization.* A Land Use Certificate shall be obtained from the Zoning Administrator prior to the commencement of development or any land disturbing activity or the issuance of any Building Permit including, but not limited to, electrical, HVAC and plumbing permits.

18.2.2 *Application procedure.*

(a) The Zoning Administrator shall receive the application for a Land Use Certificate upon determination that it complies with all applicable submission requirements.

(b) Where appropriate, the Zoning Administrator shall circulate the application to the Building Official, Designated Engineer, and/or Coastal Program Director for review and comment.

(c) The Land Use Certificate shall be issued or denied within ten (10) business days from the Zoning Administrator's receipt of a completed application, otherwise it shall be deemed to be approved.

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18.2.3 *Application submittal.*

(a) *Application form.* The Land Use Certificate shall be on a form provided by the Zoning Administrator.

(b) *Plans and specifications.* Each application for a Land Use Certificate shall be accompanied by an accurate site plan drawn to scale, showing: the actual shape, dimensions and size of the lot to be built upon; the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may be reasonably requested to determine compliance with this ordinance including but not limited to a landscaping plan, erosion control plan, storm water management plan, and utilities plan.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with ordinances of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for a Land Use Certificate. The Land Use Certificate may be conditioned upon the actual receipt of said permits by the applicant.

(d) *Application fee.* The applicant for a Land Use Certificate shall be required to pay an application fee according to the current schedule of fees established by the Town Council or the person or entity appointed to act as the Zoning Administrator under Section 18.1.1 for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

18.2.4 *Conditions and restrictions on approval.* A Land Use Certificate shall be valid for the issuance of a Building Permit for 180 days after issuance. If construction has not commenced during such time and thereafter been continuously pursued toward completion, then a new Land Use Certificate must be obtained in order to be allowed to proceed with work. A record of the application and site plan shall be kept in the files of the Zoning Administrator for a period of not less than 3 years.

18.2.5 *Revocation of Land Use Certificate.* The Zoning Administrator may revoke a Land Use Certificate issued in a case where there has been a false statement or misrepresentation in the application or on the site plan for which the Certificate was issued or if, after a documented warning has been issued, the applicant has failed to comply with the requirements of this ordinance. Revocation of the Land Use Certificate shall also cause suspension of the Building Permit until such time as, in the judgment of the Zoning Administrator, the applicant is in compliance with the requirements of this ordinance.

18.2.6 *Right of appeal.* The applicant may appeal the denial of the Land Use Certificate to the Zoning Board of Adjustment in writing within twenty (20) calendar days after the rejection of the application.

**Section 18.3 Building Permit and Certificate of Occupancy**

It shall be unlawful to commence the excavation for or the construction of any building or other structures, including accessory structures, or to store building materials or erect temporary field

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offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until a Building Permit has been issued for such work including a statement that the plans, specifications and intended use of such structure in all respects conform with the provisions of this ordinance and other applicable laws. Applications for Building Permits including electrical, HVAC and plumbing permits shall be made on forms provided for that purpose.

No land or building or other structure or part thereof hereafter erected, moved or altered in its use shall be used until a Certificate of Occupancy has been issued stating that such land or structure or part thereof is found to be in conformity with the provisions of this ordinance. Upon final inspection of the property a Certificate of Occupancy will be issued if the building or premises or part thereof is found to conform to the provisions of this ordinance and the Building Permit issued for its construction. If such certificate is refused, the cause for refusal will be stated in writing to the applicant.

**Section 18.4 Appeals to the Zoning Board of Adjustment**

18.4.1 The Zoning Board of Adjustment shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Administrator, Building Official, or other administrative official in the enforcement of this ordinance.

18.4.2 Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved or by any officer or department of the Town of Perdido Beach affected by any decision of any administrative officer representing the Town in an official capacity in the enforcement of this ordinance. Such appeal shall be taken within thirty (30) days of said decision by filing with the officer from whom the appeal is taken and with the Zoning Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Zoning Board of Adjustment all papers constituting the record upon which the action was taken.

18.4.3 An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Zoning Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Adjustment or by a Court of Record on application on notice to the officer from whom the appeal is taken and on due cause shown.

**Section 18.5 Variances**

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

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

- (a) If exceptional narrowness, shallowness or shape of a specific lot existing at the time of the enactment of this ordinance or...
- (b) exceptional topographic conditions or other extraordinary situation or condition of a specific piece of property make full compliance with this ordinance impossible, so that...
- (c) the granting of the application for a variance is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss and...
- (d) the granting of the application for a 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 interfere with a necessary Emergency Vehicle Access or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of the Town of Perdido Beach, then...
- (e) any owner of record of real property upon the date of the adoption by the Town Council of this Land Use and Zoning Ordinance for the planning district in which said property is located shall automatically be granted a variance, if needed, for a single family dwelling on such property.

**Section 18.6 Hearing of Appeals and Variances**

18.6.1 *Application procedure.*

- (a) Any appeal or application for variance must be submitted to the Zoning Administrator who shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Zoning Board of Adjustment. Any appeal or application for variance shall be heard by the Zoning Board of Adjustment within 30 days after receipt by the Zoning Administrator of the application or appeal. Upon the hearing any party may appear in person or by agent or by attorney.
- (b) The Zoning Administrator shall, fifteen (15) days prior to the scheduled public hearing, post notice in four (4) conspicuous places within the municipality as designated by the Town Council, stating that at such time and place all persons desiring to speak in favor of or opposition to the appeal or proposed variance before the board shall have an opportunity to speak.
- (c) The Zoning Administrator shall, five (5) days before the scheduled public hearing by the Zoning Board of Adjustment, provide notice of such hearing by certified mail to adjacent property owners as their names appear in the county tax records.

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(d) The Zoning Board of Adjustment shall render a decision at the conclusion of the public hearing or within forty-five (45) days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.

(e) Upon written notice to the Zoning Administrator, any application may be withdrawn prior to action thereon by the Zoning Board of Adjustment at the discretion of the applicant initiating the request.

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

(a) *Application form.* The application shall be submitted on forms to be provided by the Zoning Administrator.

(b) *Plans and specifications.* Each application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with applicable regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application.

(d) *Application fee.* The applicant shall be required to pay an application fee according to the current schedule of fees established by the Town Council or Zoning Administrator for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application; however, where an applicant is successful in reversing a decision of the Zoning Administrator the fee shall be returned to the applicant.

### **Section 18.7 Special Exceptions**

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

18.7.2 *Application procedure.*

(a) Application for special exception must be submitted to the Zoning Administrator who shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Zoning Board of Adjustment. Application for special exception shall be heard by the Zoning Board of Adjustment within 30 days after receipt of application by the Zoning Administrator.

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(b) The Zoning Administrator shall, fifteen (15) days prior to the scheduled public hearing, post notice in four conspicuous places within the municipality, as designated by the Town Council, stating that at such time and place all persons desiring to speak in favor of or opposition to the proposal before the board shall have an opportunity to speak. The Administrator shall, five (5) days before the hearing, provide notice of such hearing by certified mail to the owners of property adjacent to the proposed special exception as their names appear in the county tax records.

(c) The Zoning Board of Adjustment shall render a decision at the conclusion of the public hearing or within forty-five (45) days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.

(d) Upon written notice to the Zoning Administrator any petition for special exception approval may be withdrawn prior to action thereon by the Zoning Board of Adjustment at the discretion of the applicant initiating the request.

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

(a) *Application form.* The application shall be submitted on forms to be provided by the Zoning Administrator.

(b) *Plans and specifications.* Each application for special exception approval shall be accompanied by an accurate site plan drawn to scale showing: the actual shape, dimensions and size of the lot to be built upon; the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may reasonably be requested to determine compliance with this ordinance including but not limited to a landscaping plan, erosion control plan, storm water management plan, and utilities plan.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for special exception, and the special exception may be conditioned upon the actual receipt of said permits by the applicant.

(d) *Application fee.* The applicant for a special exception shall be required to pay an application fee according to the current schedule of fees established by the Town Council or Zoning Administrator for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

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

(a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Town of Perdido Beach Master Plan, this ordinance, or any other official plan, program, map, statute, regulation or ordinance applicable to the geographic area where such use is proposed.

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- (b) The proposed use shall be consistent with the community health, safety and welfare and shall not detract from the public's convenience at the specific location.
- (c) The proposed use shall not unduly decrease the value of neighboring property.
- (d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.

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

**Section 18.8 Decisions of the Zoning Board of Adjustment**

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

**Section 18.9 Appeal from Decision of the Zoning Board of Adjustment**

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

**Section 18.10 Duties and Powers of the Planning Commission**

18.10.1 *Generally.* The Planning Commission shall have such powers as may be necessary to enable it to fulfill its function, promote municipal planning or carry out the purposes of Chapter 52, Code of Alabama, 1975, as amended. The Commission shall have power to promote

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public interest in the understanding of the Master Plan; from time to time recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof; and all power granted by law to the Zoning Commission pursuant to Section 11-52-79, Code of Alabama, 1975, as amended.

18.10.2 The Planning Commission shall hear and take action on matters which require Commission approval or review as herein specified and shall hear and recommend to the Town Council on all matters of uses not provided for in the Table of Permitted Uses.

18.10.3 The Planning Commission shall hear and recommend to the Town Council on all matter of zoning, rezoning and zoning of newly annexed properties.

18.10.4 It shall be part of the duties of the Commission to consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and with citizens with relation to the protecting or carrying out of the master plan.

18.10.5 Requests before the Planning Commission shall adhere to the requirements specified herein and as may be established by the Commission for the lawful rendering of its duty.

**Section 18.11 Conditional Uses**

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

18.11.2 *Application procedure.*

(a) An application for conditional use approval must be submitted to the Zoning Administrator at least thirty (30) days prior to the regularly scheduled meeting of the Planning Commission.

(b) The Zoning Administrator shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the Planning Commission.

(c) The Zoning Administrator shall, at least fifteen (15) days prior to the scheduled public hearing, post notice in four conspicuous places within the municipality, as designated by the Town Council, stating that at such time and place all persons desiring to speak in favor of or opposition to the proposal before the Commission shall have an opportunity to speak.

(d) The Zoning Administrator shall, five (5) days before the scheduled public hearing by the Planning Commission, provide notice of such hearing by certified mail to the owners of property adjacent to the proposed conditional use as their names appear in the county tax records.

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(e) The Planning Commission shall render a decision at the conclusion of the public hearing or within forty-five (45) days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.

(f) Upon written notice to the Zoning Administrator any petition for conditional use approval may be withdrawn prior to action thereon by the Planning Commission at the discretion of the applicant initiating the request.

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

(a) *Application form.* The application shall be submitted on forms to be provided by the Zoning Administrator.

(b) *Plans and specifications.* Each application for conditional use approval shall be accompanied by an accurate site plan drawn to scale, showing: the actual shape, dimensions and size of the lot to be built upon; the size, shape, height, floor area and location of the buildings to be erected; dimensions and locations of existing buildings; width of front, side and rear yards; existing and proposed parking; ingress to and egress from the site; and such other information as may reasonably be requested to determine compliance with this ordinance including but not limited to a landscaping plan, erosion control plan, storm water management plan, and utilities plan.

(c) *State and Federal permits.* Written evidence of applications for all required permits showing compliance with applicable regulations of the Corps of Engineers, Alabama Department of Environmental Management, Alabama Coastal Area Management Program and Baldwin County Health Department shall accompany the application for conditional use approval, and the conditional use may be conditioned upon the actual receipt of said permits by the applicant.

(d) *Application fee.* The applicant for a conditional use shall be required to pay an application fee according to the current schedule of fees established by the Town Council or Zoning Administrator for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

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

(a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Town of Perdido Beach Master Plan, this ordinance, or any other official plan, program, map, regulation, law or ordinance applicable to the geographic area where such use is proposed.

(b) The proposed use shall be consistent with the community health, safety, and welfare and shall not detract from the public's convenience at the specific location.

(c) The proposed use shall not unduly decrease the value of neighboring property.

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(d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.

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

**Section 18.12 Tolling Provisions**

If, subsequent to the filing of any application/petition, the applicant/petitioner is enjoined by order of a court of competent jurisdiction from commencement of construction, the time from the entry of such order against applicant/petitioner until such time as the order is lifted or becomes final and unappealable shall not be counted toward or against the time allowed/required by this ordinance for applicant to commence construction.

## **Article XIX Amendments to Official Zoning Map and Ordinance**

### **Section 19.1 Purpose**

The Official Zoning Map for the Town of Perdido Beach may be amended from time to time in accordance with the procedures and standards set forth in this Article. The purpose of this Article is not to relieve particular hardships, not to confer special privileges or rights on any person, but rather to allow for adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the Town. Land Use and Zoning text amendments may be necessary to further the Town's land use policies and to keep pace with current development trends but are not necessary to the amendment of the Official Zoning Map.

### **Section 19.2 Initiation Map Amendment.**

An amendment to the Official Zoning Map may be initiated:

- (a) by written application of any person owning the property proposed for change on the Official Zoning Map, or by written authorization by the owner for an agent to act on the owner's behalf,
- (b) by a motion of the Planning Commission, or
- (c) by a motion of the Town Council.

### **Section 19.3 Initiation Text Amendment**

An amendment to the text of this Land Use and Zoning Ordinance may be initiated:

- (a) by a motion of the Town Council or
- (b) by a motion of the Planning Commission.

### **Section 19.4 Zoning Administrator Preparation**

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

## **Article XIXA Administrative Procedures**

### **Section 19A.1 Procedures Overview**

Excluding applications for Land Use Certificates or Building Permits which are identified with “P” on the Table of Permitted Uses, all other applications, appeals and requests for amendment to this ordinance will be handled according to the provisions of this Article. Requests for amendment to this ordinance include, but are not limited to, requests for rezoning. As referenced in this Article, all applications, appeals and requests for amendments will be referred to as an “application”.

### **Section 19A.2 Staff Review**

Within a reasonable time after the receipt of an application, the Zoning Administrator shall deliver to the Planning Commission, the Zoning Board of Adjustment and/or the Town Council, as appropriate, a written report summarizing the facts of the matter under consideration, including all relevant documents and incorporating or summarizing comments and recommendations, and schedule a date for a public hearing. The Town Council shall be furnished with minutes, recommendations and other relevant information from the Planning Commission related to the matters to be decided by the Town Council.

### **Section 19A.3 Factors for Reviewing Proposed Amendments to this Ordinance or the Official Zoning Map**

In deciding whether to recommend approval of a proposed amendment to the Land Use and Zoning Ordinance or the Official Zoning Map, or in deciding whether to adopt a proposed amendment to such, the Planning Commission and Town Council shall consider whether the proposed action is consistent with the following inquiries:

- (a) Is the requested change compatible with the existing development pattern and the zoning of nearby properties?
- (b) Has there been a change in the conditions upon which the original zoning designation was based? Have land uses or conditions in the near vicinity affected by the proposed action changed since the zoning was established or last amended?
- (c) Does the proposed zoning improve conformity of land use to the Town’s Master Plan?
- (d) Will the proposed change conflict with existing or planned public improvements?
- (e) Will the proposed change adversely affect traffic patterns or congestion?
- (f) Is the proposed amendment consistent with the development patterns in the area and appropriate for orderly development of the community? The cost of land or other economic considerations pertaining to the applicant shall not be a consideration in reviewing the request.
- (g) Is the proposed amendment the logical expansion of adjacent zoning districts?

- (h) Is the timing of the request appropriate given the development trends in the area?
- (i) Will the proposed change adversely impact the environmental conditions of the vicinity or the desirable historic resources or nature of the Town?
- (j) Will the proposed change adversely affect the health, safety or welfare of the Town?
- (k) Other matters which may be appropriate.

#### **Section 19A.4 More Restrictive Rezoning**

The Town Council may not approve a rezoning, other than the rezoning published pursuant to Section 11-52-74 Code of Alabama, 1975, unless the change is more restrictive than the proposed rezoning that was described in the publication of notice.

#### **Section 19A.5 Examination and Copying of Application and Other Documents**

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

#### **Section 19A.6 Revocations of Approvals**

A successful applicant is responsible for ensuring that all work proceeds in accordance with terms and conditions of any approval issued to such applicant. A determination by the Zoning Administrator that the terms and conditions of the approval have been violated shall subject the approval to revocation or other enforcement provisions of this ordinance.

#### **Section 19A.7 Reliance on Information Presented by Applicant**

The Zoning Administrator shall have the right to rely on the accuracy of statements, documents and all other information presented to him/her by an applicant, or those acting on behalf of an applicant, in review of an application presented under this ordinance.

#### **Section 19A.8 Presentation or Submittal of Incorrect Information**

In the event that an applicant, or those acting on behalf of an applicant, submits or presents false or incorrect information, whether or not such information is presented fraudulently or deceitfully to the staff, Zoning Board of Adjustment, Planning Commission, Town Council or to the Zoning Administrator concerning a material fact or consideration relating to an application for a rezoning, conditional use, or other type of approval issued under this ordinance, the following action may be taken:

When such false or incorrect information was a material fact or consideration in approving an application for rezoning, amendment, modification, or repeal, the Zoning Administrator shall notify the applicant in writing of the false or incorrect information given and all actions necessary to resolve those problems resulting from the false or incorrect information given. If the problems

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cannot be resolved within ten (10) days or such other time period stated in notification, the Planning Commission, Zoning Board of Adjustment or Town Council, as appropriate, shall hold a public hearing, of which the applicant shall be notified by certified mail, return receipt requested, at least seven (7) days prior to the scheduled public hearing. Upon conclusion of the public hearing the Planning Commission, Zoning Board of Adjustment or Town Council, as appropriate, may amend, revoke or void approval. In order to take such action, it must be found that the applicant, or those acting on behalf of the applicant, has presented information fraudulently or deceitfully to the staff, Planning Commission, Zoning Board of Adjustment, Town Council or Zoning Administrator concerning a material fact or consideration relating to an application or applicant. Any work performed by or at the request of the applicant on the subject property shall be at the risk of the applicant. If the Planning Commission, Zoning Board of Adjustment or Town Council amends, revokes, or voids an application approval, the Zoning Administrator shall void any type of approval or permit issued.

**Section 19A.9 Withdrawal of Applications**

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

- (a) An applicant may withdraw an application by filing written notice of the withdrawal with the Zoning Administrator at least seven (7) days prior to the public hearing. If the application will be before the Town Council a written notice shall be filed with the Town Council seven (7) days prior to the public hearing.
- (b) When an applicant wishes to withdraw an application less than seven (7) days prior to the public hearing, it shall be at the discretion of the governing body to either grant the withdrawal or to hear the application as submitted.

Any application that is withdrawn three times within twelve (12) months shall not be considered until one year after the date of the third such withdrawal.

**Section 19A.10 Concurrent Applications**

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

**Section 19A.11 Limitations on Rezoning of Land**

19A.11.1 Whenever the Town Council has amended the zoning map and changed a zoning classification of land, another application shall not then be considered for rezoning of any part or all of the same land for a period of one (1) year from the effective date of such amendment.

19A.11.2 Whenever the Town Council has denied an application for rezoning, no further application shall be filed for the same land for a period of one (1) year from the date of such action. In the event that two (2) or more applications for rezoning of any part or all of the same

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land has been denied, no further applications shall be filed for a period of two (2) years from the date of such action denying the last application filed.

**Section 19A.12 Application Fee**

19A.12.1 Application fees shall be determined based on the current fee schedule adopted by the Town Council.

19A.12.2 Fees shall be nonrefundable irrespective of the final action on the application. No fee shall be refunded after the submittal deadline.

**Section 19A.13 Public Notice and Hearings**

19A.13.1 A proposed rezoning, amendment, supplement, modification, or repeal related to the Land Use and Zoning Ordinance or Official Zoning Map shall be submitted to the Planning Commission for its consideration and recommendation to the Town Council.

19A.13.2 An application for rezoning must be submitted to the Zoning Administrator on official Perdido Beach forms accompanied by data, maps, and plans which are adequate to support the application and must be submitted at least thirty (30) days prior to the next scheduled meeting of the Planning Commission. The application shall be heard by the Planning Commission at its next regular meeting after receipt of a correctly completed application. All dates and times shall be determined by the adopted meeting schedule of the Planning Commission.

19A.13.3 Before acting on any proposed rezoning, amendment, supplement, modification or repeal, a Public Hearing shall be held by the Planning Commission with proper legal notice posted in four conspicuous places within the municipality as designated by the Town Council. The notice will be posted at least six (6) days prior to the scheduled Public Hearing and will state the time and place that the amendment, supplement, modification or repeal is to be considered. In the case of a rezoning, at least five (5) days prior to the Public Hearing, notice will be sent by certified mail, return receipt requested, to the applicant and to all adjacent property owners as their names appear in the Baldwin County Tax Records.

19A.13.4 When appropriate, a conspicuously located sign, indicating the proposed amendment, shall be posted on the subject property no less than three (3) weeks prior to the date of the hearing. The case number and contact information for such matter shall be listed on the sign.

19A.13.5 Upon recommendation from the Planning Commission the Town Council shall fix a reasonable time for consideration of a proposed rezoning, amendment, supplement, modification, or repeal and give public notice thereof. At least fifteen (15) days prior to the public hearing, notice of said action shall be posted in four conspicuous places within the municipality as designated by the Town Council, together with a notice stating the time and place that the rezoning, amendment, supplement, modification, or repeal is to be considered by the Town Council and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such rezoning, amendment, supplement, modification, or repeal.

19A.13.6 *Copies available.* A copy of the proposed rezoning, amendment, supplement, modification, or repeal shall be made available for public inspection, which location will be included in the notice. No such amendment, supplement, modification, or repeal shall become

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effective until adopted by the Town Council after a public hearing where all citizens and parties in interest shall have an opportunity to be heard.

19A.13.7 The Town Council shall render a final decision on the proposed rezoning, amendment, supplement, modification, or repeal at the conclusion of the public hearing or within 60 days from the date of the public hearing if it is determined that action must be deferred in order to allow for additional input and review.

**Section 19A.14 Agricultural Land**

Any land zoned Rural Agricultural shall automatically be rezoned to the R-1 Single Family District upon the submission of a complete application by the owner.

## **Article XX Nonconformities**

### **Section 20.1 Intent**

In the Town of Perdido Beach, there exists uses, structures and combinations of such which were lawful before the adoption of this ordinance or amendments thereto, but which would be prohibited, regulated or restricted under the terms of this ordinance. It is the intent of this Article to permit them to continue with restrictions until they are removed or damaged, but not to encourage their survival. It is further the intent of this ordinance that such nonconformities shall not be enlarged, expanded or intensified, and the existence of such shall not be used as grounds for adding other structures. Changes in nonconformities, other than their discontinuance or their modification to conformity, shall be discouraged.

### **Section 20.2 Rules Applicable to Nonconformities**

20.2.1 *Incompatibility and enlargement.* Nonconforming uses are declared by this ordinance to be incompatible with permitted uses within the zoning districts established hereunder. A nonconforming use of a structure or a nonconforming use of a structure and land or water in combination, shall not be extended, enlarged or intensified except in conformance with this ordinance. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption of the Land Use and Zoning Ordinance. Replacement of nonconforming structures is prohibited.

20.2.2 *Work in progress.* To avoid undue hardship, nothing in this ordinance shall require a change in plans, construction or designed use of buildings for which a Building Permit has been properly issued prior to the adoption of this ordinance. If actual construction has not begun under a permit properly issued before the adoption of this ordinance within six (6) months of the date of issuance of such permit, then said permit shall become invalid and shall not be renewed except in conformity with this ordinance.

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

20.2.4 *Nonconforming use of buildings.* Except as otherwise provided herein, the lawful use of a building existing at the effective date of this ordinance may be continued.

20.2.5 *Discontinuance of nonconforming use.* No building, or portion thereof, used in whole or in part, for a nonconforming use which is abandoned for more than one (1) calendar year from adoption of this ordinance, shall be used except in conformity with this ordinance. The intent to abandon such nonconforming use shall be presumed from the cessation of occupancy or business or the removal of equipment, goods, structures or other aspects of such nonconforming use from the property. Abandoned buildings, or portion thereof may be removed at the expense of the owner(s).

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

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

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

(c) Historic nonconforming structures or a nonconforming portion of an historic structure over 50 years old may be considered a valid nonconforming structure upon the determination of the Town Council that said structure is historic in nature and the respective Zoning Board of Adjustment confirms the valid nonconforming status. A valid nonconforming status shall permit reconstruction, repair, or alteration irrespective of the fifty percent (50%) rule as given in *Section 20.2.6(a)*.

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

(1) An appraisal provided by the applicant by a licensed appraiser shall be submitted to the Zoning Administrator.

(2) At least two licensed contractors shall perform a cost estimate for repairs to the structure and submit it to the Zoning Administrator.

(3) The Zoning Administrator shall prepare a report with the appraisal and cost estimate and submit it to the Planning Commission for a final determination.

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

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

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

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

- (a) Any nonconforming lot or parcel may be used as a building site.
- (b) A nonconforming lot or parcel must comply with permitted uses and other standards as described in this ordinance.

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

20.2.9 *Special treatment due to this ordinance or other government action.* Should a government agency obtain a portion of a conforming lot for public purposes and thereby create a nonconforming lot, a principal and accessory structures otherwise authorized for such lot may be constructed as if the lot had been a legal nonconforming lot prior to such government action provided that all other requirements of this ordinance are met.

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

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

20.2.12 *Nonconforming accessory uses and structures.*

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

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

(c) Any part of a nonconforming accessory use or accessory structure which is destroyed to an extent of more than fifty percent (50%) of the fair market value of such building or structure immediately prior to damage, shall not be restored except in conformity with this ordinance, and all rights as a nonconforming use or structure are then terminated.

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

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

## **Article XXI Enforcement**

### **Section 21.1 Zoning Enforcement and Appeals**

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

(a) Whenever a violation of this ordinance is identified or is alleged to have occurred, any person aggrieved may file a complaint. Such complaint shall fully state the cause and basis thereof, and shall be filed at the Perdido Beach Town Hall.

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

(b) Violation of the provisions of this ordinance, including violation of conditions and safeguards established in connection with a grant of a variance, special exception, conditional use, Land Use Certificate or appeal, shall be addressed and punishable in accordance with sections contained herein.

(c) In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained or in the event that any building, structure, or land is used in violation of this ordinance, the Zoning Administrator may institute or cause the institution of any appropriate action or proceeding to:

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

### **Section 21.2 Violations**

21.2.1 *Persons in violation.* Any person, who: (a) violates any provision of this ordinance; (b) permits, participates, assists, directs, creates or maintains any such violation; (c) fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval, permit, variance, special exception, conditional use or the like; or (d) who erects, constructs or reconstructs any building or structure, or uses any building, structure or land in violation of any written statement or plan submitted and approved pursuant to this ordinance, shall be in violation of this ordinance.

21.2.2 Any person in violation of this ordinance shall be responsible for such violation and be subject to the penalties and remedies as provided herein or as otherwise provided by law.

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

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21.2.4 *Structures and uses in violation.* Any structure or lot erected, constructed, altered, occupied or used contrary to this ordinance or any permit, authorization, stipulation, condition, approval or variance issued under the authority of this ordinance shall be declared to be unlawful.

**Section 21.3 Notice of Violation**

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

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

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

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

21.3.4 *Noncompliance.* When the Zoning Administrator determines that the violation has not been corrected or abated by the end of the prescribed time period, a written notice of the matter shall be forwarded to Legal Counsel and/or the Baldwin County District Attorney's office for further action.

21.3.5 *Compliance.* Upon the submission by the violator of evidence of compliance reasonably deemed adequate by the Zoning Administrator to establish cure of such violation, the Zoning Administrator may deem the violation to be resolved and compliance achieved. Written confirmation of such determination will be provided to the originally identified violator.

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

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

21.3.7 *Repeat violations.* When any Notice of Violation is issued to any person for substantially the same violation for which a previous Notice of Violation has been issued to such person, no period shall be allowed for correction or abatement of the violation. Rather, in such event, the Zoning Administrator shall immediately cause the matter to be forwarded to Legal Counsel and/or the Baldwin County District Attorney's Office for further action.

21.3.8 *Fines.* Any person violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation (see 21.2.3, above). The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

**Section 21.4 Additional Penalties**

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

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

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

**Section 21.5 Appeals**

21.5.1 *Appeal of administrative enforcement decision.* Any person aggrieved by a decision of the Zoning Administrator in regards to zoning enforcement may file an appeal, made on forms provided for that purpose, to the Zoning Board of Adjustment. An appeal must be filed within fifteen (15) days of the date of the Notice of Violation. An appeal is deemed filed with the Zoning Board of Adjustment when received by the Board Chairman.

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

21.5.3 *Appeal to Circuit Court from final decision of Zoning Board of Adjustment.* Any party aggrieved by a final judgment or decision of a Zoning Board of Adjustment may, within fifteen (15) days thereafter, appeal there from to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Zoning Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken and specifying in sufficient detail the grounds for appeal so that the non-appealing party may reasonably frame a responsive pleading. For purposes of this section, an appeal shall be filed with and forwarded to the Zoning Board of Adjustment. The appeal shall be deemed filed when received by the Zoning Administrator, regardless of the method of delivery.

## **Article XXII                      Definitions**

### **Section 22.1   Usage**

Except as otherwise provided herein, all words shall have the customary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. The word "person" includes an individual, a firm, corporation, association, organization, trust, limited liability company, partnership, club, or other legal entity or jural person. The word "building" includes "structure." The words "shall" and "will" are always mandatory, and the word "may" shall be permissive. The word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied."

### **Section 22.2   Words and Terms Defined**

As used in these ordinances, the following words and terms shall have the meaning set out below:

*A zone:* (See Floodplain).

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

*Accessory dwelling:* An accessory building used as a complete, independent living facility.

*Accessory Structure:* A building detached from but located on the same lot as a principal structure, the use of which is incidental or adjunct to that of the principal structure.

*Adult entertainment and novelties:* An establishment where entertainment of a sexual nature is provided and/or novelty items of a sexual nature are sold.

*Agriculture/agricultural uses:* The use of land for growing or cultivating crops or raising of animals as a commercial venture or for profit and may include, but is not limited to, farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and related accessory uses.

*Alteration:* The word "alteration" shall include any of the following, excluding minor changes or repairs:

- (a) Any addition to the height or depth of a building or structure.
- (b) Any change in the location of any of the exterior walls of a building or structure.
- (c) Any increase in the interior accommodations of a building or structure.

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

*Antenna support structure:* Any structure on which telecommunications antennas and cabling can be attached. Typically this includes steel towers with guy-wires (guyed towers); wooden, steel or concrete single poles (monopoles); self-supporting steel towers with three or four "legs"

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(self-supporting/lattice towers); rooftops of existing buildings or structures (such as elevated water storage tanks). (see also *tower*).

*Area and dimensional requirements:* Numerical standards established for a lot, yard or building in a particular zoning district.

*As of right:* Uses that are specifically authorized by the Town of Perdido Beach Land Use and Zoning Ordinance. (see also *Permitted use*).

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

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

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

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

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

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

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

*Bed and breakfast:* A building or part thereof other than a motel or hotel, typically a residential dwelling unit, where sleeping accommodations are provided to transient guests, with or without meals, for compensation and which also serves as the residence of the operator. Breakfasts should be limited to guests only.

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

*Boat Building:* The craft of boat construction for compensation.

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

*Boat construction facility:* A facility engaged in the construction of watercraft for compensation.

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*Boat repair:* Major and/or minor overhauling or repair of watercraft for compensation that requires open air, partially covered or enclosed facilities and heavy equipment, yard space and dock facilities as may be necessary.

*Boat sales and service:* Any building or land used for retail sales and servicing of watercraft.

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

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

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

*Building height:* The vertical distance stated in feet measured from the average elevation of the proposed finished grade at the front of the building to the highest eave of the roof.

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

*Building line:* (See *Setback line*)

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

*Certificate of occupancy:* Official certification that a premise conforms to provisions of the Land Use and Zoning Ordinance and Building Code, and may be used or occupied.

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

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

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

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

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

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

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*Club:* A building or portion thereof or premises owned or operated for a social, literary, political, educational, or recreational purpose but not operated or maintained for profit.

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

*Commercial occupant:* An occupant of property who is engaged in commerce as the principal activity on such property.

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

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

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

*Common property:* Land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites within a planned development.

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

*Condominium.* Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners (Section 35-8A-103, Code of Alabama, 1975).

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

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

*Convalescent or nursing home:* A licensed facility providing inpatient care, for compensation, for persons suffering from illness, other than mental or contagious, which is not of sufficient severity to require hospitalization, or for persons requiring further institutional care after being discharged from a hospital other than a mental hospital; includes extended care facilities.

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*Copy:* The linguistic content of a sign.

*Copy shop:* A retail establishment that provides duplicating services and may include collating and binding services.

*County:* Baldwin County, Alabama.

*County Commission:* The Baldwin County Commission.

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

*Density:* The number of dwelling units per stated square footage or acre of land.

*Development:* Any man made change to improved or unimproved real estate including but not limited to buildings or other structures, digging, dredging, filling, grading, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

*Dwelling:* A building or portion thereof used exclusively for residential purposes, including single-family, two-family, and multiple-family dwellings, but not including hotels, boarding houses, rooming houses, lodging houses, group homes, dormitories or other structures designed for transient residence.

*Dwelling, Accessory:* See Accessory Dwelling.

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

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

*Dwelling, two-family:* A building designed for or occupied by two families only, with separate dwelling units for each family, separated by a common wall but sharing a common roof and foundation.

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

*Eave(s):* The lower edge of a roof at the intersection of or projecting beyond the side of a building where side refers to each vertical wall of such building.

*Electric sign:* Any sign containing electric wiring.

*Emergency Vehicle Access:* A means of accessing each building located on a lot which provides open space that is clear to the sky and is a minimum of fifteen (15) feet wide, together with adequate turning radius where needed to allow navigation of emergency vehicles.

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*Erect a sign:* To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish a sign. The change of message on a sign or routine maintenance to a sign will not be to “erect a sign”.

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

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

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

*FAA:* Federal Aviation Administration.

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

*FCC:* Federal Communications Commission.

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

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

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

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

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

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

- (a) The floodways as identified or delineated in the *Flood Insurance Study* for Baldwin County, Alabama.
- (b) Along Small Streams and Watercourses. All lands lying within 25 feet of the top of the bank of the channel (measured horizontally), unless the developer demonstrates to the satisfaction of the Perdido Beach Planning Commission that a lesser distance (but not less

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than 15 feet) is adequate based on the watershed characteristics and probable storm runoff for the base flood.

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

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

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

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

*Garage, private:* An Accessory Building (in whole or in part) or part of a main building designed and/or used for inside parking of private vehicles by the occupants of the house or other principal structure on the premises or by the occupants of or employees of a particular firm.

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

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

*Generalized Wetland Map:* Refers to the National Wetland Inventory (NWI) Maps maintained by the U.S. Army Corps of Engineers, the Baldwin County Digital Wetland layer and/or any other digital data depicting the general locations of wetlands or hydric soils and their degree of functionality within the jurisdiction of the Town of Perdido Beach.

*Group Home:* A dwelling housing ten (10) or less unrelated people with an intellectual disability or mental illness.

*Height:* When referring to a structure other than a building, the distance measured from the ground level at the base of the tower to the highest point on the tower or structure, including if said highest point is an antenna placed on a structure or tower. See also the definition for Building Height.

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

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*Home occupation, rural:* An accessory use engaged in for compensation at a household located in a rural area involving the sale of goods and/or services that is conducted either from within the dwelling or from accessory buildings located on the same lot as the dwelling unit occupied by the family conducting the home occupation.

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

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

*Ice Manufacturing Unit:* A facility for producing ice for retail sales.

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

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

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

*Industrial Use:* (see light industrial use)

*Ingress and egress:* A means of entering and leaving the property in question.

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

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

*Junk yard:* Place, structure or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and other similar items, are stored, bought, sold, exchanged, baled, packed, disassembled, or handled, including auto wrecking yards, used lumber yards, house-wrecking yards, and yards or places for storage or handling of salvaged house wrecking and structural steel materials.

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

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

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

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

*Land Use Certificate:* Certificate issued by the Zoning Administrator indicating that a proposed use of land is in conformity with the zoning ordinances, a prerequisite to issuance of a building permit.

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

*Landfill:* A disposal site for the controlled burial of solid waste.

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

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

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

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

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

*Lot area:* The total horizontal area, measured in square feet, within the lot lines of a lot.

*Lot, Boathouse.* A lot whose principal use is to provide a location for the construction of a boathouse and which may not be used for a Dwelling.

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

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

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

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

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

*Lot line, front:* On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing the primary means of access to the lot; on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained; or on a waterfront lot, the lot line abutting the water.

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

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

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

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

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

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

*Major project:* Any institutional use, professional service and office use, commercial use, outdoor recreation use, marine recreation use, transportation, communication and utility use, and industrial use.

*Manufactured home:* A manufactured home is a structure that is transportable in one or more sections. In traveling mode, the home is eight feet or more in width and forty feet or more in length. A manufactured home is designed and constructed to the Federal Manufactured Construction and Safety Standards and is so labeled. When erected on site, the home is:

- At least 400 square feet
- Built and remains on a permanent chassis
- Designed to be used as a dwelling with a permanent foundation built to FHA criteria

The structure must be designed for occupancy as a principal residence by a single family.

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*Manufactured housing:* Means “manufactured home” or “modular home”.

*Marina:* A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for boat owners, crews, and guests, servicing and repair of boats, and sale and charter of boats. Dry boat storage may also be provided.

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

*Master plan:* The master plan, for the physical development of the corporate areas of the Town of Perdido Beach as adopted by the Perdido Beach Town Council.

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

*Minor Projects:* Any land disturbing activity including single family structures and related accessory structures.

*Mixed use:* A planned and integrated mix of residential and office or retail uses.

*Mobile home:* A transportable, factory built home, designed to be used as a year round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

*Modular home:* A manufactured dwelling built and inspected in accordance with a national building code and in compliance with the provisions of Section 24 Housing, Code of Alabama, 1975.

*Monument sign:* A monument sign is a freestanding sign, a wall with a permanently attached, or a decorative wall that incorporates a sign. Monument signs are typically constructed low to the ground from natural materials such as stone, brick, or wood and surrounded with additional landscape plantings. A monument sign shall be no more than seven (7) feet in height except where further restricted and shall have the lowest portion of its sign face no more than 3 feet above the ground.

*Motel:* A lodging establishment meeting the definition of “hotel” except that at least 25% of the sleeping units have direct access to the outside without the necessity of passing through the main lobby of the building.

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

*Neighborhood convenience store:* Any retail establishment offering for sale prepackaged food and beverage products, a limited selection of prepared foods for off premises consumption, household items, and other goods commonly associated with the same and having a gross floor

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area of less than 2500 square feet. Neighborhood convenience stores shall not include fuel pumps or the selling of fuel for vehicles.

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

*Nonconforming structure:* A lawful structure occupying a site, existing at the effective date of this ordinance, or any amendment thereto, which does not conform with the standards of the zoning district in which it is located, including, but not limited to, structures which do not conform to front setback, side setbacks, rear setback, height, coverage, distances between structures and parking facilities.

*Nonconforming use:* The lawful use of a building, structure or lot, existing at the effective date of this ordinance, or any amendment thereto, which does not conform with the provisions of this ordinance, as amended, for the zoning district in which it is located.

*Nursery:* Land, building, structure, or combination thereof used or intended for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for sale on or from the premises including, but not limited to, products used for gardening or landscaping.

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

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

*Open space:* An area of land not covered by parking areas, rights-of-way or buildings other than enumerated or recreational structures, open to the sky that, by its nature, provides light and air, and is intended for environmental, scenic or recreation purposes or for natural or scenic preservation. Open space may include, but is not limited to, lawns, landscaped areas, buffers, natural areas, wooded areas, unenclosed walkways or sidewalks, decks, patios, fountains and outdoor recreation structure. Streets, driveways, parking lots, buildings and structures that are roofed shall not be included as open space.

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

*Outdoor Advertising:* Any outdoor sign, display, drawing, message, billboard, or anything which is designed, intended or used to advertise or inform (other than a home-occupation sign or customary sized “for sale” or “for rent” sign) any part of which advertising or informational content is visible from any place on a street in the Town.

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

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

*Parking garage:* A structure used for the storage of automotive vehicles for compensation.

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

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

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

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

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

*Planning Commission:* The Town of Perdido Beach Planning Commission.

*Porch:* A roofed-over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior wall(s) to which it is attached. Open mesh screening shall not be considered an enclosure. Porches shall be considered as a part of the main building and shall not project into the lot in such a way as to encroach on any required set back area.

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

*Prefabricated housing and/or accessory buildings.* Site built housing and/or accessory buildings which consist of building components that are manufactured at a different location and are transported to the lot for inclusion in a building constructed at such location and which is neither Manufactured Housing nor Modular Housing.

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

*Principal Use:* The principal purpose for which a lot, the principal building thereon, or establishment therein is designed, arranged or intended, and for which it is or may be used,

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occupied or maintained. In the event of mixed uses, the use with the greatest square footage shall be considered as the principal use.

*Printing and publishing:* Includes printing, publishing, or binding of written materials of any kind.

*Professional service and office uses:* This group of uses includes business and professional offices, medical offices or clinics, financial institutions without drive-up windows, and personal service businesses where the service is performed on an individual-to-individual basis as opposed to services which are performed on objects or personal property. Examples, for illustration and not for limitation, of personal service businesses are barber shops, beauty shops, or photography studios. This group of uses may include a dispatching/communications/office center for the distribution of goods, but specifically excludes the warehousing or actual distribution of goods.

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

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

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

*Recreational vehicle park:* A lot of land upon which one or more recreational vehicle sites (sometimes referred to as a “campsite”) are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

*Residential district:* A zoning district established under this ordinance in which the principal use is for human residence.

*Residential dock or pier:* A dock or pier constructed as an accessory structure to a residential lot for private recreational purposes and/or mooring of private boats.

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

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

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

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

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

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

*Satellite receiving dishes:* An antenna designed to receive television broadcasts, whether or not relayed by microwave signals, from earth-orbiting communications satellites. This definition also includes satellite earth stations or television dish antennas.

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

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

*Sewage Treatment Plant:* Facility designed to receive the waste from domestic, commercial and industrial sources and to remove materials that damage water quality and compromise public health and safety when discharged into water receiving systems.

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

*Sign:* Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which displays or includes any letter, word, model, banner, flag, pennant, insignia, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The word “sign” includes the word “billboard” or any other type of advertising device, but does not include flag, pennant, or insignia of any nation, state, city, or other political unit, school, or religion.

*Sign face area:* The area of any regular geometric shape which contains the entire surface area of a sign upon which information or “message” may be placed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Structure:* Any object, the whole or parts of which are constructed, erected or arranged by human agency, the use of which requires a location on the ground or attached to something having a location on the ground.

*Subdivision:* The division or redivision of a parcel of land into two or more parcels as provided for in the Town of *Perdido Beach Subdivision Regulations*.

*Temporary Use Permit:* A permit allowing use of temporary structures as described in Section 12.2 of this ordinance.

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*Tourist home:* A building, or part thereof, other than a motel or hotel, used for vacation residential purposes for compensation.

*Tower:* Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna, including, but not limited to, self supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers wind electricity generating equipment, or other devices installed more than ten (10) feet above the ground. (see also *antenna support structure*)

*Town:* The Town of Perdido Beach, Alabama.

*Town Council:* The Town Council of the Town of Perdido Beach, Alabama.

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

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

- (a) Broadcasting stations and radio, television and telephone transmission towers.
- (b) Utility facilities, such as water plants, wastewater treatment plants, sanitary landfill operations and electric power substations.
- (c) Maintenance facilities and storage yards for schools, government agencies, and telephone and cable companies.
- (d) Airports, airfields, and truck or bus terminals.
- (e) Railroad stations, terminals, yards and service facilities.

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

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

*Vehicle sign:* Any sign affixed to or made a part of a vehicle.

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

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

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

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

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

*Yard:* A space on the same lot with a principal building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted and comply with applicable building codes.

*Yard, front:* A yard extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. On waterfront lots the front yard shall be considered from the front line of the principal building to the waterfront property line.

*Yard, rear:* A yard extending the full width of the lot between the rear line of the principal building projected to the side lines of the lot and the rear lot line. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.

*Yard, side:* A yard, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the parallel to the street upon which the lot has its greatest dimension shall be considered to be a side yard.

*Zoning Administrator:* The Zoning Administrator or his/her designee. The Zoning Administrator shall be responsible for administering these zoning ordinances.

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

*Zoning Board of Adjustment:* A board created by the Perdido Beach Town Council in accordance with Alabama Code Section 11-52-80 to hear and decide appeals, special exceptions and variances from the terms of the zoning ordinance.

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

*Zoning map:* The map or maps which are a part of these zoning ordinances and which delineate the boundaries of various zoning districts.

## **Article XXIII Table of Permitted Uses**

### **Section 23.1 Use of Land and Structures**

No building, structure or land shall be used or occupied and no building or part thereof shall be erected, constructed, moved or altered except in conformity this ordinance and the uses specified in the table of permitted uses for the zoning district in which it is or is to be located.

### **Section 23.2 Permitted Uses**

Uses in the table of permitted uses identified by “P” are permitted as of right, subject to the conditions specified in this ordinance.

### **Section 23.3 Special Exceptions**

Uses in the table of permitted uses identified by “S” are permitted upon special exception approval by the Board of Adjustment.

### **Section 23.4 Conditional Uses**

Uses in the table of permitted uses identified by “C” are permitted upon conditional use approval by the Planning Commission as to location and the site plan appropriate with regard to transportation, access, water supply, waste disposal, fire, police protection and other public facilities; as not causing undue traffic congestion or creating a traffic hazard; and in harmony with the orderly and appropriate development of the district in which the development is to occur.

### **Section 23.5 Prohibited Uses**

Where any use or analogous use has blank spaces under any zoning district listed in the headings of the table of permitted uses, such use is specifically prohibited in such zoning district.

### **Section 23.6 Unlisted Uses**

In any case where a requested use is not specifically provided, such use is prohibited unless the Town Council elects to amend this ordinance to include it.

### **Section 23.7 Business Uses**

Any use description (“P”, “C”, or “S”) which is marked under zoning district B-1 shall, unless expressly marked with a different designation, apply with the same letter description to zoning district B-2.

**Figure 1: Table of Permitted Uses**

	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
<b>RESIDENTIAL USES</b>										
Accessory Dwelling	P		P	P	C					
Accessory structures and uses	P	P	P	P	P	P	P	P	P	P
Boarding, rooming or lodging house, dormitory						P	P			P
Cluster Development										
Condominiums										
Mobile home										
Manufactured Homes	P		P	P	P					
Modular Homes	P	P	P	P	P					
Multiple family dwellings										
Single family dwelling,	P	P	P	P	P					
Townhouse										
Two family dwelling										
<b>AGRICULTURE USES</b>										
Agriculture	P	C	C							
Animal raising	P		C							
Dairying	P									
Farming	P									
Floriculture	P	C	C							
Hatchery, poultry and fish	P		S							

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Horticulture	P	C	C							
Pasturage	P		C							
Silviculture	P	P	P	P	P	P	P	P	P	P
Stables, Public	P	C	C							
<b>INSTITUTIONAL USES</b>										
Ambulance/EMS Service	C					P	P			P
Art gallery or museum						P	P			
Child Care Center	C					P	P			
Church or similar religious facility	P		P	P	P	P	P	P	P	
City hall or courthouse						P	P			
Club	C						C	C		
Convalescent or Nursing Home										
Correctional, detention, or penal institution										
Day care home	C		C	C	C					
Dog Pound										
Fire station	C	C	C	C	C					P
Library						P	P			
Police station	P					P	P			
Post office						P	P			
Sanitarium										
School (public or private)	C		C	C		P	P			
Teen club or youth center	C									
YMCA, YWCA	C									

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
<b>PROFESSIONAL SERVICE &amp; OFFICE USE</b>										
Bank							P			P
Barber shop or beauty parlor						P	P			P
Clinic or doctor office (medical, dental, psychiatric)						P	P			P
Laboratory, scientific, medical, dental						P	P			
Mixed commercial/residential						C	C			
Office						P	P	P		P
Optician						P	P			
Studio for dance, music, photography, painting, etc.						P	P			
<b>LOCAL COMMERCIAL USES</b>										
Antique store							P			
Apparel and accessory store							P			
Appliance store including repair							P			
Art supplies							P			
Automobile parts sales							P			P
Bakery retail							P			
Bed and breakfast or tourist home	C		C	C	C	P	P	P		
Bicycle sales and service							P			

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Boat Repair							P	C		P
Book Store							P			
Café							P	P		P
Camera and photo shop							P	P		
Candy store							P			
Catering shop or service							P			
Copy shop							P			
Delicatessen							P	P		P
Discount/variety store (not to exceed 8,000 square feet)							P			
Drug store (not to exceed 8,000 square feet)							P			
Fixture sales							P			
Floor covering sales or service							P			
Florist							P			
Fruit and produce store							P			
Gift shop							P	P		
Hardware store, retail							P			P
Ice cream parlor							P	P		
Interior decorating shop							P			
Laundry, self service							C			C
Laundry and dry cleaning store										C
Locksmith							P			P
Music store							P			P

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Neighborhood convenience store							P			P
News stand							P			P
Paint and wallpaper store							P			P
Picture framing and/or mirror silvering							P			P
Restaurant							P	P		P
Shoe repair shop							P			P
Shoe store							P			P
Sign shop							P			P
Sporting goods store							P			P
Tailor shop							P			P
Tobacco store							P			P
Toy store							P			P

<b>GENERAL COMMERCIAL USES</b>										
Air conditioning sales and service							P			P
Adult entertainment										
Animal clinic/kennels							C			P
Auto convenience market							C			P
Auto parts sales										P
Automobile repair (mechanical and body)										C

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Automobile service station							C			C
Bakery, wholesale										P
Business machine sales and service							C			P
Butane gas sales										P
Car wash							C			P
Convenience store										P
Country club	C					C	C	C		C
Department store							C			P
Discount/variety store (exceeding 8,000 sq.ft.)										P
Drug Store (exceeding 8,000 sq ft)										P
Elevator maintenance service										P
Exterminator service office										C
Farm implement sales & repair	P									C
Farmer's market/truck crops	P						P			P
Firing Range, indoor	S									
Fitness center or gym							C			P
Golf driving range	C									P
Grocery store							C			P
Landscape sales							C			P
Lawnmower sales and service							C			P
Liquor store							C			C
Miniature golf										P

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Mini-warehouse							C			C
Movie theatre/playhouse							C			
Night club, bar, tavern										
Nursery	P						C			P
Office equipment and supplies sales							C			P
Pet shop							C			P
Plumbing shop							C			P
Printing and publishing establishment										P
Restaurant, drive-in							C			P
Restaurant, fast food							C			P
Restaurant sales and supplies										P
Rug and/or drapery cleaning service										C
Seafood store							C	C		C
Stone monument sales										P
Taxidermy										C
<b>OUTDOOR RECREATION USES</b>										
Ball fields									C	
Conservation easement	P	P	P							
Golf course									C	
Park, playground, public park, public pier, public boat launch and other outdoor recreational uses.(see definition)									C	
Riding academy									C	
Swimming pool (outdoor)									C	

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Tennis court (outdoor)									C	
Wildlife sanctuary	C	C	C						C	
<b>MARINE RECREATION USES</b>										
Bait store							P	P		P
Boat sales and service								P		P
Marina								P		P
Marine store and supplies							C	P		P

<b>TRANSPORTATION, COMMUNICATION &amp; UTILITY USES</b>										
Landfill										
Sewage treatment plant										
<b>LIGHT INDUSTRIAL USES</b>										
Boat Building										P
Cabinet shop							C			P
Contractor's yard										C
Ice plant								C		C
Junk Yard										
Lumberyard										C
Machine shop										C
Machinery, tools and construction equipment sales and service										C

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	RA	CR	E-R	R-1	R-2	B-1	B-2	MR	OR	I
Manufacturing, repair, assembly or processing establishments of a light industrial nature including: food and milk products; clothing; musical instruments; optical, medical & electronic equipment; souvenirs and novelties; toys, sporting goods & athletic goods;										C
Millwork										C
Vehicle Wrecking										
Warehouse and storage facilities	C									C
Welding shop										P