

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

Section 1000. Purpose.

The powers and duties of the following officers and boards are specified herein insofar as administration of this Ordinance is concerned: the Planning Commission, Board of Zoning Adjustment, Planning Commission, Planning & Zoning Administrator and Code Enforcement Officers. This Article also specifies the requirements for amendments, variances, administrative appeals, and interpretations of this Ordinance.

Section 1001. Planning & Zoning Administrator: Duties and Powers.

The Planning & Zoning Administrator shall perform duties prescribed by this Ordinance, as well as any other assigned by the Planning Commission or the City Council. Appeals of administrative decisions of the Planning & Zoning Administrator and/or the Planning Commission may be made to the Board of Zoning Adjustment.

The Planning & Zoning Administrator shall have the following powers and responsibilities as they pertain to:

Planning Commission:

- A.** Advise and cooperate with the Planning Commission in the implementation, amendment and enforcement of this Ordinance.
- B.** Attend all public hearings at which zoning matters are discussed, including meetings of the Planning Commission, Board of Zoning Adjustment and City Council.
- C.** Process and account for all departmental permits, applications, certificates and fees.
- D.** Evaluate, in coordination with the Code Enforcement Officer and appropriate Planning Commission Committee, each proposed site plan and subdivision plat for consistency with this Ordinance.
- E.** Ensure that all time limits prescribed by this Ordinance are met.
- F.** Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons.
- G.** Record and file all applications for zoning certificates with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- H.** Promptly indicate any zone boundary or other change to the Official Zoning Map, and make available for public inspection an up-to-date copy of the Official Zoning Map,

as amended, in the office of the Planning & Development Services Department during its regular business hours.

I. Other duties assigned.

Board of Zoning Adjustment:

A. Receive applications for variances and forward them to the Board of Zoning Adjustment for action.

B. Following refusal of a permit, receive applications for variances and appeals and forward them to the Board of Zoning Adjustment for action.

C. Advise and cooperate with the Board of Zoning Adjustment in carrying out their duties as they related to this Ordinance.

D. Attend all Board of Zoning Adjustment meetings.

E. Collect and account for all application fees required for variance and appeals actions.

F. Evaluate each proposed request for variance and appeals compliance with the standards of this Ordinance.

G. Ensure that all time limits prescribed by this Ordinance are met.

H. Monitor the progress of all applications through the review process and be available to respond to inquiries from interested persons.

I. Record and file all BZA applications with accompanying plans and documents. All applications, plans, and documents shall be a public record.

J. Notifies the BZA and applicants of scheduled meeting dates and times.

K. Coordinates Board of Adjustment meetings.

L. Maintains files of Board of Zoning Adjustment.

M. Insures that meetings of the Board of Zoning Adjustment are properly recorded and transcribed.

N. Issue a report on all BZA approvals to the Planning Commission.

Section 1002. Code Enforcement Officer: Duties and Powers.

The Code Enforcement Officer shall have the following powers and responsibilities:

- A.** Receive and examine all applications for building permits and certificates of occupancy.
- B.** Process all building permit applications and applications for certificates of occupancy.
- C.** Issues permits only after receipt of a zoning certificate indicating all requirements of approval have been met.
- D.** Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- E.** Evaluate, in coordination with Planning & Zoning Administrator, each proposed request for variance and appeals compliance with the standards of this Ordinance.
- F.** Revoke, by writing, a permit or approval issued contrary to this Ordinance or based on a false statement or misrepresentation in the application.
- G.** Revoke any zoning certificate issued under a mistake of fact or contrary to the law or provision of this Ordinance.
- H.** Stop, by written order, work being done contrary to the building permit or to this Ordinance. Such written order, posted on the premises involved, shall not be removed except by written order of the Code Enforcement Officer. Removal without such order shall constitute a violation of this Ordinance.
- I.** Institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure, or land; or prevent any illegal act, conduct, business, or use in or about such premises.
- J.** Insures that all applications for permits with accompanying plans and documents are properly recorded and filed.

Section 1003. Duties of the Planning Commission and Their Subcommittees.

A. General Duties:

- 1.** The Planning Commission shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance.

2. The Planning Commission, in cooperation with the staff and other that may be consulted, shall study land use and development trends, collect data and analyze such information with regard to future development of the City of Lincoln.
3. The Planning Commission shall study and report on all proposed amendments to the text of this Ordinance. When reviewing any such proposed amendments, the Planning Commission shall, within 45 days of receipt of same from the staff or the appropriate committee, submit its recommendations and findings to the City Council.
4. The Planning Commission shall study and report on all proposed amendments to the Official Zoning Map, the procedure for which is contained in Section 1006 of this Article.
5. The Planning Commission shall refer each proposed site plan, zoning request or subdivision plat to the appropriate committee for evaluation for consistency with this Ordinance and other planning documents that may apply.
6. The Planning Commission shall review and act upon, all site plans submitted to it by the Site Plan Committee in accordance with Section 902.
7. The Planning Commission shall hear all applications for conditional use permits submitted to it by the Site Plan or Zoning Committee and shall make a report and recommendation to the City Council in accordance with Section 903.
8. The Planning Commission shall review and act on all proposed zoning amendments submitted to it by the Zoning Committee and prepare a report on said zoning amendments for the City Council in accordance with Section 1006.
9. The Planning Commission may cause the posting of notice, in the form of a courtesy sign, on property that is subject to a public hearing for conditional use permit, rezoning or subdivision.
10. The Planning Commission shall review the character, location, and extent of any street, square, park or other public way, ground or open space or public building or structure or major utility project whether publicly or privately owned, in accordance with Section 11-52-11 of the Code of Alabama of 1975, as amended.

B. Review Duties:

The Planning Commission shall regularly review the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Regulations and report on them to the City Council at least once every 3 to 5 years. Specifically, the Planning Commission shall:

1. Analyze the extent to which development has occurred in Lincoln as compared to the projected growth at the time of adoption of the Comprehensive Plan and the last mapping of zoning districts created by this Ordinance.

2. Recommend any changes in the mapping of Lincoln which would be required in order to accommodate the expected 20-year growth projections of the Comprehensive Plan for residential, industrial, commercial, and other land uses.
3. Analyze the continued validity of any other regulations imposed by this Ordinance in terms of changed conditions since the last review.

Section 1004. Board of Zoning Adjustment: Duties and Powers.

The Board of Zoning Adjustment heretofore established is continued, and shall be appointed as provided in Section 11-52-80 of The Code of Alabama, 1975, as amended. No member of the Board shall vote upon any matter in which he or she, a spouse or a dependent has a direct interest. No member of the Board shall vote upon any matter involving a business with which he or she, a spouse or dependent has any interest or ownership. The Board shall have the following powers and duties:

- A. The Board of Zoning Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance.
- B. The Board of Zoning Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the Planning and Development Services Department.
- C. The Board of Zoning Adjustment shall hear and decide appeals from a decision of the staff, made in the performance of their duties.
- D. The Board of Zoning Adjustment shall hear and decide all petitions for variances, as provided for in Section 1007.
- E. The Board of Zoning Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning Commission, Planning & Zoning Administrator, Code Enforcement Officer or any other City official in the enforcement of this Ordinance.
- F. The Board of Zoning Adjustment may cause, at its discretion, the posting of notice in the form of a sign on the property that is subject to a public hearing on matters coming before it.

Section 1005. Interpretations.

1005.01. Purpose. The provisions of this section are intended to provide a simple and expeditious method for clarifying ambiguities in the text of this Ordinance, the zoning map which it incorporates, and the rules and regulations adopted pursuant to it. It is also intended to provide a simple procedure for overcoming rigidities and limitations of finite use lists.

1005.02. Authority. The Planning Commission may, subject to the procedures, standards, and limitations set forth in this Section, render interpretations of any provision of this Ordinance or any rule or regulation issued pursuant to it, including interpretations of the various uses in any district not expressly mentioned in this Ordinance.

1005.03. Procedure.

A. Written Request for Non-Use Interpretation. Except as provided below, a request for interpretation of any provision of this Ordinance, the zoning map, or any rule or regulation adopted pursuant to this Ordinance shall be submitted in writing to the Planning Commission. No fee shall be required in connection with any such request. Each such request shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation giving rise to the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Before rendering any interpretation, the Planning Commission shall receive such further facts and information as are in their judgment necessary to a meaningful interpretation of the provision in question.

B. Application for Use Interpretation. Applications for a use interpretation shall be submitted to the Planning Commission and shall, in all instances, contain at least the following information and documentation:

1. The applicant's names, address, and interest in the subject property.
2. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application.
3. The names and addresses of all professional consultants advising the applicant with respect to the interpretation.
4. The street address and/or legal description of the subject property.
5. The zoning classification and present use of the subject property.
6. A complete description of the proposed use.
7. The uses permitted by the present zoning classification, which are most similar to the proposed use.

8. Documents, statements, and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.
9. Such other and further information or documentation as the Planning Commission may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

C. Planning Commission. Within 30 days following the receipt of a completed request or application for interpretation, a written interpretation shall be mailed to the applicant. The specific precedent, reasons, and analysis on which such interpretation is based shall be stated.

Failure to render an interpretation within the aforementioned time, or such longer period of time as may be agreed to by the applicant, shall be deemed to be a rejection of the applicant's proposed interpretation. A copy of each such interpretation shall be kept on file and a copy of each such file interpretation shall be made available for public inspection during normal business hours.

D. Appeal. Appeals on interpretations rendered by the Planning Commission, or other responsible staff, pursuant to this Section may be taken to the Board of Zoning Adjustment as provided in this Article.

1005.04. Conditions on Use Interpretations. The following conditions shall govern the Board of Zoning Adjustment on appeals from the Planning Commission, in issuing use interpretations:

- A.** No use interpretation shall allow the establishment of any use that was previously considered and rejected by the Board of Zoning Adjustment on an application for amendment.
- B.** No use interpretation shall permit a use in any district in which such use is not listed either as permitted or conditional in Table 4-1.
- C.** No use interpretation shall permit any use in any district unless evidence shall be presented which demonstrates that it will comply with each use limitation established for the particular district.
- D.** No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or conditionally permitted in a more restrictive district.
- E.** If the proposed use is more similar to a conditional use than a permitted use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a conditional use permit.

F. Any use permitted pursuant to this Section shall fully comply with all requirements and standards imposed by this Ordinance.

1005.05. Effect of Favorable Use Interpretation. No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes and ordinances of the City of Lincoln, or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates, site plan, conditional use, building permits, and certificates of occupancy.

1005.06. Limitations on Favorable Use Interpretations. No use interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall supersede subsequent amendment to this Ordinance.

Section 1006. Amendments.

This Ordinance may be amended from time to time as conditions warrant in the following manner. As used herein, the term “application” includes City Council resolution/ordinance.

A. Application for an amendment to the zoning ordinance or zoning map of the City of Lincoln shall be made on forms furnished by the Planning and Development Services Department, and shall include a proper legal description of the subject lot or tract of land. Additionally, all required fees and any other graphic information requested by the Planning Commission shall be submitted along with the completed application.

B. Initiation Procedures. A proposed change to the zoning district boundaries or of the regulations may be initiated by the City Council, the Lincoln Planning Commission, or by petition of one or more owners, or authorized agents of such owners, of property within the area proposed to be changed.

C. Text Amendments. The application for an amendment to the text of this Ordinance shall state in particular the article, section, subsection, and paragraph sought to be amended. The application shall contain the language of the proposed amendment and shall recite the reasons for such proposed change in the text.

D. Map Amendments.

- 1.** Applications to rezone any property, or any application which seeks to change or modify the standards and requirements imposed on a particular piece of property by the text and maps of this Ordinance, including applications for variances and conditional use permits, may be instituted by the City of Lincoln or all the owners of the property sought to be affected, or their assigns.

2. In the case where the applicant is not the owner of the subject property, said applicant shall secure a notarized authorization to act as applicant from the property owner, along with the regularly required copy of the deed for the property.
3. When a development proposal involves approval of a site plan or subdivision plat in addition to a zoning map amendment, no site plan or subdivision plat approval shall be granted prior to approval of the map amendment. If a development plan and the corresponding request for zoning change are to be addressed at the same public hearing, the Planning Commission shall render a recommendation to the City Council on the zoning application before considering any related site plan or subdivision plat. Such decision shall be based on the requirements of the Comprehensive Plan, this Ordinance and the full range of uses permitted in the requested district, and not on the specific development concept proposed by the applicant. No zoning certificate shall be issued for site plan or subdivision development until the City Council has taken final action on the recommendation for zoning change.
4. All properties annexed into the City of Lincoln shall receive the Residential Estate (RE) District zoning designation. If another zoning designation is desired, the owner or authorized representative shall make separate application for rezoning in accordance with these regulations. Application for rezoning may be made simultaneously with a request for annexation.

D. Public Hearing. Upon application, the Planning Commission shall, after giving seven (7) days notice, conduct a public hearing on the proposed amendment. The Planning Commission shall consider and make recommendations on all proposed amendments, taking into account: (1) the testimony at the hearing; (2) a site inspection of the property in question; (3) the recommendations from interested official bodies; (4) compliance with the Comprehensive Plan and (5) the standards provided below.

1006.01. Standards for Map Amendments.

A. No request, other than those made by the City Council, Planning Commission, the Planning and Development Services Department, or any department or agency of the city, for a change in zoning classification or creation of a separate district shall be considered which involves an area of less than two (2) acres, except in the following cases:

1. The extension of existing district boundaries;
2. The addition of O-I or NC zoning contiguous to existing commercial or residential zones.
3. The zoning of an existing lot of record, surrounded by unzoned property, which was outside the municipal limits and is requesting annexation.

B. No rezoning of land to the Manufacturing (M) District shall be permitted except on a specific and documented finding that:

1. There is an inadequate supply of land zoned for these uses or the proposed use cannot be accommodated by those sites due to lack of transportation, water, or sewer, or that the market area to be served by the proposed use cannot be efficiently served by the geographical location of the existing Industrial District.
 2. Roads, floodplains, or other existing or planned features will insure sufficient buffering to protect surrounding land and uses from the negative impacts of the proposed industrial use.
- C. There shall be no rezoning of land from Residential Estate (RE) District to any other district until such time as adequate public utilities are available.

1006.02. Annexation

The following requirements must be fulfilled for a petition to be considered by the Planning Commission.

A. Ownership. The petitioner must be the owner of the property, and must submit an accurate description of the property proposed for annexation. This requirement can be met by submitting a survey and a legal description prepared and signed by a surveyor registered in the State of Alabama; or a legally recorded subdivision plat showing the property in question.

B. Contiguity. The property to be annexed must be contiguous to the existing corporate boundary of the City of Lincoln. For this purpose the term "contiguous" means either:

1. A boundary of the property proposed for annexation adjoins the existing corporate boundary of the City of Lincoln for a distance of at least one (1) foot; or,
2. At least one (1) foot of the boundary of the property proposed for annexation is directly across the right-of-way of a publicly dedicated street, a railroad right-of-way; or across from a creek or river, a utility right-of-way, or similar natural boundary from the existing corporate boundary of the City of Lincoln.
3. A strip of land at least sixty (60) feet wide connects the property proposed for annexation to the corporate boundary of the City of Lincoln; and the connecting strip is included in the annexation petition.

C. Review of Petitions. Each annexation petition will be submitted to all City department heads for review and comment. All such comments will be

presented to the Planning Commission and City Council for consideration in making a decision.

D. Property Located in a Fire District. If the property requested to be annexed lies within the territory of a fire district, other than the Lincoln Fire District, the property owner must provide proof that they have been released from said fire district prior to a petition for annexation being processed. Proof may be provided in the form of written documentation from the Board of Commissions of the Fire District certifying that such a release has been granted and that all fees associated with said release have been paid in full. In the event the applicant fails to remove the property from any fire district prior to annexation, applicant shall reimburse the City for all costs, including all attorneys' fees, for the removal by the City of this property from any fire district after annexation.

E. Guidelines for Review. The following guidelines will be used by the Planning Commission in reviewing petitions for annexation.

1. *Zoning Classification.* Any area annexed into the City of Lincoln shall be given a zoning classification of RE (Residential Estate).

In the event a petition for annexation seeks a zoning classification other than RE, a separate zoning request shall be submitted for recommendation to the City Council by the Planning Commission under the standards for rezoning set out in the City of Lincoln Zoning Ordinance. The Council, upon receiving such recommendation shall take into consideration the recommendations of the City's Comprehensive Plan for the area in question.

2. *Minimum Area.* If the property for which annexation is being requested is less than three (3) acres in area, consideration should only be given to annexation of the entire parcel.

If the property for which annexation is being requested is more than three (3) acres in area, consideration will be given to annexing a portion of said property. However, neither the portion recommended for annexation, nor the portion remaining unincorporated, should be less than three (3) acres; nor should the annexation of such portion make it unduly difficult for other property owners in the vicinity to achieve the degree of contiguity necessary to make their property eligible for annexation.

3. *Public Access.* The property for which annexation is being requested should have direct access to a public right-of-way. For this purpose the term "direct access" means fronting on a dedicated public right-of-way; or having an unrestricted connection to a public right-of-

way, capable of providing safe and ready access for public service vehicles, and approved by the Planning Commission.

1006.03. Report of the Planning Commission.

A. The Planning Commission shall make a report to the City Council outlining the proposed amendment. No amendment shall be passed except by a majority vote of the members of the City Council present.

B. The Planning Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.

C. For each disapproved map amendment, the Planning Commission shall make findings on each of the following matters based on the evidence presented to it:

1. The proposed amendment's ability to uphold the policies of the Comprehensive Plan.
2. The suitability of the property in question for the uses permitted under the proposed zoning.
3. The adequacy of public facilities, such as sewer and water, and other required public services.

Section 1007. Variances.

1007.01. Purpose. The purpose of this Section is to empower the Board of Zoning Adjustment to vary or adapt the strict application of any of the requirements of this Ordinance. It is expected that the granting of variances will be *rare*. However, a variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape; or by reason of other exceptional topographic conditions or other extraordinary and exceptional situations or conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the owner's use of such property.

Those developments requiring a variance from any regulation of this Ordinance in conjunction with site plan review shall have the appropriate request acted upon by the Board of Zoning Adjustment prior to approval of any such site plan. This shall include existing development sites, proposed for expansion or reconfiguration, which are nonconforming to any requirement of this Ordinance. The site plan may be reviewed concurrently with review and action on the variance request, but the site plan shall not be approved until the variance has been approved.

1007.02. Application. Any property owner may apply to the Board of Zoning Adjustment for a variance using forms to be obtained from the Planning and Development Services Department. Applications must be submitted by noon on the date of the applicable deadline for the meeting at

which it is to be heard. All required fees and any other information requested by the Planning Commission shall be submitted along with the completed application.

1007.03. Standards for Variances. The Board of Zoning Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to all of the requirements and standards listed below:

- A.** The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- B.** There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
- C.** There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.
- D.** That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.
- E.** That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

F. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

G. The granting of the variance will *not* permit the establishment of any use, which is not permitted in the district.

The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

1007.04. Public Hearing. Upon application, the Board of Zoning Adjustment shall schedule a public hearing on the proposed variance to be held at least ten (10) days after a public notice has been posted, and after the adjacent property owners most affected by the variance request have been notified by certified mail. The Board of Zoning Adjustment shall consider and decide all proposed variances taking into account the standards enumerated above. After the close of a public hearing and within ten (10) days the Board of Zoning Adjustment shall render a written decision, setting forth the reasons for such decision, which shall be accompanied by finding of fact(s) specifying the reason(s) for such decision. All such decisions are final and binding on all parties.

Section 1008. Appeal of an Administrative Interpretation or Action.

Appeals to the Board of Zoning Adjustment may be made by any person aggrieved or affected by any provision of this Ordinance or by any decision, or any order to stop, cease, and desist, issued by the Planning Commission, Code Enforcement Officer, or their designated representative, in enforcing the provisions of this Ordinance.

1008.01. General Rules and Procedures for Appeals.

A. Any appeals from the rulings concerning the enforcement and interpretation of any provision of this Ordinance shall be filed with the Planning and Development Services Department within 15 days after the date of said ruling. All required fees shall be submitted along with a completed application and any additional information requested by the staff.

B. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board and accompanied by fees prescribed by resolution of the City Council.

C. All appeals and applications shall refer to the specific provisions of this Ordinance involved; and the grounds for the appeal.

D. The Board shall select a reasonable time and place for hearing the appeal and give due notice thereof to the parties and shall render a written decision on the appeal without unreasonable delay. The Board may affirm, reverse, wholly or in part, or modify the

order, requirement, decision, or determination, as in its opinion it determines ought to be done, and to that end shall have all the powers of the officer from whom the appeal is taken. Complete records of all appeal actions of the Board shall be maintained in the Planning and Development Services Department.

E. Within ten (10) days after the close of a public hearing the Board shall render a written decision giving the reason(s) for its decision.

F. In rendering a decision with respect to an appeal from any order, decision, or determination the Board shall strictly interpret the language of the Ordinance and shall find that the city official was correct in his/her decision or in error. Should the Board find that the interpretation, decision or actions was in error they must provide what is in their opinion the correct interpretation, decision or action. However, the Board shall not render any decision which shall modify an order, decision, or determination which confers rights or privileges on the appellant that are not otherwise permissible under the strict interpretation of the language of this Ordinance.

G. Such decision shall be submitted to the appellant and the Planning and Development Services Department.

1008.02. All decisions rendered by the Board shall be final and binding on all parties. No request for a variance or appeal of an administrative decision shall be reheard, and no further application shall be accepted, once a decision has been given, except under one or more of the following conditions:

A. New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.

B. The decision resulted from an error, made by the Board, or any other City official, in procedures required by this Ordinance or State law.

C. The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama.

Where no error is alleged and no new evidence is available a new or more effective presentation by the applicant shall not constitute grounds for rehearing a decision of the Board of Zoning Adjustment. Any applicant wishing a rehearing shall appear before the Board to present one or more of the qualifying conditions listed in this Section.

If the Board finds that one or more of these conditions exists, the applicant shall be permitted to submit a new application, together with the required fees. The new application shall be heard at a subsequent meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the Board to grant the request.

Any person aggrieved by any decision of the Board may within 15 days after such decision appeal to the Circuit Court having jurisdiction.

Section 1009. Penalties.

Any violation of any provision of this Ordinance, shall constitute a Class C misdemeanor. Any person found guilty of violating any of the provisions of this ordinance shall be fined in an amount not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), and may also be sentenced to imprisonment for a period of not exceeding six (6) months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

1009.01. Failure to Obtain a Zoning Certificate. Any person who fails to obtain a Zoning Certificate or other permit prior to beginning construction or erecting any structure or sign shall be subject to doubling of all applicable fees.

Section 1010. ADOPTION.

All sections of this ordinance are hereby declared to be severable, and if any word, phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this ordinance.

All ordinances or resolutions inconsistent with this ordinance are hereby repealed.

This ordinance shall become effective after adoption and publication as required by law.

ADOPTED AND APPROVED by the City Council of the City of Lincoln, Alabama this the _____ day of _____, 2015.

Claude Kitchin, Mayor

Sadie Britt, Councilmember

Billy Pearson, Councilmember

Chris Watson, Councilmember

Shelly L. Barnhart, Councilmember

Jean B. Burk, Councilmember

Attest:

Laura S. Carmack, City Clerk