

ORDINANCE NO. 09-

AN ORDINANCE TO AMEND THE ZONING ORDINANCES OF THE
CITY OF HUNTSVILLE, ALABAMA

The public welfare requiring it, and under authority granted by Section 11-52-78 of the 1975 *Code of Alabama*, **BE IT ORDAINED** by the City Council for the City of Huntsville, Alabama, that the Zoning Ordinance of the City of Huntsville, Alabama, as adopted on the 21st day of March 1963, as amended, is hereby further amended as follows:

Section 1. Amends ARTICLE 73-SUPPLEMENTARY REGULATIONS, by adding new Section 73.22 - Correctional Facilities to read as follows:

73.22 Correctional Facilities

73.22.1 Definitions; subclassifications. Correctional Facilities are publicly or privately owned or operated uses which include monitoring and control of the offender population, including juveniles, persons on pretrial status, on prerelease status, probationers, parolees or persons incarcerated to serve a sentence, and is divided into the following two subclassifications:

- (1) Custodial Facility is a community based Correctional Facility which provides transitional housing or housing in a custodial residential setting, assistance with employment, counseling and other services to offenders who are placed in the Custodial Facility under terms of probation, parole, or pretrial status, or offenders sentenced to such a facility in lieu of prison or placed in such a facility as part of a prerelease program. Offenders assigned to a Custodial Facility are generally allowed to leave the facility for off-site employment, job training, or other purposes as permitted by the operators of the facility and may be monitored in their activities by staff. A facility in this subclass may be but is not necessarily designed to be a secure facility.
- (2) Jail or Prison is a Correctional Facility which provides for the incarceration or detention of offenders serving a sentence as required under the city, county, state or federal criminal justice system. A Jail or Prison is a secure place or building designed for the incarceration of offenders who are sentenced to a period of time under confinement. These facilities may employ one or more of the following measures to

ensure accountability of offenders: fences, walls, outside patrols and/or towers with armed staff, inside recreation yards, and secure control centers.

73.22.2 Classification Based on Capacity

- (1) A Class 1 Custodial Facility or a Class 1 Jail or Prison has a maximum capacity or occupancy of no more than thirty (30) persons at any given time.
- (2) A Class 2 Custodial Facility or a Class 2 Jail or Prison has a maximum capacity or occupancy of no more than one hundred (100) persons at any given time. A Custodial Facility shall not exceed the Class 2 occupancy limit.
- (3) A Class 3 Jail or Prison has a maximum capacity or occupancy of no more than fifteen hundred (1500) persons at any given time.

A Class 2 Custodial Facility and a Class 3 Jail or Prison may apply for a conditional use permit to exceed the maximums established hereinabove in accordance with subsection 73.22.7.

73.22.3 Minimum Setbacks

Minimum setbacks, which setbacks are measured to the property line and are required for any structure, including a fenced enclosure, are as follows:

- (1) A Class 1 Custodial Facility shall have a minimum side and rear yard setback from the property lines of twenty-five (25) feet and a minimum front yard setback from the street right-of-way of fifty (50) feet.
- (2) A Class 2 Custodial Facility or a Class 1 Jail or Prison shall have a minimum side and rear yard setback from the property lines of forty (40) feet and a minimum front yard setback from the street right-of-way of sixty (60) feet.
- (3) A Class 2 Jail or Prison shall have a minimum side and rear yard setback from the property lines of fifty (50) feet and a minimum front yard setback from the street right-of-way of seventy-five (75) feet.
- (4) A Class 3 Jail or Prison shall have a

minimum side and rear yard setback from the property lines of one hundred (100) feet and a minimum front yard setback from the street right-of-way of one hundred and fifty (150) feet.

73.22.4 Separation

Correctional Facilities shall have minimum separation requirements as provided for in this section. Measurements shall be made from the exterior property line of the Correctional Use site to the exterior property line of the hereinafter specified uses.

- (1) A Class 1 Custodial Facility shall be separated by a minimum of five hundred (500) feet from each of the following uses:
 - (a) Other Correctional Facilities;
 - (b) Residential zoning districts;
 - (c) A residential dwelling;
 - (d) Places of worship;
 - (e) Public or private schools, daycares, nurseries or kindergartens; and
 - (f) Lounges and off-premises liquor retailers.
- (2) A Class 2 Custodial Facility or any class of Jail or Prison shall be separated by a minimum of one thousand (1000) feet from each of the following uses:
 - (a) Other Correctional Facilities;
 - (b) Residential zoning districts;
 - (c) A residential dwelling;
 - (d) Places of worship;
 - (e) Public or private schools, daycares, nurseries or kindergartens; and
 - (f) Lounges and off-premises liquor retailers.
- (3) Separation requirements shall not apply in each of the following cases:
 - (a) Where the above stated uses were

established after the Correctional Facility was issued a building permit or, if no building permit was required, was duly licensed as such Correctional Facility; provided, however, if the building permit has expired without commencement of significant site work, the Correctional Facility is abandoned or discontinued for a period of six (6) months, or the Correctional Facility has not renewed its licensing for a period of six (6) months, the separation requirements shall then apply; and

- (b) Where, except in the case of a residential dwelling or residential zoning district, said Correctional Facility is separated from the above stated uses by an interstate highway.
- (c) Lots housing lawfully existing Correctional Facilities at the time of the adoption of this ordinance shall not be subject to the separation requirements or the minimum setback requirements of this Section 73.22 except in the case of abandonment or discontinuance of the use of such lots for Correctional Facilities.

73.22.5 Building Height

Correctional Facilities shall have the same height limitation as the general height limitation in the particular zoning district in which they are located.

73.22.6 Performance Standards

Correctional Facilities shall conform to each of the following standards:

- (1) Lighting, access and security devices shall be located and screened to avoid negative effects on, and achieve compatibility with, surrounding and adjacent uses and property;
- (2) All outdoor activity shall be located inside the perimeter security fencing;
- (3) Neither the perimeter security fencing nor the property boundary fencing shall employ barbed wire, razor wire, electrical fencing, or similar materials where

abutting and visible from a public street;

- (4) A seven (7) foot high screen shall be provided along the perimeter at the rear and sides of the property. Such screening shall not extend closer than the minimum setbacks established in subsection 72.22.3 above. If planting is to be used as a screen, it shall be provided as set forth in Section 3.1 - Buffer of Screen Planting, hereof. Such plants shall be initially not less than seven (7) feet in height; and
- (5) Required plantings shall be in a location which maximizes their effectiveness while not compromising the security of the Correctional Facility.

73.22.7 Conditional Use Permits

Requests for conditional uses are permitted only after review by the Planning Commission and approval of the City Council. The following review procedure shall be adhered to:

- (5) The applicant shall submit a complete conditional use application to the Planning Division, at least twenty-one (21) days prior to the Planning Commission meeting at which the conditional use is to be considered, containing as a minimum, the information required in the application along with a one hundred dollar (\$100.00) fee to defray the cost of processing the application.
- (2) A minimum of fourteen (14) days prior to the Planning Commission meeting at which the conditional use request is to be considered, the Planning Division shall mail notification to all adjacent property owners. The notice shall state:
 - (a) The location of the conditional use request.
 - (b) The nature of the request.
 - (c) The time, date and location of the Planning Commission meeting at which the request will be considered.
- (3) The Planning Commission shall schedule a hearing on the application at the first

regularly scheduled meeting after compliance with notice provisions as set forth herein. An application shall not be continued more than three (3) times at the request of the applicant.

- (4) Upon receipt of a favorable recommendation from the Planning Commission, the City Clerk Treasurer shall schedule and advertise the proposed conditional use request for a public hearing before the City Council. A proposed conditional use request shall not be continued more than three (3) times at the request of the applicant.
- (5) Upon receipt of a negative recommendation from the Planning Commission, the City Council review process will be initiated at the request of the applicant.
- (6) Conditional use permits may be subject to such conditions and safeguards as are appropriate under the circumstances.
- (7) When the Planning Commission gives an unfavorable recommendation to a request and the applicant does not initiate the City Council review process or when the City Council denies a conditional use request, the Planning Commission shall not reconsider the same request for a period of eighteen (18) months. Each time the City considers a conditional use request, the one hundred dollar (\$100.00) administrative fee must be paid.

Section 2. Amends ARTICLE 40 - LIGHT INDUSTRY DISTRICT REGULATIONS, Section 40.1 - Uses Permitted by adding Correctional Facilities as a permitted use.

Section 3. Amends ARTICLE 41 - HEAVY INDUSTRY DISTRICT REGULATIONS, Section 41.1 - Uses Permitted by adding Correctional Facilities as a permitted use.

Section 4. Amends ARTICLE 42 - PLANNED INDUSTRIAL DISTRICT REGULATIONS, Section 42.1 - Uses Permitted by adding Correctional Facilities as a permitted use.

Section 5. Amends ARTICLE 44 - COMMERCIAL INDUSTRIAL PARK DISTRICT REGULATIONS, Section 44.1 - Uses Permitted by adding Correctional Facilities as a permitted use.

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Section 6. Amends ARTICLE 46 - INDUSTRIAL PARK DISTRICT REGULATIONS, Section 46.1 - Uses Permitted by adding Correctional Facilities as a permitted use.

Section 7. This ordinance shall take effect from and after the date of its publication.

ADOPTED this the _____ day of _____, 2009.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the _____ day of _____, 2009.

Mayor of the City of Huntsville,
Alabama