

Article 10 Overlay Districts

Section 10.1 Thoroughfare Corridor Overlay District

10.1.1 *Purpose.* The purpose of the thoroughfare corridor overlay district is to provide orderly development along controlled access highways, to encourage the most appropriate use of adjacent lands, to maintain the scenic natural beauty of the area, and to promote the safe and efficient movement of traffic. These thoroughfares establish an image of the quality of life in Baldwin County for visitors and residents alike. Controlled access is required to enhance trade, capital investment, tourism and the general welfare. These ordinances will facilitate the adequate provision of transportation by promoting the safe and efficient movement of traffic and by encouraging development which reduces or eliminates visual clutter and poor site layout.

As an overlay district, the thoroughfare corridor district does not replace the requirements of the underlying zoning district, but provides additional development requirements and standards which must be met by any development on the property.

10.1.2 *Area of application.* The thoroughfare corridor overlay district applies to roadways located in areas under the planning and zoning jurisdiction of Baldwin County which are designated as controlled access highways by the County Commission specifically for the purpose of enforcing the provisions of this Section.

10.1.3 *Requirements.*

(a) Public and commercial access to highways designated as controlled access highways shall be limited to intersections connecting with county roads and service roadways as defined herein. Access is not permitted by conventional driveways. However, until such time as service roadways are available, driveway access is permitted to and from residential houses and farming activity adjacent to the controlled access highway.

(b) *Service roadways.* A service roadway is intended to service businesses, residential areas, and public enterprise along controlled access highways in order to provide safely spaced and adequately designated exits and entrances to the artery. Transition between the controlled access highway and the service roadways shall be accommodated with appropriate on and off lanes as part of the controlled access highway. These lanes shall be surfaced in a similar manner as the controlled access highways and shall be designed in accordance with good practice for this type of transition.

(c) *Minimum access interval for controlled access highways.* No more than one public access connector and/or crossover per half-mile is permitted for a given side of the controlled access highway. A "connector" in this case includes all intersections with county roads and service roadways. This minimum access interval does not apply between county road intersections that were already in existence before a route was designated a controlled access highway nor does the minimum interval apply to private driveways to and from residential houses and farms before service roadways are available. Private driveway connections directly connecting to the right-of-way of the controlled access highway shall be abandoned when a convenient service road becomes available for access, unless this places an unusual hardship on the owner. All connectors shall be designed and clearly marked in accordance with Alabama Department of Transportation standards. The minimum access interval is not intended to limit the distance between businesses on service roadways or otherwise alter the ordinance of minimum lot sizes covered in other sections herein.

(d) *Permitted service roadway layouts.*

1. *Parallel and contiguous rights-of-way.* If the service roadway right-of-way and the controlled access highway right-of-way are parallel and contiguous, a greenbelt of no less than 15 feet in width shall be maintained between the shoulders or curbs of the two roadways.

2. *Parallel and noncontiguous rights-of-ways.* If commercial or residential lots are included between the service roadway right-of-way and the controlled access highway right-of-way, the businesses or residential buildings shall face the service roadway, not the controlled access highway. In this case, the rear yard setbacks shall include an additional 15 feet, or a total of 25 feet. This rear yard extension shall contain a greenbelt of at least 10 feet in width, or a suitable fence screen, between the controlled access highway right-of-way and the building or use activity on the lot.

3. *Service roadways perpendicular to the controlled access highways.* Commercial or residential lots along these service roadways shall have an additional setback of any side yard adjacent to the right-of-way of the controlled access highway of 15-feet in addition to the side yard setback requirement or a total of 25-feet. This side yard extension shall contain a greenbelt of at least 15- feet in width, or a suitable fence screen between the controlled

access highway right-of-way and the building or use activity on the lot.

Section 10.2 Flood Hazard Overlay District

10.2.1 *Purpose.* The purpose of the flood hazard overlay district is to ensure enforcement of the *Baldwin County Flood Damage Prevention Ordinance* which was adopted to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions intended to:

- (a) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- (d) Control filling, grading, dredging and other development which may increase erosion or flood damage.
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

As an overlay district, the flood hazard district does not replace the requirements of the underlying zoning district, but provides additional development requirements and standards which must be met by any development on the property.

10.2.2 *Area of application.* The flood hazard overlay district applies to lands under the planning and zoning jurisdiction of Baldwin County which are subject to either tidal or fluvial flooding as determined by the Federal Emergency Management Agency (FEMA) and delineated on the Flood Insurance Rate Map(s) (FIRM) of Unincorporated Baldwin County.

10.2.3 *Requirements.* Areas which lie in flood hazard districts as determined by FEMA and delineated on the FIRM are subject to the requirements of the *Baldwin County Flood Damage Prevention Ordinance* adopted February 17, 1987 (as amended).

Section 10.3 Historic Resource Overlay District

10.3.1 *Purpose.* The purpose of the historic resource overlay district is to ensure enforcement of the rules and ordinances adopted pursuant to Act No. 80-497 as amended by Act No. 89-960 of the Legislature of Alabama which authorizes Baldwin County to protect the historical architectural character of the County.

As an overlay district, the historic resource district does not replace the requirements of the underlying zoning district, but provides additional development requirements and standards which must be met by any development on the property.

10.3.2 *Area of application.* The historic resource overlay district applies to lands under the planning and zoning jurisdiction of Baldwin County which are designated as historic districts or preservation districts by the County Commission under the authority of Act No. 80-497 as amended by Act No 89-960. Historic districts or preservation districts designated by the County Commission are:

- (a) Magnolia Springs Preservation District
- (b) Montrose Preservation District
- (c) Battle's Wharf / Point Clear Preservation District
- (d) Malbis Preservation District

10.3.3 *Requirements.* Areas which lie in historic districts or preservation districts as designated by the County Commission are subject to the requirements of the Architectural & Preservation District Review Board of Baldwin County and any and all rules and ordinances adopted pursuant to Act No. 80-497 as amended by Act No. 89-960 of the Legislature of Alabama (refer to *Standards for Architectural Review and Development in Baldwin County Historic Districts*).

Section 10.4 Wetland Protection Overlay District

10.4.1 *Purpose.* The wetlands within Baldwin County, Alabama are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition wise use of forested wetlands is essential to the economic well-being of Baldwin County. A considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative

losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare. It is therefore necessary for Baldwin County to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.

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

10.4.2 Area of application. The wetland protection overlay district applies to wetlands under the planning and zoning jurisdiction of Baldwin County. The Generalized Wetland Map adopted as part of these zoning ordinances shows the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands. The Generalized Wetland Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of these zoning ordinances. The Generalized Wetland Map shall be kept on file in the offices of the Planning & Zoning Department.

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

10.4.4 Permit requirements. A U.S. Army Corps of Engineers wetlands jurisdictional determination if the proposed planned development contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map as defined herein, or through a site visit by County Staff. The setback for development from a wetland must be a minimum of 30 feet.

If the area proposed for development is located in or within the wetland protection district boundary, as determined from the Generalized Wetland Map, a U.S. Army Corps of Engineers jurisdictional determination shall be required prior to the issuance of a Site Plan Approval. If the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit or

Letter of Permission is required, a Site Plan Approval will be issued only following issuance of the Section 404 Permit or Letter of Permission. Any application for subdivision approval on property which contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map defined herein through a site visit by County Staff, will have to obtain a U.S. Army Corps of Engineers wetlands jurisdictional determination. If the Corps determines that wetlands are present and that a Section 404 Permit or Letter of Permission is required, development may not proceed until the Section 404 Permit or Letter of Permission is issued.

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

Wetlands delineated as jurisdictional by the Army Corps of Engineers and not permitted for fill shall be set aside as common area or shall be contained within an easement dedicated to protect the wetland. Said common area or maintenance easement shall extend a minimum of 30-feet beyond the limits of the wetland. Maintenance responsibility shall be vested in the trustees of the subdivision, by virtue of the trust indenture.

Section 10.5 Gulf Beach Overlay District

10.5.1 Purpose. The Gulf Beach Overlay District is implemented to protect the natural environment, to encourage open space development design and to protect the public health, safety and welfare of the public. This overlay district shall only apply in Planning District 25 in the area herein defined in *Section 10.5.2*.

10.5.2 Established boundaries. The Gulf Beach Overlay District boundaries shall be as depicted on the Planning District 25 Official Zoning Map. Changes to said boundary shall constitute a zoning map amendment.

10.5.3 Applicability. The Gulf Beach Overlay District relaxation of maximum building heights shall be applicable only to Planned Residential Developments (PRD) lawfully approved before May 4, 2004.

10.5.4 Development standards.

(a) *Building height.* Building heights may lawfully exceed the maximum building height contained in applicable sections of the Zoning Ordinances.

(b) *PRD site plan minor changes.* Minor changes defined in *Section 9.9.1* may be made to an approved PRD site plan.

(c) *PRD site plan substantial changes.* Substantial changes defined in *Section 9.9.1* which requires PRD amendment or modification shall be subject to applicable maximum height ordinances of 8 habitable stories in Planning District 25.

(d) *PRD site plan approval period.* Site plan approval periods and extensions given in *Section 9.10: Approvals*, shall be in full force and effect in the overlay district. Expiration of a PRD site plan shall require subsequent site plans to be in full compliance with all applicable ordinances.

(e) *Compliance with ordinances.* The overlay district shall only relax the maximum building heights of 8 habitable stories in the area defined in *Section 10.5.2*. This section shall in no way remove, modify or supersede other applicable County ordinances which may apply.

Section 10.6 Family Heritage Overlay District

10.6.1 Purpose. The Family Heritage Overlay District is implemented to prevent the displacement of culturally significant local communities, including communities with “heirs’ property”, due to restrictions on the repair, maintenance, alteration, or improvement of nonconforming structures existing as of the original creation of the overlay district within a Planning District, and recognize that nonconforming uses play an important part in the sustainability of these communities. This overlay district shall only apply in Planning District 19 in the area herein defined in Section 10.6.2.

10.6.2 Established boundaries. The Family Heritage Overlay District boundaries shall be as depicted on the Planning District 19 Official Zoning Map. Changes to said boundary shall constitute a zoning map amendment.

10.6.3 Applicability. The Family Heritage Overlay District is intended to apply to lots owned by natural persons or transferred to immediate family members of natural persons within the designated boundaries.

10.6.4 Automatic removal of overlay district. When a lot within the Family Heritage Overlay District is transferred to someone other than an immediate family member, or is transferred to an entity that is not a natural person, the Family Heritage Overlay District designation is automatically removed regardless of whether or not the Planning and Zoning Department is notified and the District

19 Zoning Map is updated. When the Zoning Administrator becomes aware, by any means, that the overlay district designation has been removed, the Zoning Administrator shall administratively amend the Planning District 19 Official Zoning Map to reflect the automatic change. After the Family Heritage Overlay District has been properly removed from a lot, it may not thereafter be reapplied to that lot for any reason. After its original adoption within a Planning District, the Family Heritage Overlay District may not be expanded or applied to new lots within the Planning District for any reason.

10.6.5 Nonconformities within the Family Heritage Overlay District. The Nonconformities provisions of Article 20 are modified as follows for lots within the Family Heritage Overlay District.

(a) A nonconforming structure may be enlarged vertically or horizontally on the conforming sides so long as the conforming sides remain in conformity with these regulations. Those parts of a structure that are non-conforming may not be expanded either horizontally, or vertically.

(b) A nonconforming use may be moved in whole or in part to another portion of a lot or parcel occupied by such use at the effective date of adoption or amendments of the zoning ordinances, so long as the new location does not otherwise increase the nonconforming use or expand the nonconforming sides of the structure vertically or horizontally.

(c) Section 20.2.6, Destruction, repair or alteration of nonconforming use or structure, shall not apply.

(d) Section 20.2.10 Repairs and maintenance, shall not apply so long as nonconforming uses and structures are not increased.

(e) Immediate family member shall include spouse, children (natural born and adopted), siblings, parents, grandparents, grandchildren, descendent cousins, or step-related individuals of the same status.

1. Entities that are not natural persons, including but not limited to corporations, limited liability companies, and trusts, are not immediate family members for the purpose of this provision, unless the entity is entirely owned by immediate family members. Entities that are entirely owned by immediate family members shall be deemed "natural persons" as used in the language of the Family Heritage Overlay District provisions. However, if any interest in such entity is later transferred to a non-immediate family member, such entity shall cease being a natural person as

contemplated for purpose of the Family Heritage Overlay District provisions, and the Family Heritage Overlay District designation is automatically removed regardless of whether or not the Planning and Zoning Department is notified and the District 19 Zoning Map is updated.

2. The estate of a deceased natural person shall be considered a natural person for the purpose of the Family Heritage Overlay District provisions.

3. Churches or places of worship included within the Family Heritage Overlay District as of the effective date of adoption of the zoning ordinances for District 19, are considered natural persons for the purposes of the overlay district provisions until such time as the use of the property changes.

(f) A natural person who owns property in District 19 and wishes to rebuild, relocate, or enlarge a nonconforming structure or use that would otherwise be disallowed under the provisions of Article 20 were it not for these Family Heritage Overlay District provisions, shall submit with their site plan approval application a notarized affidavit attesting to the successive transfers from and to immediate family members since the effective date of adoption of the zoning ordinances for District 19. Such affidavit shall be prima facie evidence of the applicability of Family Heritage Overlay District provisions and the Zoning Administrator may not disallow the application of Family Heritage Overlay District provisions without presenting evidence of transfers to entities or individuals other than immediate family members.

(g) Nothing herein shall be construed to excuse any owner, occupant or contractor from compliance with building codes; any other health or safety requirements imposed by local, state, or federal laws; or the requirement to obtain a site plan approval and other requirements under Article 18 of the Zoning Ordinance.