

ARTICLE 5
SUPPLEMENTARY REGULATIONS
(rev. 02/01/2011 unless otherwise noted)

5.01 INTERSECTION VISIBILITY

No planting shall be maintained and no fence, building, wall or other structure shall be constructed after the effective date of this Ordinance at all street intersections, if such planting or structure thereby obstructs vision at any point over a height of 3' above the established grade of the street at the property line within a triangle formed by the street lot lines of such lot and a line drawn between the point along such street lot lines 30' distant from their point of intersection.

5.02 YARD REGULATIONS

5.0201 Projections into Yards

5.020101 Residential Uses in all Districts

Any projection attached to the primary structure that encroaches into the required setback, e.g., window air conditioners, bay windows, porches, balconies, stair wells, eaves, decks (covered and uncovered), awnings or other coverings, may only do so to a maximum of 20% of the minimum required setback listed in Table 4.03 Minimum Setbacks.

5.020102 Pumps and Pump Islands

Service station pumps and pump islands may occupy the required yards in districts where gasoline service stations are permitted; provided, however that they are not less than 40' from the street rights of way. Above- and/or underground fuel tanks are considered integral components of service station pumps and pump islands, and must meet their same setback requirements. A canopy above service station pumps and pump islands, if detached from the principal structure, is considered an accessory structure.

5.0202 Official Street Line

Where an official line has been established for the future widening or opening of a street upon which a lot abuts, such official line shall be considered as the property line.

5.0203 Double Frontage

On double frontage (not corner lots) lots, the required front yard shall be provided on each street except where a note appears on a recorded plat restricting access to one of the abutting streets; in such case the required rear yard shall be the minimum as required by the applicable zoning district.

5.03 FENCES AND HEDGES

All fences or hedges within the required yard areas shall conform to the following regulations except where special requirements are set forth for specific screening purposes elsewhere in this Ordinance or where modifications are required to meet the requirements of other Sections of this Ordinance. Fences and walls are not accessory structures. Fences and walls may be constructed on any lot whether or not there is a principal structure located on the lot.

5.0301 Front Yards

To ensure maximum sight distance along all roadways within the City, all walls and fences within a required front setback shall not exceed 4' in height, except walls and fences of greater height may be permitted to

enclose garbage and trash receptacles and above-ground components of a public utility system, provided the Zoning Official determines that:

- a. The area enclosed and the height of walls and fences are the minimum necessary to screen such facilities from view;
- b. It is not practical to locate such facilities in locations other than in a required front yard;
- c. The encroachment of such walls and fences onto a required front yard is the minimum necessary;
- d. The materials used, and the method of construction for such walls or fences meet all standards prescribed by the City of Orange Beach;
- e. The maximum height of any wall or fence used for the enclosure of such facilities is the minimum necessary and in no case shall the height exceed 6’.
- f. In the case of screening trash receptacles, no trash, garbage, empty boxes or other containers, may be stored outside the fenced area.

5.0302 Side and Rear Yards

All fences within the required side or rear yards shall not exceed 6’ in height. A street-corner side yard shall be considered a front yard for these purposes, and shall conform to the requirements stated for a front yard.

5.0303 Screens for Garbage and Trash Receptacles

A 6’ high fence shall be required to screen garbage and trash receptacles/containers for businesses, industrial, PUDs and multi-family developments from public view. The fence shall be constructed on at least three sides of the receptacles with any non-constructed opening away from the primary line of sight. No trash or garbage, including empty boxes and other containers, may be stored outside of this fenced area.

5.04 ACCESSORY STRUCTURES AND/OR BUILDINGS

All accessory structures and/or buildings shall conform to the regulations of this section unless specifically excepted by other provisions of this Ordinance. In addition, necessary essential service facilities and other improvements related to the provision of basic services such as fire hydrants, outdoor lighting, mailboxes, or integral components of underground utilities are not intended to be restricted from required yard areas or defined as accessory structures. Signs are defined as accessory structures, but are not intended to be restricted from required front and rear yard areas; however, side setbacks still remain in effect.

5.0401 Placement of Unattached Accessory Structure and/or Buildings

- a. An accessory structure or building may be constructed in a side, front or rear yard provided such accessory building does not occupy more than 15% of the area of the front or rear yard, is not closer than 5’ from any side or rear lot line, or 30’ from any front lot line, and does not exceed 20’ in height.
- b. Accessory structures and/or buildings shall not be located between any principal building and a street right-of-way.

5.0402 Portable Buildings

Portable buildings affiliated with new construction may be permitted after receipt of a building permit issued by the Orange Beach Building Official. No portable building shall be permitted on any parcel of land except upon the approval of a temporary permit by the Council. Residential storage buildings are exempted from this requirement.

5.0403 Time of Construction

No accessory structure and/or building shall be constructed upon a lot until the construction of the principal building has been commenced. No accessory structure and/or building shall be used unless the principal building on the lot is also being used.

5.05 HEIGHT REGULATIONS

The height regulations as prescribed in this Ordinance, including the height restrictions of the Overlay Districts, shall not apply to the following structures and structural elements: belfries, chimneys, church steeples or spires, cooling towers, elevator bulkheads, fire towers, flag poles, tanks, water towers, mechanical equipment rooms not exceeding 10% of roof area and not exceeding height regulations by more than 10', 1 television antenna per principal structure not exceeding height regulations by more than 10'; provided, however, that no sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any antenna, tower or other structure which exceeds above the roof of the principal structure or height regulations. The height regulations as prescribed in this Ordinance, including the height restrictions of Overlay Districts, shall not apply to publicly owned or operated facilities, nor to telecommunications towers as provided for in the City's Wireless Telecommunications Facilities Ordinance.

5.06 NUMBER OF PRINCIPAL BUILDINGS ON LOT

5.0601 Number

Only one principal residential building and one accessory building may be erected on any lot located within an RS zoning district. If a lot has a minimum of 75 feet of road frontage and at least 26,250 square feet, two principal single-family structures or one principal duplex may be constructed. However, no lot may have a density to exceed two (2) living units, single family or duplex.

5.0602 Space between Buildings

On any lot where more than one principal building is allowed, the space between buildings shall not be less than:

- 30' between two rear walls (except in PUD or MR districts);
- 40' between a front and a rear/side wall (except in PUD or MR districts);
- 50' between two front walls (except in PUD or MR districts);
- 20' between two side walls (except in PUD or MR districts);
- 20' between a side and a rear wall (except in PUD or MR districts).

Buildings of three or less stories in height require a minimum distance of 20' between two buildings on the same lot. For every floor over three floors, an additional 2' shall be added to this distance requirement (except in PUD or MR districts).

5.0603 Definition

For the purposes of this Section, a principal building is enclosed by a continuous wall on all sides. Joining two principal single family or duplex buildings with a walkway which is open on one or more sides is permitted only when the two opposite walls joined by such walkway are separated by spaces required by this Section. Accessory structures may only be joined to a principal structure if the joining does not create a non conformity. Commercial and industrially zoned buildings may be not joined under this Section.

5.07 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved or structurally altered shall not be encroached upon or considered to meet the yard or open space requirements of any other building except as provided elsewhere in this Ordinance.

5.08 STREET ACCESS AND IDENTIFICATION

5.0801 No building shall be erected on a lot, which does not abut a public street or a minimum 24-foot width permanent access easement.

5.0802 It shall be unlawful to name, place identification, re-name, change identification or otherwise cause any street, access, easement or other way to be identified by any means which has not been expressly approved by the Orange Beach City Council, except when the Planning Commission approves the names of streets that are submitted as part of a subdivision plat. A request for a name change to an existing named street, easement or other access way whether public or private on which building or house numbers have been issued, shall be submitted to the Department of Community Development. After review by the various City departments to ensure there is no duplication or inconsistencies, the request will be forwarded to the City Council for their consideration.

5.09 SERVICE STATIONS

5.0901 Location of Exits and Entrances

Entrances and exits for vehicles to and from gasoline service stations shall not be closer than 20' to an intersection of street right-of-way lines.

5.0902 Lot Size

Gasoline service stations shall be located on a lot not less than 20,000 square feet and have a minimum frontage of 100'.

5.0903 Location of Oil Drainage Pits and Hydraulic Lifts

All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than 50' to an abutting residential district lot line and no closer than 25' to any other lot line.

5.0904 Mechanical Repair

All permitted mechanical repair work shall be conducted within an enclosed structure and shall be located no closer than 50' to any abutting residential district lot line and no closer than 25' to any other lot line.

5.0905 Gasoline Pumps

Gasoline service stations shall have their gasoline pumps, including other service facilities, set back at least 20' from any front lot line and 30' from any other lot line.

5.0906 Storage of Vehicles

No storage of vehicles shall be permitted for periods in excess of 30 days.

5.0907 Prior-Operation Requirements

Prior to obtaining a building permit, such service station business shall provide a copy of the underground tank approval from the Alabama Department of Environmental Management to the Department of Community Development which shall be forwarded to the Fire Department.

5.10 TOWNHOUSES

A single-building townhouse is permitted in all districts permitting multi-family housing and shall conform to all regulations of the district in which it is located unless specifically exempted by this Section. The following general set of standards shall be used by the City in reviewing plans for such development:

- A. No less than two nor more than six townhouses shall be located within a continuous building group and no interconnection or overlapping between building groups shall be less than that required for individual multi-family structures otherwise stated in this Ordinance. Side yard requirements for the district in which townhouses are located will be waived so that individual housing units within a group can share common walls; however, no building group shall be nearer to the side lines of the overall lot than the required side yard setback for the district in which the townhouse development is located, and the distances between townhouse groups shall conform to the side yard setbacks.
- B. The design of townhouse developments must provide for internal traffic circulation and appropriate access for service and emergency vehicles.
- C. Townhouse developments shall comply with one of the following methods of land transfer and ownership:
 - 1. The subdivision of the whole tract into individual parcels in accordance with this Ordinance, together with the platting of the property for record in accordance with the City's Subdivision Regulations; or
 - 2. Providing for the development of the entire tract in accordance with this Ordinance, retaining, however, title to all the lands in the name of the condominium owners, and providing for all other usual condominium documents and procedures; or
 - 3. Providing for the development of the entire tract in accordance with this Ordinance, retaining, however, title to all the lands in a single ownership by recording a duly executed declaration of restrictions in the office of the Baldwin County Probate Judge, thereby stipulating that said tract shall not be eligible for further subdivision.

5.11 AGRICULTURE AND RELATED USES

Agriculture and related uses are permitted by right in AG on any size parcel, and by right in RS-1, RS-2, AG and I-1 Districts on parcels containing three acres or more subject to the following conditions:

- A. Land used for agricultural purposes including farming, horticulture, truck gardens and commercial nurseries and the sale of products raised on the premises, provided processing of such products for sale shall be limited to sorting and grading, and shall not include cooking, canning, juice manufacture or slaughtering and cleaning of animals or poultry;
- B. Establishments for housing and treatment of domestic animals, provided that any treatment rooms, cages, pens or kennels be maintained in such a way as to produce no objectionable odors outside its walls;
- C. Private or commercial stables; and
- D. Incidental accessory uses including sheds, barns and facilities for packing and storing agriculture products.

No farm animals may be kept on parcels smaller than three acres.

This Section is not intended to restrict small private gardens maintained by private property owners.

5.12 NONCONFORMING USES AND STRUCTURES

5.1201 Intent

Within the City of Orange Beach there exist land, lots, buildings, and structures, and uses of land, lots, buildings and structures, which were lawful before the time of passage of this Zoning Ordinance, but which are now prohibited or restricted. It is the intent of this Zoning Ordinance to permit these nonconformity's to continue unless they are destroyed 50% or more and/or they are removed in accordance with the provisions contained herein, provided that during that time the nonconformity shall not be enlarged, expanded, extended, or intensified, nor be used as a basis for adding any other structures or uses prohibited within a district.

Any conforming use, structure or lot legally existing under the provisions of this chapter shall not be rendered nonconforming by action of the City, County, or State of Alabama in the acquisition of property for street or drainage right-of-way.

5.1202 Nonconforming Use of Land

In any district where land is being used in a nonconforming manner and such use is the primary or main use to the main use conducted in a building, such use shall be discontinued if:

- a. The non-conforming use is vacated or abandoned, or
- b. The non-conforming use is not used for a continuous period of 180 days whether or not any structures, equipment or fixtures are removed.

Such nonconforming use shall not be enlarged, expanded, extended or intensified either on the same or adjoining property.

5.1203 Nonconforming Uses of Buildings and Structures

A nonconforming use of a building or structure, or of a building or structure and land in combination, existing at the effective date of this Ordinance which would not be allowed in the district where it is located under the provisions of this Ordinance, may be continued subject to the following limitations:

- a. Existing buildings or structures devoted to a use not permitted in the district in which it is located shall not be enlarged, expanded, extended, moved or structurally altered, except in changing the use of the building or structure to a use permitted in the district, subject to the following exceptions:
 - 1. Repairs to a nonconforming use building or structure which in conjunction with any prior repairs do not amount to a substantial reconstruction or structural alteration (50% of value of building or structure only, not including land, as determined by the City Building Official);
 - 2. Minor alterations within the perimeter of the building or structure;
 - 3. The fencing in or screening of a nonconforming building or structure for the purposes of security, safety, reduced liability, or improved appearance, as long as such fence or screening is the minimum reasonably necessary for such purpose and complies with the requirements of this Ordinance.
- b. If the use of the building or structure or part of such building or structure which is nonconforming under the provisions of this Ordinance, is changed in any manner, then the use must be changed to one permitted within the district.
- c. There may be a change of tenant, ownership or management of a nonconforming use, provided there is no change in the nature, character, size or intensity of such nonconforming use.
- d. When a nonconforming use of a building or structure, or a building or structure and land in combination, is discontinued, or such building is vacated or abandoned, or not used for a continuous period of 180 days, whether or not the equipment or fixtures are removed, such building or structure, or building or structure and land in combination, shall not thereafter be used for any nonconforming use.
- e. A nonconforming use of a building or structure, or building or structure and land in combination, shall be discontinued, and shall thereafter be required to comply with the provisions of this Ordinance, if the building or structure or that portion of a building or structure in which such use is exclusively located is damaged or destroyed by any cause whatever to the extent of 50% or more of the value as determined by the City Building Official; provided further that such building or structure shall not be rebuilt or restored except in conformity with the provisions of this Ordinance.

5.1204 Expansion of a Nonconforming Building

A building or structure which is nonconforming due to noncompliance with design requirements (such as setback, height, etc) of this Ordinance may be enlarged, expanded, altered, or extended subject to the following:

- a. The addition, enlargement, expansion or alteration shall be limited to that portion of the building or structure which is in compliance with the design requirements (setback, height, etc.) of this Ordinance.
- b. The addition, enlargement, expansion or alteration shall be required to comply with the current design requirements of this Ordinance and shall not increase, expand, enlarge, extend or alter the existing nonconformity of the building/structure.

5.1205 Nonconforming Mobile Homes

Nonconforming mobile homes existing in any residential district prior to the adoption of this Ordinance may remain, provided that:

- a. It does not remain idle or unused or is vacant or abandoned for a continuous period of 180 days, whether or not fixtures or equipment are removed; if such mobile home is idle, unused, vacant or abandoned for such period of time, it shall be removed and shall not be replaced; and
- b. Any mobile home that is damaged or destroyed by any cause whatever to the extent of 50% or more of the value of the mobile home, as determined by the City Building Official, shall not be repaired, restored or replaced.

Nonconforming mobile homes existing in any zoning district prior to the adoption of this Ordinance may remain. Mobile homes removed for any purpose shall not be re-established. An existing mobile home shall not be replaced with a new one, except in a designated and zoned MHP/MHS district and which meets all the requirements of that district.

5.1206 Nonconforming Hotels and Multi-family Residences

Nonconforming structures existing prior to the adoption of this Ordinance may remain provided that any structure that is damaged or destroyed by any cause whatever to the extent 50% or more of its value, as determined by the City Building Official, shall not be repaired, restored or replaced in its nonconforming configuration.

5.1207 Administration

The determination of nonconforming use shall be a question of fact and shall be made by the Zoning Official. In the event that a challenge is raised or in case of doubt, the question shall be referred to the Board of Adjustment for determination after public notice and hearing in accordance with the Rules of the Board.

5.13 HOME OCCUPATIONS

5.1301 General Restrictions

Home occupations shall be clearly incidental to the residential character 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 area due to potential noise, increased pedestrian and vehicular traffic or any other conditions which would constitute an objectionable use of residentially zoned property. No more than one home occupation is permitted in a residential dwelling.

5.1302 Limitations on Home Occupations

- a. Area used for a home occupation(s) shall not exceed 25% of the gross floor area of the residence.
- b. The home occupation(s) shall be confined entirely to the principal building.
- c. Employment shall be limited to members of the family owning and residing in the dwelling, and there shall be no other employees.

- d. No internal or external addition, alteration or remodeling of the dwelling is permitted in connection with the home occupation(s).
- e. Chemical, mechanical or electrical equipment that creates odors, light, glare, noises, or interference in radio or television reception detectable outside of the dwelling shall be prohibited.
- f. 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 within the premises.
- g. Instruction in music, dancing and similar subjects shall be limited to a maximum of two students at a time.
- h. The activity carried on, as a home occupation shall be limited to the hours between 7:00 a.m. and 7:00 p.m.
- i. All signs must be in compliance with the Sign Ordinance of the City.
- j. Automobile parking for the home occupation must be completely contained within the Property; no on-street parking will be allowed.
- k. Customary home occupations shall not include the following:
 - 1. Uses which do not meet the above-listed provisions;
 - 2. Automobile and/or body and fender repairing;
 - 3. Multi-chair barber shops and beauty parlors;
 - 4. Food handling, processing or packing;
 - 5. Repair, manufacturing and processing uses; however, this shall not exclude the home occupation of a dressmaker where goods are not manufactured for stock, sale or distribution;
 - 6. Restaurants;
 - 7. Uses which entail the harboring, training, raising or treatments of dogs, cats, birds or other animals;
 - 8. Palmistry and other fortune telling activities.
 - 9. Dance studios;
 - 10. Nursery schools;
 - 11. Restaurants.

5.1303 Charter Boat Fishing and Charter Vessels as a Home Occupation

Charter boat fishing and charter vessels are allowed as a home occupation under the following exceptions to those aforementioned requirements:

- a. No more than two persons other than the immediate family are employed in the business

5.14 SATELLITE RECEIVING DISHES AND ANTENNAE

5.1401 Satellite Receiving Dishes

Satellite receiving dishes are permitted accessory uses in any district, provided they comply with the setback, height, and other standards of this Ordinance. In any district, the dish antenna shall be located to the rear of the front building line and must be setback 10' from any interior or rear lot line. Special setbacks indicated herein apply on corner lots. The dish antenna together with the principal building and accessory building may not exceed the maximum lot coverage permitted in the district in which it is located. In residential districts where the antenna is detached from the main building, its maximum height may not exceed 15'. Installation and construction must also comply with the building code. No form of advertising or identification is allowed on the dish or framework other than manufacturer's small identification plates.

5.1402 Antennae

Antennae and radio tower installations are not included in the determination of building heights.

5.1403 Telecommunication Towers and Antennas (repealed by Ordinance No. 2002-670)

5.15 WATER SUPPLY AND FIRE HYDRANTS

5.1501 Requirements

No shopping center, commercial, residential, or multi-family development shall be constructed or developed within the City of Orange Beach unless each structure is served by fire hydrants installed in accordance with the following requirements.

5.150101 Specifications

Fire hydrants must conform to specifications for National Standard Fire Hydrants for ordinary water works service of the American Water Works Association (AWWA).

5.150102 Installation

Fire hydrants must be installed in accordance with the National Fire Protection Association standards. The barrel of the fire hydrant shall be perpendicular with the ground with the lowest discharge not less than 15" above grade, and the large pumper connection facing the street.

5.150103 Outlets

Fire hydrants shall be equipped with not less than one 4½" outlet, and two 2½" outlets.

5.150104 Water Systems

Public Water System: Where a public water supply system is reasonably available, it shall be extended by the owner/developer to serve the subdivision. The design and specifications of the water distribution system shall meet the standards established by the Orange Beach Water, Sewer and Fire Protection Authority. The system shall be designed with minimum 8" mains to provide maximum day domestic requirements at residual pressures of not less than 20 pounds per square inch, in addition to fire flows of at least 500 gallons per minute in commercial, industrial, institutional and multi-family residential areas. Water mains shall be required on all streets and shall be looped. The distribution system shall provide connections

to each individual lot shown in the subdivision, to each public facility and to areas reserved for nonresidential uses. Plans for the system shall be fully approved by the Orange Beach Water, Sewer and Fire Protection Agency and by the City Fire Chief or his designee.

5.150105 Location

In all residential developments, fire hydrants shall be placed at each street intersection and spaced intermittently not more than 500' apart, with additional fire hydrants located as necessary to permit all portions of buildings to be reached by hose lay of not more than 400'. In all shopping centers, commercial and industrial developments, fire hydrants shall be spaced not more than 300' apart, with additional fire hydrants located as necessary so as to permit all portions of buildings to be reached by hose lays of not more than 300'. In commercial developments that are developed with streets, fire hydrants shall be placed at each street intersection with intermittent hydrants between intersections spaced not more than 300' apart, with additional hydrants located as necessary so as to permit all portions of buildings to be reached by hose lays of not more than 300'.

5.150106 Flows and Pressures

Water mains shall be interconnected or looped at intervals not exceeding 600' on 8" diameter mains. Where it is necessary to make dead-end extensions from the water system, such extensions shall be capable of providing 500 gallons per minute, an adequate fire flow at a static pressure of not less than 40 pounds per square inch (psi), and a residual pressure of not less than 20 psi, and such extension shall not exceed 1,500' on an 8" diameter main. The Insurance Service Office (ISO) guide for determination of required fire flow will be used in estimating the fire flow required for a given fire area which is based on the type of construction and the separation of buildings. The ISO guides are available in the office of the Fire Chief.

5.150107 Maps

A map, grid, or a blue print indicating the size of mains and location of hydrants and valves shall be provided to the Orange Beach Water, Sewer and Fire Protection Authority and the Orange Beach Fire Department for approval prior to any water mains or the construction of any buildings in any development. The Orange Beach Water, Sewer and Fire Protection Authority and the Orange Beach Fire Department must approve the proposed main sizes and location of hydrants and valves before any construction commences.

5.1502 Permits

No building permit, approval, or other permission of any kind shall be issued for construction or development of any shopping center, commercial, multi-family, or residential development which does not comply with the provisions of this Ordinance. Water mains and fire hydrants shall be installed, be under water pressure, and ready for firefighting before any sheathing may be installed on walls and on roof of any building in a development.

5.16 RECREATIONAL VEHICLES AND BOATS AS RESIDENCES

5.1601 Recreational Vehicles as Residences

- a. No recreational vehicle shall be used as a residence. Occupied recreational vehicles are allowed only in recreational vehicle parks and designated areas of mobile home parks.

Unoccupied recreational vehicles may be parked at an owner's residence or business but may not be hooked up to water and sewer and occupied.

- b. Recreational vehicles may be used by a homeowner while he/she is building a residence. The RV must be hooked up to water and sewer/septic tank, and the owner must have garbage service. The RV cannot be occupied longer than 6 months while the residence is under construction.

5.1602 Boats as Residences

No boat may be docked at a lot which does not provide berthside sewage disposal/central sewage facilities for the boat's use. No boat may be docked at a lot which does not contain a principal building. All boats docked at lots shall be equipped with minimum Class III nondischarge and marine sanitation devices. No boat docked at a lot may be used as a residence.

5.17 EXCAVATION OF MATERIAL

The excavation and/or removal of material for a boat slip(s) may not occur if such excavation and/or removal reduces the property lot size to less than the minimum square footage required for the usage and District.

5.18 REGULATION OF PEDDLERS, PALM READERS, AND FLEA MARKETS (rev. 06/01/2010)

5.1801 Findings

- a. As an Alabama Class 8 municipality, the City of Orange Beach is vested with a portion of the State's sovereign power to protect the public's health, safety and welfare.
- b. The City is a resort island community with an economy based on the tourism industry.
- c. The City encourages business that will make the City a vital, attractive community to serve both residents and the thousands of yearly visitors.
- d. Door to door peddling and solicitation is considered commercial speech which receives limited constitutional protection.
- e. The City is concerned about the nuisance and possible increase of crime associated with door-to-door peddling and solicitation.
- f. The City wishes to facilitate those persons conducting the business of peddling and solicitation.

5.1802 Definitions

The following words, phrases, and their derivations, as used herein, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

- a. ***Peddler*** means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes

deliveries to purchasers as part of the scheme to evade the provisions of this Section. Peddler does not include a person who distributes handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to a resident for purchase at a location away from his / her residence or at a time different from the time of the visit.

- b. **Solicitor** means any person who goes upon the premises of any private residence in the City, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property, to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.
- c. **Canvasser** means any person who attempts to make personal contact with a resident at his / her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.
- d. **Permit** in this section means a permit to peddle or solicit within the City of Orange Beach, Alabama.
- e. **Flea Market** means any market consisting of a number of individual stalls or tables, rented for a period to time, selling old or used articles, curios and antiques, cut-rate merchandise, etc.

5.1803 Districts of Operation

Peddlers and Solicitors may conduct their business only in the RM-1, RS-1, RS-2 and RS-3 district and police jurisdiction of the City of Orange Beach, Alabama. Flea markets may conduct its business only in the I-1 district. No business may be conducted on public rights-of-way.

5.1804 Permit Requirements and Exemptions

It shall be unlawful for any person nineteen (19) years of age or older to engage in peddling within the City of Orange Beach without first obtaining a permit issued by the Finance Department. The following are exempted from the permit requirement:

- a. Farmers or truck gardeners selling or offering for sale any product(s) grown, raised or produced by them, the sale of which is not otherwise prohibited or regulated, and further provided that such sale or offering for sale takes place on the property which produces these products, and does not take place on any public rights-of-way;
- b. All real estate sales;
- c. Any person under nineteen (19) year of age engaged in sale on foot, under the direct supervision of any school or of any recognized charitable or religious organization;
- d. Auction sales held pursuant to law by a Sheriff, City Official, or other officer authorized by law to conduct such sale;
- e. Sales made by a licensed wholesaler to the licensed retailer;

- f. Canvassers as defined in Section 5.1802, c.

5.1805 Flea Market Building Requirements

All flea markets within the City of Orange Beach shall be conducted within a walled structure which meets the applicable City building codes for construction and provision of services for a market.

5.1806 Permit Application

Every person subject to the provisions of this Chapter shall file with the Finance Department an application in writing on a form to be furnished by the Department, which shall provide the following information:

- a. Proof of age, address and identification of the applicant, to be provided through the applicant's driver's license or other legally recognized form of identification;
- b. A brief description of the business or activity to be conducted and the expected duration of the business or activity;
- c. If employed, the name, address and telephone number of the employer; or, if acting as an agent, the name, address and telephone number of the principal who is being represented, with written credentials establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;
- d. A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and the place where the offense occurred, and other pertinent details thereof;
- e. Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this Chapter; and
- f. Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing of the application. The photographs shall measure two (2) inches by two (2) inches and show the head and shoulders of the applicant in a clear and distinguishing manner.

5.1807 Application Fee

At the time the application is filed with the Finance Department, the applicant shall pay a fee to cover the cost of processing the application and investigating the facts stated therein in the amount of one-hundred and twenty-five (\$125.00) dollars.

5.1808 Bond

All peddlers requiring cash deposits or taking orders for cash on delivery purchases or who require a contract or agreement to finance the sale of any goods, services, or merchandise for future delivery, or for services to be performed in the future, shall furnish to the Finance Department a bond in the amount of _____ dollars at the time the application is approved.

5.1809

Review of Application

- a. Upon receipt of the application, the Finance Department shall review it for completion and consistency with the official identification provided by the applicant. The Finance Department shall then present the application to the Police Department. The Police Chief or his designee may recommend denial of the permit for any of the following reasons:
1. The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 2. The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application;
 3. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application;
 4. There is no proof as to the authority of the applicant to serve as an agent to the principal; or
 5. The applicant has been denied a permit under this Chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the Police Chief or his designee that the reasons of such earlier denial no longer exist.
- b. The Police Chief or his designee shall note the reason for a recommendation of denial when such recommendation is provided to the Finance Department.

5.1810

Issuance of Permit

- a. The Finance Director or her designee shall issue a permit if there are no inconsistencies or incomplete information in the application and no recommendation of denial from the Police Chief.
- b. The permit shall display the name, address, and photograph of the permittee, the type of permit issued, the goods or services to be sold or delivered, and the date of issuance and expiration of the license.
- c. Permittees shall receive, free of charge, a copy of the "Do Not Solicit List" when the permit is issued.

5.1811

Permit Duration

No permit shall be issued for a period lasting longer than ninety (90) days.

5.1812

Permit Exhibition

Persons licensed according to the provisions of this Chapter shall, in the course of soliciting or peddling, exhibit their permit when requested to do so by a prospective customer.

5.1813 Transfer Prohibited

It shall be unlawful for a person other than the permittee to use the permit herein described.

5.1814 Do Not Solicit Restrictions

- a. It shall be unlawful for any peddler or solicitor to solicit business where a sign is placed in a predominant and noticeable manner which states “No Solicitation” or words of similar meaning.
- b. It shall be unlawful for any person to peddle or solicit at addresses appearing on the “Do Not Solicit List”.

5.1815 Do Not Solicit List

- a. Any person or entity who owns, leases or otherwise lawfully occupies property within the City of Orange Beach may register such property on a “Do Not Solicit List” maintained by the Finance Department.
- b. Persons desiring to register on the “Do Not Solicit List” shall register with the Finance Department at City Hall.
- c. To keep the “Do Not Solicit List” current, new owners will be asked if they want to be included on the list.
- d. The “Do Not Solicit List” provided to permittees shall contain only addresses with all other personal information removed so as to insure privacy.

5.1816 Hours of Peddling

It shall be unlawful for any person conducting the business of a peddler or solicitor to enter upon private property, knock on doors or otherwise disturb persons in their residences between the hours of 7:00 p.m. and 9:00 a.m.

5.1817 Penalties

A violation of the provisions of this Chapter shall be punishable, in accordance with Section 1-7(c) of the municipal code, with a fine totaling no more than five hundred dollars (\$500.00). Each day a violation exists shall be deemed a separate offense.

5.1818 Permit and/or License Revocation

Any permit and/or license may be revoked by the Finance Department for any of the following reasons:

- a. Fraud, misrepresentation, or false statement contained in the permit and/or license applications;
- b. Fraud, misrepresentation or false statement made by the permittee in the course of conducting business activities;
- c. Conducting peddling or soliciting activities contrary to the provisions contained in the permit and/or license;

- d. Conducting peddling or soliciting activities contrary to the provisions of this Chapter;
- e. Conviction of any crime stated in Sections 5.1807(a)(2) or 5.1807(a)(3) herein; or
- f. Conducting peddling or soliciting activities in such a manner as to create a public nuisance, constitute a breach of the peace or otherwise endanger the health, safety or general welfare of the public.

5.1819 Reports

- a. Reports of violation of this Chapter shall be kept by the Police Department and shall be issued to the Finance Department when a suspension or revocation of a permit and/or license is under review.
- b. The Chief of Police or his designee may suspend permit and/or licenses immediately, without notice or a hearing, if the public safety or welfare so requires or for any of the causes listed in Section 5.1816. Within twenty (20) days after such suspension, the Chief of Police or his designee shall report the suspension to the Finance Department.
- c. Upon such report, the Finance Department shall have the right to revoke the permit and/or license according to the procedure outlined in Sections 5.1818 and 5.1819.

5.1820 Notice of Denial, Suspension or Revocation

Notice of denial, suspension or revocation of a permit and/or license issued pursuant to this Chapter shall be provided in writing and shall set for the grounds for such denial, suspension or revocation. Notice shall be mailed to the permittee at the address provided on their application or at the last known address of the licensee.

5.1821 Appeals, Notice and Hearings

- a. Any person aggrieved by the denial, revocation, or suspension shall have the right to appeal to the City Council within fifteen (15) days after notice of the decision of the Finance Department has been delivered in person or mailed to the person's address as shown on the permit application or to the person's last known address.
- b. Such appeals are to be filed in writing, citing the grounds for the appeal, with the Finance Department.
- c. The Finance Department shall transmit the appeal to the City Clerk within ten (10) days of its receipt, and the City Clerk shall set a time and place for the hearing.
- d. Hearings shall be set no later than twenty (20) days from the date of receipt of the appellant's written statement by the City Clerk. Notice of the hearing shall be provided in the same manner described in Section 5.1818.

5.1822 Severability

The subsections, paragraphs, sentences, clauses and phrases of this Chapter are severable so that if any subsection, paragraph, sentence, clause and phrase of this Chapter is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other subsection, paragraph, sentence, clause and phrase of this Chapter, for the council declares it is its intent that it

would have enacted this Chapter and all provisions adopted by reference in this Chapter without such invalid or unconstitutional provisions.

5.19 PIERS, DECKS, AND PIER/BOAT HOUSES

5.1901 Regulations

All structures:

- a. Must meet all applicable regulations of the City’s Building Codes, including plumbing, electrical, etc.
- b. Must have construction approved by the U. S. Army Corps of Engineers and all other applicable local, State, and Federal agencies.
- c. Boathouses which are constructed on waterfront properties, are exempted from the rear yard setback requirements for accessory structures; however, they must comply with required side yard setbacks.
- d. Before any piers, decks and/or pier/boat houses are constructed, a building permit must be obtained from the Department of Community Development, as well as appropriate permits from other applicable State and Federal agencies.

5.20 ROTORCRAFT SIGHTSEEING BUSINESS

5.2001 Definitions

Rotorcraft: A heavier-than-air aircraft that derives its support in flight principally from lift generated by one or more rotors.

Rotorcraft Sightseeing Businesses may conduct their businesses in I-1 District or in an approved PUD zoning of not less than 20 acres in size of the Municipality of Orange Beach, Alabama, with the following regulations:

5.2002 Districts of Operation and Regulations

Rotorcraft Sightseeing Businesses in I-1 District or in an approved PUD zoning of not less than 20 acres in size of the Municipality of Orange Beach, Alabama, with the following regulations:

- a. Such business and rotorcraft utilized therein shall be insured against liability for personal injury in an amount not less than \$1,000,000.00 combined single-limit per occurrence, and against liability for property damage in an amount not less than \$50,000.00 per occurrence. The City of Orange Beach, Alabama, shall be included as an additional insured to receive a minimum of 10 days notice prior to cancellation.
- b. Each pilot flying a rotorcraft in such business shall register and keep updated the following information with the Orange Beach Department of Public Safety, such information to be registered before flying can be performed by said pilot:
 - 1. The pilot's name and address;
 - 2. A copy of the pilot's current Federal Aviation Administration license;
 - 3. The name, address and telephone number of the business for which the pilot is flying;

4. A copy of the pilot's current driver's license or other pictorial identification. Updates shall be required within 10 calendar days of any changes in the above-stated information.
- c. Such business and rotorcraft utilized therein shall be solely responsible for meeting all requirements and regulations of the Federal Aviation Administration and all other Federal and State agencies.
- d. All rotorcraft shall be equipped with an adequate muffler to prevent any excessive or unusual noise.
- e. Such business and rotorcraft shall be restricted to operations between 10:00 a.m. and dusk.
- f. All rotorcraft pilots shall familiarize themselves with the air space and air traffic requirements of all surrounding airfields so as to not interfere with normal air traffic operations.
- g. Minimum required parking spaces for a rotorcraft sightseeing business shall be one parking space per employee and one parking space per 500 square feet of pad area.
- h. Prior to operation start-up, such rotorcraft business shall provide to the Orange Beach Department of Public Safety:
 1. A copy of the Federal Aviation Administration heliport permit/license; and
 2. A copy of the Alabama Aeronautics Board heliport permit/license.

5.21 OPEN-AIR RESTAURANTS AND LOUNGES

Stand-alone open-air restaurants, lounges, bars, and/or any other establishment selling or serving beverages or food are prohibited.

5.22 OPEN-AIR MARKETS

5.2201 Definition

An open-air market is defined as a permanent structure, meeting the requirements of the Building Code, which sells produce and products of a similar nature, but is not confined within a walled structure. An open-air market is not a flea market.

5.2202 Districts of Operation

Open-air markets are allowed only in the I-1 Districts of the City of Orange Beach, Alabama. No business may be conducted on a public right-of-way.

5.23 PEDESTRIAN OVERPASSES

A pedestrian overpass is defined as a permanent structure designed to allow for the conveyance of people from one side of a public right-of-way or building to the opposite side of a public right-of-way or building. Overpasses must have a sufficient elevation or height of 13½ feet so as not to interfere with vehicular or public safety traffic on the public or private right-of-way. Pedestrian overpasses, bridges or other structures are prohibited over any public right-of-way, unless approved by the City Council after review by the Planning Commission.

5.24 VEHICULAR SALES

The offering for sale or trade of any type of vehicle, whether or not motorized, including but not limited to motor vehicles, trailers, boats and/or machinery on any vacant commercial or residential lot is hereby prohibited. However, one such motor vehicle, trailer, boat and/or machinery may be offered for sale or trade on a lot developed for commercial or residential use where the primary use is not the premises of a state licensed dealer.

This regulation does not prohibit the use of a properly zoned commercial property for the sale or trade of any type and number of vehicle(s) where the operator of the business is a state licensed dealer and holds a valid business license from the City of Orange Beach.

5.25 LIQUOR STORES, PACKAGE STORES, ALCOHOLIC BEVERAGE RETAILERS (rev. 02/01/2011)

5.2501 Definitions

- a. **Liquor store** means an establishment operated by the Alabama Alcoholic Beverage Control Board where alcoholic beverages other than beer are authorized to be sold in unopened containers and consumed off premise.
- b. **Package store** or **alcoholic beverage retailer** means an establishment licensed by the Alabama Alcoholic Beverage Control Board to engage in the retail sale of any alcoholic beverage to consumers and authorized to be sold in unopened containers and consumed off premise. This definition does not include convenient stores, drug stores, grocery stores and supermarkets that sell beer and wine as an accessory to the retail sale of food products and beverages, novelties, clothing or any other items of general merchandise.

5.2502 Districts of Operation

Liquor stores, package stores and alcoholic beverage retailers are allowed only in the BR, GB and I-1 districts of the City of Orange Beach, Alabama.

5.2503 Restrictions

- a. Shall not be located within 500 linear feet of RS zoned areas, schools and public parks.

5.26 BODY-PIERCING STUDIOS, NON-CHARTERED FINANCIAL INSTITUTIONS, PALM READERS, PAWN SHOPS, TATTOO PARLORS (rev. 02/01/2011)

5.2601 Definitions

- a. **Body-piercing studio** is an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of creating openings in the body of a person for the purpose of inserting jewelry or other decorations.
- b. **Non-chartered financial institution** is any business, other than a federally and state chartered bank, credit union, mortgage lender or savings and loan association that offers check cashing services, automobile title loans, and loans for payment of a percentage or graduated fee. Specifically included are check cashing and pawn shop businesses that charge a percentage or graduated fee for cashing a check or negotiable instrument and “payday loan” businesses which make loans upon

assignment of wages received or businesses that function as deferred presentment services.

- c. ***Palm reader*** is any person who practices, teaches, or professes to practice the business of astrology or the psychic arts and sciences for a fee, gift, donation or other valuable consideration. Psychic arts and sciences may include augury, card or tea reading, cartomancy, clairaudience, clairvoyance, crystal gazing, divination, fortune telling, mediumship, necromancy, palmistry, phrenology, or prophecy.
- d. ***Pawn shop*** is an establishment that lends money on the security of goods pledged by the owner of such goods on the condition that the goods may be redeemed or repurchased by the owner for a fixed price within a fixed period of time. This definition includes car title pawn companies which provide the borrower with cash in exchange for the borrower's vehicle title as collateral.
- e. ***Tattoo parlor*** is an establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of placing designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of skin by means of the use of needles or other instruments designed to contact or puncture the skin. This definition excludes permanent cosmetic establishments.

5.2602 Districts of Operation

Body-piercing studios, non-chartered financial institutions, palm readers, pawn shops, and tattoo parlors are allowed only in the GB and I-1 districts of the City of Orange Beach, Alabama.

5.2603 Restrictions

- a. Shall not be located within 500 linear feet of RS zoned areas, schools and public parks.
- b. This distance between similar uses shall be 5,000 linear feet.