

NOTICE OF PUBLIC HEARING

Notice is hereby given the first time that the City Council of the City of Daphne will hold a Public Hearing on December 18, 2023 at 6:00 pm in the Council Chambers at City Hall, 1705 Main Street, Daphne, Alabama. The public is welcome to attend and offer comments opposing or favoring a proposed Ordinance amending the Land Use and Development Ordinance 2011-54. Any person with an American's with Disabilities Act disability must contact the City Clerk's office ten days prior to the Public Hearing, in order for accommodations to be made.

Candace G. Antinarella, MMC, City Clerk

**CITY OF DAPHNE, ALABAMA
ORDINANCE NO. 2023-__**

**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**

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ARTICLE VIII, DEFINITIONS OF TERMS

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

ARTICLE XIII, DISTRICT REQUIREMENTS

ARTICLE XV, PROCEDURES FOR SITE PLAN REVIEW

ARTICLE XVII, PROCEDURES FOR SUBDIVISION REVIEW

**ARTICLE XVIII, DRAINAGE, STORM WATER MANAGEMENT FACILITIES AND
EROSION/SEDIMENT CONTROL**

ARTICLE XXI, THE BOARD OF ZONING ADJUSTMENT

ARTICLE XXX, PLANNED UNIT DEVELOPMENT DISTRICT

ARTICLE XXXIV, SCHEDULE OF FEES

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 26, 2023, 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 18, 2023.

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

SECTION 1. AMENDMENT TO ARTICLE VIII, DEFINITIONS OF TERMS

(A) Section 8-2 of Article VIII of the Land Use and Development Ordinance is hereby amended by adding the following terms and definitions in their respective alphabetical order within such section:

Change in Use. Any activity resulting in a change in land use, intensity of use, or expansion of the sizes or numbers of structures, or the amount of land affected by a use.

Change of Occupancy. A discontinuance of an existing use and the substitution therefore of a use of a different kind or class. Additionally, a change of tenants or proprietors is included if and when there is also a change in the type, kind or class of use.

Land Use. The purpose for which any parcel or tract of land, or any building or structure is designed, maintained, renovated, occupied or used. It is the basic character or nature of the occupation or utilization of land or a building.

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

(A) Subsection (c) of Section 11-5 of Article XI of the Land Use and Development Ordinance is hereby repealed in its entirety.

(B) Subsection (c)(1) of Section 11-11 of Article XI of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

(1) Along the perimeter of all developments where adjacent to the right-of-way.

SECTION 3. AMENDMENT TO ARTICLE XIII, DISTRICT REQUIREMENTS

(A) Subsection (j) of subsection (1) of Section 13-7 of Article XIII of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

(j) Metal buildings may be permitted in any C/I, Commercial/Industrial, zoning district that is not located as follows: along County Road 13, Highway 98, Highway 90, Highway 181, Olde Towne Daphne, the Village Overlay District, the Eastern Shore Overlay District or, the Jubilee Retail Overlay District.

(B) Subsection (1) of Section 13-7 of Article XIII of the Land Use and Development Ordinance is hereby amended by adding the following subsection (k) immediately following subsection (j) (as amended hereinabove):

(k) A shipping container may be permitted where property is zoned C-2, Outdoor Amusement, after having received approval for said use by the Planning Commission. When approved the shipping container(s) shall be no closer than fifty (50) feet to the property lines.

... and by reassigning the prior subsections (k) and (l) as subsections (l) and (m) without amending any of the language in either of said subsections.

SECTION 4. AMENDMENT TO ARTICLE XV, PROCEDURES FOR SITE PLAN REVIEW

(A) Subsection (a) of Section 15-1 of Article XV of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

- (a) The provisions of this Article shall be required for all residential developments involving the construction of two (2) or more dwelling units including apartments, townhouses, condominiums, business, commercial, industrial, and/or institutional structures; all existing structures which increase the gross floor area by thirty percent (30%) or more, except a single family residence; construction of a park, public way, open space, public building or structure; construction of a public utility whether publicly or privately owned; and other uses as required by the Planning Commission.

(B) Section 15-3 of Article XV of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

Any site development which is to be constructed in phases shall require a master plan of the site which shall be submitted to the Planning Commission for approval prior to submitting a site plan application. The applicant shall submit to the Department of Community Development a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed site layout including building locations, parking facilities, ingress/egress, stormwater management, required buffer areas, pedestrian and vehicular networks, utilities, trash refuse areas, and amenity areas. In addition, a phasing plan shall be presented at the pre-construction meeting for review and staff approval.

(C) Subsection (e) of Section 15-4 of Article XV of the Land Use and Development Ordinance is hereby repealed and in its entirety.

(D) Article XV of the Land Use and Development Ordinance is hereby amended by inserting the following language as Section 15-6:

15-6 CHANGE IN USE/OCCUPANCY

To ensure compliance with the provisions of this Ordinance, an administrative site plan review and approval by the Director of Community Development shall be required in the following instances prior to making any modifications to the land and/or structure:

- (a) for commercial, industrial, business, multi-family, townhouse or institutional uses, minor expansions and renovations, which increase the gross floor area or parking lot up to thirty percent (30%);
- (b) changes in occupancy from a less intense class or kind of use to a more intense class or kind of use; or,
- (c) changes in use or expansion of the size or number of structures or the amount of land affected by a use.

Some changes in use and change in occupancy may initiate the need for compliance with provisions of the Land Use and Development Ordinance such as parking, landscaping, stormwater management, signage, etc. The proposed administrative site plan shall not be approved unless the site plan is presented in a manner or revised in a manner to be compliant with said regulations.

* * *

... and by renumbering the prior Sections 15-6 through 15-11 as set forth below:

Name of Subsection	Section # Prior to Amendment	Section # As Amended
WAIVER	15-6	15-7
ISSUANCE OF SITE DISTURBANCE PERMIT	15-7	15-8
BOND REQUIREMENT FOR OFF-SITE IMPACTS	15-8	15-9
RELEASE OF BOND	15-9	15-10
ISSUANCE OF BUILDING PERMIT	15-10	15-11
FEES & APPLICATION WITHDRAWAL PROCEDURES	15-11	15-12

(E) Article XV of the Land Use and Development Ordinance is hereby amended by inserting the following language as Section 15-13:

15-13 CERTIFICATE OF OCCUPANCY

- (1) When all required improvements are installed in accordance with the site plan and specifications approved by the Planning Commission, the developer or general contractor shall request a final inspection by the design engineer and the registered landscape architect. After the inspections have been completed, each (i.e., the design engineer as well as the registered landscape architect) shall forward a letter of compliance and as-built drawings to the Director of Community Development. Upon receipt thereof the Director or his/her duly authorized representative and all related staff shall inspect the site to determine if all required improvements have been satisfactorily installed. Upon receiving satisfactory inspection reports from applicable staff the director shall thereafter sign the Certificate of Occupancy.
- (2) Upon receiving an unsatisfactory inspection report, staff and the contractor shall collaborate to determine measures to resolve the deficiencies that exist. If the site inspection report from staff denotes minor improvements which in the opinion of staff can be covered by a surety and a future site inspection within a six (6) month period, then the developer shall have an option to provide such surety to the Community Development Director. Upon receipt of the aforementioned surety and all other passing inspection reports the Director shall thereafter sign the Certificate of Occupancy.
 - i. Said surety shall be accompanied by a certified cost estimate for specified improvements prepared by the professional whose work has been identified as deficient, i.e., the civil engineer for civil site work or the landscape architect for landscaping. The surety shall be a cashier's check or a money order from an Alabama lending institution and it shall be in the amount of one hundred and fifty percent (150%) of the estimated cost.
- (3) When all required improvements are installed in accordance with the surety, the developer or general contractor shall request a final inspection by the appropriate persons. After the inspections have been completed, he/she shall forward a letter of final compliance and as-built drawings to the Director of Community Development. Upon receipt thereof the Director or his/her duly authorized representative and all related staff shall inspect the site to determine that all required improvements have been satisfactorily installed. Upon receiving satisfactory inspection reports from applicable staff the director shall release the surety.

SECTION 5. AMENDMENT TO ARTICLE XVII, PROCEDURES FOR SUBDIVISION REVIEW

(A) Section 17-2 of Article XVII of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

17-2 MASTER PLAN SUBMITTAL

Any subdivision or development which is to be developed in phases or units shall require a master plan of the proposed subdivision or development which shall be submitted to the Planning Commission for approval prior to submitting a preliminary plat application.

The subdivider shall submit to the Department of Community Development a written request for review and approval by the Planning Commission and a copy of said master plan. The master plan shall be of sufficient detail to show the proposed street, sidewalk and lot layout, drainage, utilities, detention, common open space and recreational areas, sanitary sewer collection system, i.e., low pressure system or gravity sewer, and landscaped areas.

(B) Subsection (d)(1) of Section 17-3 of Article XVII of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, the City Engineer, Bureau of Fire Prevention, Riviera Utilities, Daphne Utilities, Environmental Programs and any applicable utility company, local, state, and/or federal agency shall review plans and submit recommendations to the Director of Community Development prior to the initial hearing on the preliminary plat.

- (a) Whenever a person, firm, corporation, developer or other entity proposes to develop any project that, in the opinion of the Director of Community Development, constitutes either a land disturbing activity which may pose a risk of drainage and/or siltation damage outside the boundaries of the project, such person, firm, corporation, developer or other entity conducting the land disturbing activity shall be required to submit a non-cancelable performance bond in the name of the permittee, or a letter of credit or cashier's check, to the City prior to the issuance of a Site Disturbance permit.
- (b) At the time of the preliminary plat, the bond shall become effective and shall extend for a period of at least two (2) years following final plat approval by the Planning Commission. The bond shall be in the amount of one hundred and fifty percent (150%) of the total cost for the performance of all site work. Said bond shall cover drainage, erosion and siltation damage, if any.
- (c) The Director of Community Development or other administrative official as designated by the City Council shall determine the prescribed bond, as well as the adequacy and the security thereon.

(C) Section 17-4 of Article XVII of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

17-4 FINAL PLAT APPLICATION

(a) Subdivider's Responsibility:

Within one (1) year of the date of preliminary plat approval or prior to the expiration of an extension granted by the Director of Community Development or the Planning Commission as prescribed in *Section 17-3, Effect of Preliminary Plat Approval*, the subdivider shall submit the following to the Department of Community Development:

- (1) File the required application on the prescribed forms;
- (2) Submit a copy of the final plat and as-built drawings of the site in accordance with *Section 17-3, Plat Content*;

- (3) Submit a petition for street acceptance on prescribed forms accompanied by a street maintenance bond in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision; certification of improvements form signed and sealed by the design engineer and a street test report from an independent testing laboratory noting satisfactory condition of the street;
- (4) Submit filing fee as enumerated in *Article 34, the Schedule of Fees*;
- (5) Private restrictive covenants and deed restrictions;
- (6) All inspection reports and permits; and,
- (7) Applicable test reports.

These items shall be received in the Department of Community Development not less than thirty (30) calendar days prior to a regularly scheduled meeting of the Planning Commission at which meeting the subdivision plat is to be formally submitted for review.

(b) Final Plat Content:

The final plat shall conform to the conditions of the approved preliminary plat. The final plat shall show sufficient detailed data to readily determine and to accurately reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, block line, and building line.

The plat shall be clearly drawn on a 24 x 36 inches sheet, at a scale of not less than one hundred (100) feet to the inch, and shall contain all information shown on the current departmental check list for a final plat (see Appendix), which may be modified at the discretion of the Director of Community Development when applicable.

(c) Fees and Application Withdrawal Procedures:

Said fees and procedures are as prescribed in *Section 17-3(c), Fees & Application Withdrawal Procedures*, herein.

(d) Financial Guarantees of Performance in Lieu of Full Installation of Minor Improvements:

- (1) The subdivider shall be responsible for the full installation of all required minimum improvements. Prior to the submission of a final plat application all major infrastructure improvements shall be installed. The following may be covered by a financial surety where found appropriate by city staff: final wearing surface; street lights, provided that a "paid in full" service invoice is submitted with the application; and/or minor landscape and streetscape items.
 - i. With regard to the delayed installation of minor landscape and/or streetscape, one (1) of the following may be accepted as a financial guarantee payable to the City of Daphne: a letter of credit or certified check from an Alabama lending institution in the amount of one hundred and fifty percent (150%) of the cost of the required improvements that remain unfinished.
 - ii. With regard to the installation of the final wearing surface, a surety may be accepted as a financial guarantee payable to the City of Daphne. Contingent upon a favorable recommendation by the City Engineer, the surety may be eligible for release twenty-four (24) months after the installation of the final wearing surface.

One (1) of the following may be accepted as a financial guarantee payable to the City of Daphne: a letter of credit or certified check from an Alabama lending institution in an amount of one hundred and fifty percent (150%) of the cost of the final wearing surface.

- (2) A cost estimate for any remaining civil improvements shall be certified and submitted by the design engineer with the application for final plat approval; a cost estimate of any remaining landscaping and/or streetscape improvements must be certified and submitted by the professional landscape architect with the application for final plat approval and the financial guarantee.
- (3) Sidewalks around all common areas shall be installed prior to final plat approval. A surety for all remaining sidewalk improvements shall be determined as provided in Section (e) Maintenance Bonds Subsection (2) provided herein.

(e) Maintenance Bonds:

- (1) Street Maintenance Bond. The developer/owner shall submit to the Department of Community Development a Street Maintenance Bond payable to the City of Daphne which shall be valid for a period of two (2) years. The bond shall be in an amount equal to twenty percent (20%) of the total street, utility, and drainage improvements in the subdivision. Said bond shall be required as a condition to dedication and acceptance of any new streets within the corporate limits. The Director of Community Development or the City Engineer or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The Street Maintenance Bond period shall begin upon the acceptance of the street and drainage improvements by resolution of the City Council. No less than thirty (30) calendar days prior to the expiration of said maintenance bond, an inspection shall be conducted by the City Engineer and the Environmental Programs to ensure that the improvements are in satisfactory condition prior to acceptance.

The Director of Community Development, upon receipt of recommendations of the City Engineer and Environmental Programs, may release or extend a street maintenance obligation. An extension of the Street Maintenance Bond shall be for a period of time no greater than one (1) year. Upon approval of an extension of the original Street Maintenance Bond period, the developer/owner or assign thereof shall submit to the Department of Community Development sufficient proof of the extended bond, and the Director of Community Development or the City Engineer shall determine the adequacy of said extended bond and security thereon.

- (2) Sidewalk Installation Bond. If applicable, the developer/owner shall submit to the Department of Community Development a Sidewalk Installation Agreement, a cost estimate for all undeveloped portions of the planned sidewalk network certified by the project civil engineer, and a financial guarantee of performance to be used by the City of Daphne which shall be valid for a period of two (2) years. The Sidewalk Installation Bond shall be in an amount equal to two hundred percent (200%) of the cost of the required sidewalk improvements for the applicable phase of the subdivision. The Director of Community Development or the City Engineer or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The developer/owner may request renegotiation of the Sidewalk Installation Agreement with the City once fifty percent (50%) of the planned sidewalk network has been constructed. If the planned sidewalk network is not fully installed prior to the expiration date of the Sidewalk Obligation Bond period, or any extension thereof, the City shall cause the sidewalk network to be completed using the funds from the bond.

Prior to the original expiration date of the Sidewalk Obligation Bond period, the developer/owner or assign thereof may submit a request to the Director of Community Development for an extension of the original sidewalk obligation. The sidewalk obligation may be extended beyond the originally specified period with sufficient cause as documented by the developer or assign as follows:

- i. Small Subdivisions. Any recorded subdivision or subdivision phase with less than one thousand (1,000) linear feet of sidewalk shall not qualify for an extension.
- ii. Medium Subdivisions. Any recorded subdivision or subdivision phase with over one thousand (1,000) linear feet of sidewalk but less than five thousand (5,000) linear feet of sidewalk shall be eligible for a 12-month extension.
- iii. Large Subdivisions. Any recorded subdivision or subdivision phase with over five thousand (5,000) linear feet of sidewalk shall be eligible for a 24-month extension.

Upon approval of an extension of the original Sidewalk Obligation Bond period, the developer/owner or assign thereof shall submit to the Department of Community Development sufficient proof of the extended bond, and the Director of Community Development or other administrative official as designated by the City Council shall determine the adequacy of said bond and security thereon.

The Director of Community Development, upon the receipt of recommendations of the City Engineer and Environmental Programs, may release any Sidewalk Installation Bond obligation or portion thereof.

(f) Department of Community Development Review:

The Department of Community Development shall proceed with the final plat review as follows:

(1) Plat Study:

During the thirty (30) calendar days prior to the next regularly scheduled meeting, the Department of Community Development shall review the final plat for compliance with the subdivision regulations and submit any recommendations to the Planning Commission at its meeting.

(2) Commission Action:

The final plat is considered to be formally and officially submitted at the regularly scheduled meeting of the Planning Commission. At this meeting, the Commission may either:

- (a) Approve the final plat.
- (b) Disapprove the final plat:

Such action may result if the final plat is found to be in conflict with the approved preliminary plat or with the subdivision regulations.

A statement of the reasons for disapproval shall be forwarded by letter to the subdivider and one copy being filed in the records of the Department of Community Development. No certificate of approval shall be given. The subdivider may resubmit the final plat application for another hearing after the corrections as noted by the Planning Commission have been made to the plat.

(c) Delay action on the final plat:

The Commission shall act to approve or disapprove a subdivision plat within thirty (30) calendar days after its formal submission at a regularly scheduled Planning Commission meeting. If the applicant waives this requirement and consents to an extension, then the Commission may delay action on the plat up to thirty (30) additional calendar days.

If no action is taken within the initial thirty (30) calendar day period, or if no action is taken upon the (30) thirty calendar day extension, said plat shall be deemed to have been approved and correspondence to that effect shall be issued by the Commission on request.

(3) Records:

In any case, the Planning Commission shall retain one (1) copy of the final plat as presented to the Planning Commission in its files with indication in writing of the action taken at the hearing.

If any of the requirements of these regulations are modified or waived, they shall be specified and the reasons therefore given.

(D) Article XVII of the Land Use and Development Ordinance is hereby amended by inserting the following language as Section 17-5:

17-5 EFFECT OF FINAL PLAT APPROVAL

- (a) Approval of the final plat by the Planning Commission shall authorize the owner, subdivider, or his agent, to have said plat recorded in the Office of the Judge of Probate of Baldwin County.
- (b) The plat shall be filed prior to the sale of any lot in the subdivision. Copies of all private covenants, deed restrictions, and certifications shall be filed with the final plat. Once approval has been given and endorsed in writing on the plat by the Planning Commission and/or the Director of Community Development, no changes, erasures, modifications or revisions shall be made on said plat.
- (c) In the event that any subdivision plat, when recorded, contains changes which have not been approved by the Planning Commission, said plat shall be considered null and void, and the Planning Commission shall then file the corrected plat as approved, noting the reason for such filing. Any erasures made on a plat prior to its signing shall be initialed and dated by the Planning Commission Chairman or other authorized agent and/or the Director of Community Development, at the time of the signing.
- (d) The approval of the final plat shall be recorded within a period of one (1) year following the date of such approval. Upon recording, the owner or developer shall furnish to the Department of Community Development a copy of the recorded plat and

recorded restrictive covenants. Additionally, the Articles of Incorporation for the establishment of a property owner's association shall be furnished to Community Development upon recording. In any event, the developer or assign thereof shall guarantee that the sidewalk installation surety is sufficient in cost and that said surety shall be valid for a period of two years after the first building permit is issued by Building Inspections.

- (e) Approval and recordation of the final plat does not result in the acceptance of any street or other public space shown on the plat. Council resolution accepting dedication of streets is required as noted in *Section 17-6*. In the event that the subdivider proposes to privately maintain the street right(s)-of-way and drainage and utility easements, the developer shall state on the final plat the entity that will maintain said infrastructure. Such information shall also be included in the trust indentures.

(E) Article XVII of the Land Use and Development Ordinance is hereby amended by inserting the following language as Section 17-6:

17-6 STREETS – PROCEDURE TO ACHIEVE LEGAL STATUS AS A PUBLICLY MAINTAINED RIGHT-OF-WAY

- (a) The City of Daphne shall not accept, open, improve, maintain, grade or light any street right(s)-of-way and/or drainage and utility easement; authorize water mains, sanitary sewer, or connections to be made to any street, unless:
 - (1) The street right(s)-of-way is a part of a subdivision plat approved by the Planning Commission; and,
 - (2) Such street has been accepted or otherwise granted the legal status of a public street; and,
 - (3) The right(s)-of-way corresponds with a street shown on the Comprehensive Plan; and,
 - (4) Petition for acceptance and dedication of the street right(s)-of-way and drainage and utility easement(s) has been accepted and adopted by City Council Resolution.

SECTION 6. AMENDMENT TO ARTICLE XVIII, DRAINAGE, STORM WATER MANAGEMENT FACILITIES AND EROSION/SEDIMENT CONTROL

(A) Subsection B of Section 18-2 of Article XVIII of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

- B. Provision for Additional Engineer's Review:

The intent of this provision is to protect and improve water quality and stream conditions within the City of Daphne, particularly those on the ADEM 303(d) List of Impaired Streams. The purpose of this provision is to mitigate the impact of potential or future development in support of the Daphne MS4 permit program and to uphold the provisions of this article.

Where deemed appropriate by the City Engineer, any drainage and stormwater management plan submitted for review by the Planning Commission that could impact a stream listed on the ADEM 303(d) Impaired Streams list, may be subject to an additional review by a qualified professional civil engineer with experience in stormwater management (consultant engineer). The applicant/developer/owner may be required to

modify stormwater and drainage plans to accommodate the recommendations of the consultant engineer.

All costs incurred for this additional engineer's review shall be paid by the developer/owner/ applicant prior to the submittal of any subsequent application for review.

(B) Subsection D(4) of Section 18-3 of Article XVIII of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

(4) Any request for a modification to any stream or wetland buffer zone shall be reviewed by the Planning Commission. The design engineer must demonstrate the need for the proposed modification through safety or design specifications. Each request will be considered on a case by case basis. If a stream or wetland buffer zone modification is approved, the project developer shall provide a bond in an amount determined by the Planning Commission on a case by case basis. The contractor selected to perform work within the specified stream or wetland buffer area shall carry Errors and Omissions Insurance at a minimum coverage of at least one million dollars (\$1,000,000). The bond and proof of said coverage shall be provided prior to the issuance of the Site Disturbance Permit.

SECTION 7. AMENDMENT TO ARTICLE XXI, THE BOARD OF ZONING ADJUSTMENT

(A) Subsection (f)(2) of Section 21-1 of Article XXI of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

(2) Special Exceptions:

To hear and decide special exceptions to the terms upon which said Board is required to pass under this Ordinance. Such special exception may be granted in such individual case upon finding by the Board that:

- (a) The overall development would be in harmony with the vicinity; and orderly.
- (b) Adequate utilities and public services are available.
- (c) The use would not create an adverse impact to the health, safety and public welfare of the vicinity.
- (d) Mitigating efforts exist to reduce any potential minor impacts to the vicinity.

(B) Section 21-3 of Article XXI of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

21-3 LIMITATION, WITHDRAWAL, CITIZEN APPEALS

- (a) A property owner, or his/her appointed agent, shall not initiate action for a hearing before the Board relating to the same parcel of land, for which the request was not approved by the Board, more often than once every twelve (12) months on the same request.
- (b) Any petition for a hearing before the Board may be withdrawn prior to action thereon by the Board at the discretion of the person initiating such a request upon providing written notice to the Recording Secretary of the Board.
- (c) Any person or persons severally or jointly aggrieved by any decision of the Board may, within fifteen (15) calendar days thereafter, make an appeal to the circuit court or the like jurisdiction, by filing with the Board of Zoning Adjustment a written notice of appeal specifying the judgment or decision from which appeal is taken.

SECTION 8. AMENDMENT TO ARTICLE XXX, PLANNED UNIT DEVELOPMENT DISTRICT

(A) Section 30-1 of Article XXI of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

30-1 GENERAL

The Planned Unit Development (PUD) District is designed to permit flexible development of projects which are comprehensively planned as a single development with a functional master development plan which fully considers the entire site as an integrated project and gives broad consideration to impacts and relationships to surrounding areas. The PUD District permits flexibility in locating buildings, mixtures of building types, land uses and open spaces. In permitting such flexibility, the City Council should consider goals in the City comprehensive plan and other broad public benefits demonstrated in a master development plan. Upon recommendation by the Planning Commission or with sufficient cause, the City Council may attach conditions to a master development plan proposed for a PUD to safeguard the public health, safety, morals and general welfare of the City of Daphne.

In theory, a PUD zoned development, could modify (increase or decrease) the minimum setbacks, lot area and lot width, increase building height, minimum sidewalk and street standards, minimum parking requirements, while providing a more desirable area for open space and amenities for public and private use. Where such flexibility is permitted as established in this section and in the subdivision regulations, PUD project design and construction shall follow a PUD General Plan which shall be prepared in accordance with the development procedure prescribed in this Article. Where PUDs are permitted, regulations adapted to the unified development are intended to accomplish the purposes of zoning and subdivision regulations.

Overall, the City desires PUD zoning to produce development that is superior to development designed under conventional zoning and subdivision regulations. Each PUD should provide public benefits that promote the best interest of the city. In general, a public benefit shall be construed as one which furthers the goals and objectives provided in the city's master plan. The city's master plan includes the comprehensive plan, unified development code, transportation plan, capital improvement plan, or other plans of a similar nature.

SECTION 9. AMENDMENT TO ARTICLE XXXIV, SCHEDULE OF FEES

(A) Section 34-1 of Article XXXIV of the Land Use and Development Ordinance is hereby repealed and replaced in its entirety with the following:

34-1 FEES

With the exception of sign permits, the following is a schedule of fees assessed by the Department of Community Development in the administration of the Land Use and Development Ordinance. Sign permit requests shall be reviewed by the Code Enforcement Officer as provided in *Article 33, Sign Provisions*.

Description	Fee
Administrative Review Request-BZA	\$300.00
Annexation with R-1 zoning	n/a
Annexation with Zoning Petition ^a	\$500.00
Certificate of Occupancy Request for Final - Inspection ^e	\$1,000.00

Certificate of Occupancy Request for Final - Reinspection ^e	\$1,000.00
Final Plat Application (Includes Final Inspection) ^e	The greater of \$2,500.00 or \$50 per lot
Final Plat Request for Reinspection ^e	The greater of \$2,500.00 or \$50 per lot
Grand Opening Sign Permit	\$25.00
Master Plan Review or Master Plan Amendment Review	\$50.00
Mobile Home Park Annual License	Contact Revenue Department
Mobile Home Park Application	See Site Plan
Notice to Public by Certified Mail Per adjoining property owner plus one	Standard Rate of USPS
Plat Amendment	\$100.00
Preliminary or Preliminary/Final Plat Application ^a	\$300.00
Public Hearing Advertisement Fee	\$125.00
Request for the Extension (Site Plan or Preliminary Subdivision Plat approval)	\$100.00 per request
Request for the Extension of Reversionary Period	\$500.00
Sign Permit	\$2.50 per square foot (minimum \$25.00)
Site Disturbance Permit Said fee is based upon site costs, not to include cost of building construction. Application shall be accompanied by a cost estimate of incomplete work certified by the project engineer.	\$20.00 application fee plus \$5.00 per \$1,000 or fraction thereof
Site Plan Application	\$500.00
Site Plan Renewal/Extension Fee	\$100.00
Special Exception Application ^a -BZA	\$300.00
Subdivision Per Lot Fee	\$20.00
Subdivision Plat Exemption and/or Modification	\$50.00
Vacation of Easement and/or Right-of-Way	\$200.00
Variance Application ^a -BZA	\$300.00
Zoning Amendment Application ^a	\$500.00

NOTES:

- a. Any application which requires a public hearing shall be assessed a fee determined as follows:
[application fee + ((public notice fee) x (number of adjacent properties, plus one)) + \$125.00].
- b. Subdivisions requiring a public hearing shall be calculated as above plus an additional fee for each lot (number of lots) x (per lot fee).
- c. Sign permit applications shall be submitted to the City of Daphne Revenue Department.
- d. Mobile Home Park Annual License shall be submitted to the City of Daphne Revenue Department.
- e. All final inspection/reinspection fees shall be paid by the developer or contractor prior to Community Development Director signing any Certificate of Occupancy and/or any Final Plat.

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SECTION 10. 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 11. 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 12. 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 ____ DAY OF _____, 2024.

ATTEST:

Robin LeJeune, Mayor

Candace G. Antinarella, MMC, City Clerk