

**CITY OF DAPHNE, ALABAMA
ORDINANCE 2022-74**

**AN ORDINANCE AMENDING THE CITY OF DAPHNE'S
LAND USE AND DEVELOPMENT ORDINANCE 2011-54, AS ADOPTED BY THE
CITY COUNCIL ON JULY 18, 2011**

ARTICLE VI, PROCEDURES FOR TRANSACTION OF BUSINESS

**ARTICLE XI, MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS FOR
SUBDIVISIONS AND COMMERCIAL SITE DEVELOPMENTS**

ARTICLE XIII, DISTRICT REQUIREMENTS

ARTICLE XV, SITE PLAN REVIEW

ARTICLE XIX, LANDSCAPING AND TREE PROTECTION

ARTICLE XXXIV, SCHEDULE OF FEES

ARTICLE XXXVII, EASTERN SHORE OVERLAY DISTRICT

WHEREAS, the City Council of the City of Daphne, after due consideration, believes that certain revisions to the City of Daphne Land Use & Development Ordinance are necessary for the proper administration of said Ordinance; and

WHEREAS, at the City of Daphne Planning Commission regular meeting on October 27, 2022, the Commission considered certain proposed amendments to the City of Daphne Land Use & Development Ordinance, Ordinance 2011-54 (as previously amended), and set forth a favorable recommendation to the City Council of the City of Daphne; and

WHEREAS, due notice of said proposed amendment has been provided to the public as required by law through publication and open display at the Daphne Public Library and City Hall, and a public hearing was held before the City Council on December 19, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA as follows:

SECTION 1. ARTICLE VI, PROCEDURES FOR TRANSACTION OF BUSINESS

Article VI of the Land Use and Development Ordinance is hereby amended by repealing Section 6-11 therefrom in its entirety.

SECTION 2. ARTICLE XI, MINIMUM STANDARDS AND REQUIRED IMPROVEMENTS FOR SUBDIVISIONS AND COMMERCIAL SITE DEVELOPMENTS

(A) Section 11-11(b)(5) of Article XI of the Land Use and Development Ordinance is hereby amended by inserting the following language thereto:

A non-traversable curb is a highway curb designed to discourage a motor vehicle from leaving the roadway. Non-traversable curbs are used at locations where roadway speeds do not exceed 40 miles per hour and are at least six inches high.

(B) Section 11-14 of Article XI of the Land Use and Development Ordinance is hereby amended by repealing and replacing subsection (h) with the following:

(h) Common Open Space and Recreation Provisions:

A Common Open Space and Recreation Area Plan shall be provided as a component of the subdivision Master Plan and/or Overall Landscape Plan for

single family or multi-family residential subdivision development, except where herein exempted. Design details are provided in Article 19, Landscape Standards and Tree Protection, Section 19-11.

(1) Single Family, Townhouse, Residential PUD, or Mixed Use PUD Development

Upon preliminary plat or site plan submission for the first phase of the development, an Agreement shall be established for the implementation of a Common Open Space and Recreation Area Plan. The agreement shall be made using appropriate forms as provided by the city and shall include:

- (a) The proposed common open space and recreation area plan;
- (b) A cost estimate of all work associated with the common open space and recreation area plan improvements (this excludes land and/or utility costs), and;
- (c) A renewable surety bond valid for two years in the amount of one hundred and ten percent (110%) of the cost estimate or a letter of credit drawn on an Alabama-based bank.

(C) Section 11-11(l) of Article XI of the Land Use and Development Ordinance is hereby amended by inserting the following language following the first paragraph therein:

Each lot's drainage flow pattern shall follow the overall grading plan for the development.

(D) Section 11-11 of Article XI of the Land Use and Development Ordinance is hereby amended by repealing and replacing subsection (m)(2)d. with the following:

- d. The minimum grade of swales/ditches in drainage easements shall be a minimum of one-half of one percent (0.5%). One percent (1%) is preferred.

(E) Section 11-11 of Article XI of the Land Use and Development Ordinance is hereby amended by adding new subsection (o) as follows:

(o) Traffic Management Plan:

- (1) A Traffic Management Plan (TMP) shall be provided as a component of the residential subdivision review process or development plan review for a Planned Unit Development. Upon preliminary plat review or site plan review for the first phase of any multi-phased development, said TMP must be provided to the Planning Commission for review and approval. All traffic control devices must be installed per the requirements shown in Article 11, Minimum Standards and Required Improvements for Subdivisions and Commercial Site Developments.

(2) Said TMP shall include:

- a. A plan that illustrates the location of traffic control and traffic calming devices distributed within the entire development.
- b. Speed limit and other required traffic control signs.
- c. Traffic control pavement markings.
- d. Traffic calming devices shall be placed at a minimum of every eight hundred (800) feet or at a point midblock one-half (1/2) the block length, whichever is most practical.

- e. Preferred traffic calming techniques are as follows:
 - i. Speed tables
 - ii. Raised intersections
 - iii. Traffic circles
 - iv. Road narrowed/chokers
- (3) The installation of Radar signs may be required upon recommendation of the City Engineer and approval of the Planning Commission.

SECTION 3. ARTICLE XIII, DISTRICT REQUIREMENTS

Article XIII of the Land Use and Development Ordinance is hereby amended as follows: repeal and replace Section 13-7 with the exception of subsections (h), (i), and (j) with the following:

13-7 PERFORMANCE STANDARDS

(1) Performance Standards for Nonresidential Districts

In all nonresidential districts (with commercial, institutional and/or industrial uses) where facilities are permitted lots, tracts or parcels shall comply with the following minimum standards:

- (a) Lots shall be of sufficient size to be used for the purpose intended, provide adequate parking and loading facilities in addition to space required for conduct of other operation of the business, and otherwise comply with the provisions provided herein.
- (b) The minimum lot size for marinas shall be one (1) acre and shall be constructed above mean sea level.
- (c) No entrances or exits shall direct traffic into adjacent residential districts.
- (d) Noise, air pollutants including dust emissions, and surface runoff shall not exceed background levels by more than ten percent (10%).
- (e) Uses in all business districts must comply with all applicable health and safety standards, including sanitary facilities; paved and landscaped parking areas, and all other requirements of this Ordinance, as well as pertinent State and Federal regulations.
- (f) Nonpermanent structures such as trailers, sheds, and other such buildings used for business purposes may be permitted in business districts on a temporary basis pending construction of a permanent building. Such structures may be permitted by the Building Official for a three (3) month period, renewable upon written request from the business owner, up to a maximum of one (1) year. Said nonpermanent structure shall be removed immediately upon completion of construction. Delayed removal of the nonpermanent structure may be allowed for no more than thirty (30) calendar days upon review and approval of the Building Official.
- (g) All non-residential structures shall be so designed as to present an aesthetically pleasing appearance that is generally compatible with existing buildings in the district, except those less desirable in appearance that have been grandfathered under this Ordinance.
- (k) Architectural plans shall be signed and stamped by a Licensed Architect. Plans shall include preliminary floor plans and building elevations.

1. Elevation drawings shall be presented in color. Architectural renderings and roofline treatments shall be presented for all sides.
- (l) Streetscape. Landscaping and street furniture complement residential surroundings.
- (2) Performance Standards for Residential Districts
 - (a) Streetscape:
 1. Landscape plans shall establish street/lot themes. See Article 19 for further details.
 - (b) Residential Streets:
 1. Traffic Calming is required within all residential developments. See Article 11 for details regarding Traffic Management Plan.
 2. Street designs should discourage through traffic; reduced street paving widths may be considered where off-street guest parking bays are installed.

SECTION 4. ARTICLE XV, SITE PLAN REVIEW

Section 15-5 of Article XIV of the Land Use and Development Ordinance is hereby amended by repealing subsection (2)(b) in its entirety.

SECTION 5. ARTICLE XIX, LANDSCAPING AND TREE PROTECTION

Article XIX of the Land Use and Development Ordinance is hereby amended by repealing Sections 19-11, 19-12, 19-13, 19-14, 19-15, and 19-16 in their entirety, and replacing them with the following:

19-11 COMMON OPEN SPACE AND RECREATION PLAN

- (a) Applicability:
 - (1) Ten percent of each proposed single family or multifamily residential development shall be set aside for common open space and recreation area. Common Open Space and Recreation Provisions shall apply to each residential development within the corporate limits and extraterritorial jurisdiction of the City of Daphne except as exempted below.
- (b) Exemptions:
 - (1) Where a unified planned single family residential development (i.e., under single ownership and planned in multiple phases) is five acres (5 ac) or less in total area and the minimum lot size exceeds twenty thousand square feet (20,000 sq. ft.); or,
 - (2) Where the entire subdivision is zoned R-1, Low Density Single Family Residential.
- (c) Common open space and recreation area set asides shall include formal recreation areas and/or natural open space areas. There are two types of formal recreation areas: passive and active.
 - (1) Passive recreation areas may include but shall not be limited to: open areas that include arranged plantings, gardens, gazebos or similar structures, fountains, sculptures, and other forms of public art, pedestrian walkways, dog parks, picnic areas, general landscaped areas, flower gardens, and other uses typical for passive recreation.

- (2) Active recreation uses may include but shall not be limited to: playground or park for local or neighborhood use with swing sets, ball fields, tennis courts, jogging trails, clubhouses, swimming pools, including accompanying accessory structures, and any other similar use suitable for the common enjoyment of the residents.

Natural open space areas that preserve and conserve the natural condition and hydrology of the property should be included as well as tree groves, wetlands, associated wetland buffers, rock outcrops, pastoral areas, floodplains, lakes, streams, rivers, wildlife habitat, utility and conservation easements, and scenic vistas and trails. Detention ponds and related stormwater facilities, especially low impact development measures, may also be included.

(d) Phasing/Implementation:

A common open space and recreation area plan shall be provided as a component of the subdivision master plan for single family or multi-family residential subdivision development, except where herein exempted.

Upon preliminary plat submission for the first phase of the development an agreement shall be established for the implementation of the common open space and recreation area plan. The agreement shall be made using appropriate forms as provided by the city and shall include:

- (1) The proposed common open space and recreation area plan;
- (2) A cost estimate of all work associated with the common open space and recreation area plan improvements (this excludes land and/or utility costs), and;
- (3) A renewable surety bond valid for two years in the amount of one hundred and ten percent (110%) of the cost estimate or a letter of credit drawn on an Alabama based bank.

(e) Performance Standards:

The following factors shall be considered to determine the location for common open space and recreation areas.

- (1) Where possible and appropriate, common open space and recreation areas shall be readily accessible and useable by property owners.
- (2) To the maximum extent practical, a portion of the common open space and recreation area should provide focal points for the development.
- (3) Common open space and recreation areas shall have at least one direct access to a public right-of-way.
- (4) The common open space and recreation areas shall be compact and contiguous unless the land is used as a continuation of or link to an existing or planned adjacent open space resource or where specific natural or topographic features require a different configuration.
- (5) In all developments, due regard shall be shown for all natural features such as large trees, heritage trees, water courses, historical spots, and similar community assets which, if preserved, will add attractiveness and value to the overall development.

- (f) Streetscapes:
 - (1) A streetscape design shall be incorporated into the Common Open Space and Recreation Plan as part of the Overall Master Landscape Plan.
 - (2) At a minimum, the plan shall include a design for street trees and for residential lots.
 - (3) One overstory tree shall be planted every fifty feet along the right-of-way with the exception of rear alleys. Said trees shall be planted at a distance of six feet or greater from any adjacent sidewalk.
 - (4) This plan shall include the theme for street trees, lot trees, and street furniture that complements the proposed development.

19-12 SPECIAL DESIGNS

More stringent design and landscape standards may be required by the Planning Commission in any district if it is determined the design would be more compatible with the development and/or more beneficial to the aesthetics of the City.

19-13 RETENTION OR DETENTION PONDS IN COMMON AREAS

- (a) Detention Ponds-General:

Vegetation shall be planted around the circumference of detention areas.
- (b) Subdivisions and Planned Unit Developments:

Retention areas shall have embankments planted with a combination of grass (sod) and shrub plantings. Additional requirements for trees may be required as deemed appropriate by the Planning Commission. There shall be a minimum of one shrub for every five (5) feet of circumference around retention or detention areas.

19-14 SUPERVISION

The landscape architect shall be responsible for the supervision of all plantings. Upon completion, the landscape architect shall certify in writing to the Director of Community Development that the submitted, approved landscape plan has been implemented and is in compliance with the provisions of this Article.

19-15 CERTIFICATE OF OCCUPANCY

A certificate of occupancy shall not be issued until the submitted, approved landscape plan has been fully implemented or a financial guarantee for the implementation of the landscape plan is submitted. Said guarantee shall be in an amount equal to one hundred and fifty percent (150%) of the total remaining installation cost. Said cost shall be certified by the landscape architect responsible for the design. In no case shall a certificate of occupancy be approved without the written approval of the design landscape architect.

19-16 MAINTENANCE

Maintenance of new plantings, fencing and/or natural areas is the responsibility of the developer and/or property owner(s). Any vegetation or trees planted or retained to fulfill the requirements of this Article that become damaged or diseased must be replaced by the property owner by the beginning of the optimum planting season of the following year and approved by a professional landscape architect. The landscape architect or the property owner must notify the designee of the Director of Public Works in writing when the

replacement tree(s) and vegetation has been planted.

19-17 PENALTIES

The Code Enforcement Officer of the City of Daphne shall serve the owner of said property, each person, firm or corporation engaged in the activities regulated hereunder in which the activities are being conducted in violation of any provision of this Article. The person(s) shall be fined upon conviction, not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) and costs of the court for each offense.

SECTION 6. ARTICLE XXXIV, SCHEDULE OF FEES

Article XXXIV of the Land Use and Development Ordinance is hereby amended by repealing Section 34-1 in its entirety and replacing it with the Schedule of Fees attached hereto as **Exhibit A. Exhibit A is on file and available for viewing in the City Clerk's Office.**

SECTION 7. ARTICLE XXXVII, EASTERN SHORE PARK OVERLAY DISTRICT

Section 37-10 of Article XXXVII of the Land Use and Development Ordinance is hereby amended by repealing subsection (d) under the heading "Special Provisions" in its entirety.

SECTION 8. CONFLICT WITH OTHER ORDINANCES

Any Ordinance heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance, is hereby repealed to the extent of such conflict.

SECTION 9. SEVERABILITY

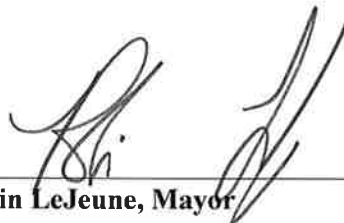
The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 10. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 3rd DAY OF January, 2023.

ATTEST:



Robin LeJeune, Mayor


Candace G. Antinarella, CMC, City Clerk