

**ARTICLE 7
PLANNED UNIT DEVELOPMENTS**

(rev. 12/03/2019 unless otherwise noted)

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7.00 FINDINGS

- Orange Beach is a fast-growing resort island community of over five thousand (5,000) full-time residents in 2006. Visitors are attracted by its beautiful beaches, wetlands and bays. Seasonal population has more than doubled since 2001 and continues to increase.
- Orange Beach encourages development that will make Orange Beach a vital, attractive community to serve both residents and the thousands of yearly visitors.
- As an Alabama municipal corporation, Orange Beach is vested with a portion of the state’s sovereign power to protect the public, health safety and welfare. Orange Beach is also authorized to adopt and implement comprehensive plans, zoning ordinances and other land use regulations that will assure its orderly development.
- The City’s Comprehensive Plan seeks to maintain and advance Orange Beach as a resort destination by:
 - Promoting a city of neighborhoods that feature Traditional Neighborhood Design characteristics including the building of pedestrian-friendly neighborhoods with a mix of uses, housing types and costs;
 - Encouraging improved mobility through mass transit and other alternative forms of transportation;
 - Preserving the natural habitat, environmental beauty as well as nature-related recreational activities;
 - Protecting and enhancing property values and marketability of homes, residences and commercial properties.

- The goals of the Comprehensive Plan cannot be fully achieved within the context of the City's existing zoning scheme and the Council deems it necessary, advisable and in the public interest to encourage planned unit developments as defined herein.
- Planned Unit Development zoning is a well-accepted and recognized planning device designed to bring an element of flexibility into an otherwise rigid system of zoning controls.
- Planned Unit Development zoning establishes a voluntary regulatory framework that will encourage and promote improved environmental and aesthetic design, better utilization of sites, diversification and variation in the bulk and relationship of uses, structures and spaces that is envisioned in the Comprehensive Plan

7.01 PLANNED UNIT DEVELOPMENT DEFINED (PUD)/ELIGIBILITY

The Planned Unit Development (PUD) is a special zoning classification that permits flexibility in densities, setbacks, uses, open space and other bulk and area requirements for property that would otherwise be mandated by the Zoning Ordinance and Subdivision Regulations. The classification is voluntary, and nothing in this ordinance guarantees a property owner the right to develop a PUD. PUDs shall be approved only if the proposed development fully meets the letter, intent, purpose and requirements of Article 7 of this Ordinance.

7.02 DEFINITIONS

Unless the context otherwise requires, the definitions in Article 2, also apply in this article, regardless of capitalization.

7.03 DESIGN STANDARDS

The purpose and intent of this Ordinance is to have developments which promote the goals of the Comprehensive Plan. No PUD shall be approved unless it is (1) consistent with the goals of the Comprehensive Plan and (2) is compatible with adjacent zoning districts. In addition, all PUDs shall achieve one or more of the following objectives:

- A.** A maximum choice in the types of environment; occupancy tenure, such as cooperatives, individual ownership, condominium and leasehold; housing type; lot sizes; and community facilities available to existing and potential residents at all economic levels.
- B.** More usable and suitably located open space, recreation areas and other common facilities.
- C.** More convenience in location of accessory commercial and service areas.
- D.** Maximum enhancement and minimal disruption of existing natural features and amenities.

- E. Promote a transition between adjacent and nearby zoning districts, land uses, and development intensities. (rev. 05/04/2010)
- F. The preservation of trees, habitat, outstanding natural topography and geologic features and prevention of soil erosion.
- G. An efficient use of land resulting in small networks of utilities and streets and thereby lowering housing costs.
- H. A creative use of land related physical development which allows an orderly transition from urban and suburban uses to rural or undeveloped areas.
- I. More efficient and economic arrangement of varied land use, buildings, circulation systems and facilities.
- J. Project phasing that will ensure the balanced and coordinated development of varied land uses and public facilities and services needed to support them.
- K. Better utilization of sites characterized by special features of geographic location, topography, size or shape.
- L. Superior development and redevelopment which is more desirable than that which would occur through strict application of the zoning code.

7.04 REGULATIONS

An approved Planned Unit Development shall be considered to be a separate zoning district in which the development plan, as approved, establishes the specific restrictions and regulations customized to fit the type of plan proposed by which the development shall be governed. Said restrictions may be greater or lesser than the ones otherwise imposed by the zoning and subdivision ordinance in order to achieve a development which fits the City's Comprehensive Plan and the design standards set forth in this ordinance and as follows:

- A. **Density:** The criteria for establishing an average density includes the land use plan for the area, existing surrounding density, density permitted by the existing zoning classification, adequacy of existing and proposed public facilities and services and site characteristics. Density must generally conform to the requirements as set out in Article 4.
- B. **Common Open Space:** At least twenty percent (20%) of the area covered by a Final Development Plan shall be landscaped or provide common open space owned and operated by the owner/developer or dedicated to a homeowner association or similar group. Provided, that in establishing the density per gross acre, the City Council may increase the percentage of common open space in order to carry out the intent and purpose as set forth in Section 7.03 hereof. However, when commercial or industrial development is proposed (with or without a residential component) open space of not less than twenty percent (20%) shall be provided. Single-family and duplex

residential developments with non-standard lots may be required to provide centrally-located trash and sanitation facilities. (rev. 12/03/2019)

- C. **Access and Parking:** All streets, thoroughfares and access ways shall be designed to effectively relate to the major thoroughfare plans of the City. Adequate off-street parking shall generally conform to the off-street parking requirements set forth in Article 8.
- D. **Perimeter Requirements:** Upon recommendation of the Planning Commission the City Council may impose the requirement that structures, buildings and streets located at the perimeter of the development be permanently screened to protect the privacy of the adjacent existing uses.
- E. **Signage:** The size, location, design and nature of signs, if any, and the intensity and direction of area floodlighting shall be detailed in the application and must generally conform to the sign regulations in Article 15, unless the massing and scale of the PUD would make additional or different requirements desirable. Signs must nonetheless fit the design character of the development. Any deviation from the City's sign regulations will be limited. (rev. 09/03/2013)
- F. **Height Limitations:** The criteria for establishing height limitations includes the land use plan for the area, existing surrounding building heights, heights permitted by the existing zoning classification and site characteristics. Height limitations must generally conform to the requirements as set out in Article 4 of this Ordinance and the architectural standards set out in Article 10 of this ordinance.
- G. **Landscaping and Tree Protection:** The criteria for landscaping, removal of trees and protection of heritage trees should generally conform to the requirements of Article 16 of this ordinance.

7.05 PROCEDURE FOR PRELIMINARY APPROVAL

The procedure for obtaining a change in zoning for the purpose of undertaking a Planned Unit Development shall be as follows:

- A. **Pre-application Meeting:** The owner/developer shall schedule a pre-application meeting with the Department. At the pre-application meeting, the petitioner is encouraged to submit a Sketch Plan of the proposed project, containing the following points:
 - 1. The present uses and character of the area;
 - 2. The road and street system, including peripheral streets and proposed internal circulation pattern as related to requirements of this Article;
 - 3. Public and private open area and parks and trails;
 - 4. Public utilities and services for their counterpart such as water, sewer, fire protection surface drainage and school facilities, if any;
 - 5. Type of structures to be built; and proposed uses to be developed.

B. Preliminary Planned Unit Development Zoning and Master Plan Approval: The owner/developer shall submit to the Department a completed application, pay all applicable fees and submit the following attachments.

1. A statement of objectives describing:
 - a. The general purpose of the proposed development.
 - b. The general character of the proposed development.
 - c. A list of the items of the project which do not meet the strict interpretation of the Zoning Ordinance and thus how it complies with the Design Standards in Section 7.03.
 - d. A statement from the developer/owner as to the compatibility of the proposed project with the vicinity as it exists or as it is developing.
2. A vicinity map showing the location of the proposed elements of the Planned Unit Development in relation to:
 - a. Surrounding streets and thoroughfares.
 - b. Existing zoning on the site and surrounding areas.
 - c. Existing land use on the site and surrounding areas.

The vicinity map shall be drawn at a scale suitable to show an area of no less than five hundred (500) feet on all sides of the property. Adjacent streets shall be shown and clearly labeled with street names. A greater area may be required if the Department determines that information on a larger vicinity is needed.

3. A signed and sealed boundary survey and legal description of the property prepared by an engineer or surveyor registered in the State of Alabama. The survey shall indicate the total gross square footage of the site expressed in acres and show water bodies, existing structures, pavement and location of all easements.
4. A signed and sealed topographic and tree survey of the site drawn to a scale of one (1) inch equals thirty (30) feet by an engineer or surveyor registered in the State of Alabama showing:
 - a. The location of existing wetlands and jurisdictional lines as approved by the appropriate environmental agency.
 - b. Water bodies to include but not be limited to streams, lakes, marshes and coastal waters.
 - c. Existing site elevations shown on a twenty-five (25) foot grid, including off site elevations within twenty-five (25) feet of the property. Contour lines shall be shown at a contour interval of one (1) foot.
 - d. Location, species and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork.
5. A site analysis map, at the same scale as the Master Plan described below, shall be submitted indicating FEMA Firm Map Flood Zones.
6. A master plan, drawn at a minimum scale of one (1) inch equals thirty (30) feet suitable for presentation, showing and/or describing the following:
 - a. Proposed land uses for each lot or parcel.

- b. Lot sizes: The lot sizes should be indicated either by lot lines drawn in their proposed location or a statement noted on the face of the Master Plan concerning lot sizes, including minimum lot sizes proposed for each area where lots will be developed.
 - c. Building setbacks: Building setbacks should be noted and shall define the distance buildings will be set back from:
 - 1. Surrounding property lines, adjacent buildings, structures and uses.
 - 2. Proposed and existing streets.
 - 3. Other proposed buildings.
 - 4. Other man-made or natural features which would be affected by building encroachment.
 - d. Maximum height and number of floors of each building.
 - e. Open spaces
 - 1. Developed recreation facilities;
 - 2. Common useable open space (not to include detention/retention areas, drainage easements, or natural or man-made water bodies) such as plazas, courtyards and parks;
 - 3. The general location and size of hardscape or water features;
 - 4. Natural areas (not to include wetlands created or enhanced as part of a mitigation plan).
 - f. The location, width, pavement type, right-of way name and other related appurtenances of all public rights-of-way adjoining, traversing or proximate to the site.
 - g. Common outside storage areas
 - 1. Indicate purpose of storage area and any proposed structures;
 - 2. Show how storage area will be buffered from surrounding off and on site uses.
 - h. Screening, buffering and landscaped areas
 - 1. Indicate overall size and dimensions of each area;
 - 2. Indicate location and general type of buffering materials (e.g. trees, hedges, walls, fences);
 - 3. Indicate dimensions of structures such as walls or fences.
 - i. Parking
 - 1. Parking calculations based on proposed uses (submit a parking study to justify any reduction in parking requirements from those listed in Article 8 of the Zoning Ordinance);
 - 2. Indicate location and size of surface parking areas and parking structures;
 - 3. Indicate ingress/egress, circulation plan, and number of parking spaces for surface lots and parking structures;
 - 4. Indicate number of floors and spaces per floor for parking structures;
 - 5. Indicate type of paving materials for all surface lots.
7. A proposed list and description of Development Commitments and benefits.
8. A table showing acreage for each category of land use.
9. A table of proposed maximum and average densities for residential land uses. If the proposed PUD will contain multiple subdivided residential lots, provide the

aggregate square footage, average square footage, lot size range, and average lot width and lot width range.

10. A statement of the maximum building coverage and amount and percentage of impervious area for all uses other than single-family homes.
11. A preliminary utility service plan including sanitary sewers, storm drainage, and potable water supply, showing general location of major water and sewer lines, plant location, lift stations, and indicating whether gravity or forced systems are planned. Size of lines, specific locations and detailed calculations are not required at this stage.
12. Letter of utility availability from all service providers.
13. A statement indicating the type of legal instruments that will be created to provide for the management of common areas.
14. A list certified by the County Revenue Commissioner's office of the names and addresses of property owners within five hundred (500) feet of the proposed Planned Unit Development.
15. A concept storm water management plan signed and sealed by an Alabama Registered Professional Engineer, that complies with Orange Beach Land Development Code, Article IV, Storm Water Management Regulations, Section 42-291. Additional information, such as drainage calculations, topographic survey information and soils information, may be required by the Community Development Department on sites where staff has determined it necessary to ensure compliance with storm water regulations or the conditions of the Planned Unit Development.
16. A traffic study shall be required if the proposed PUD exceeds one hundred fifty (150) units for residential and lodging developments; twenty-five thousand (25,000) square feet (GFA) for commercial and retail developments; sixty thousand (60,000) square feet (GFA) for office and institutional developments; and ninety thousand (90,000) square feet (GFA) for industrial developments. The traffic study shall be prepared by a professional traffic engineer licensed in the State of Alabama and shall follow the guidelines specified in Article 7.07.H. The analysis must be submitted to the Department of Community Development and to the City's traffic consultant for review.
17. Architectural renderings and elevations.
18. State whether the planned uses comply with the comprehensive plan current and future land use designations.
19. A master sign plan, showing location, size, and type for the proposed signage of the development.

7.06 APPROVAL PROCESS

When the Planning Division has received the completed application and required attachments and has verified that the application, required attachments and submittals appear complete, the application shall be processed as any other zoning application in accordance with Article 12 of the Zoning Ordinance.

- A. After review, the Planning Commission shall make a recommendation to the City Council to either approve, approve with conditions, or deny the application.
- B. No later than ninety (90) days after receiving the recommendation of the Planning Commission, the Council shall place the matter on its agenda for preliminary consideration and may:
 - 1. Approve for rezoning to Planned Unit Development as submitted subject to final approval of the Master Plan;
 - 2. Approve with conditions, subject to final approval of the Master Plan; or
 - 3. Disapprove the Planned Unit Development rezoning.
- C. **Conditional Approvals.** If the City Council approves the Preliminary PUD Master Plan with conditions, the petitioner must submit to the Community Development Department a revised Preliminary Plan showing all changes required by the Council within thirty (30) days of the date of the City Council's approval. If the Community Development Department does not receive the revised Preliminary Plan within thirty (30) days, the conditional approval expires.
- D. **Deadline for Final Approval.** Not later than twelve (12) months from the date of the Council grants preliminary approval of the PUD, the applicant must submit a Final Master Plan to the Department; otherwise, the preliminary approval shall expire.
- E. **Expedited Review.** The applicant may choose to combine the preliminary and final plans into one (1) application. The expedited review would accomplish the rezoning of the property. All preliminary and final plan requirements shall be included in an expedited review. The Planning Commission and City Council can recommend a separate review of a PUD proposal based on the scope of the project. (rev. 09/06/2016)

7.07 APPLICATION FOR FINAL APPROVAL

If the Preliminary Plan is approved, the applicant shall submit a Final Planned Unit Development Plan covering all or part of the approved Master Plan within 12 months to the Department. The Final Development Plan shall include the following attachments:

- A. A letter from the applicant describing:
 - 1. The request for final approval;
 - 2. Changes, if any, from the approved Preliminary Plan.
- B. A signed and sealed topographic and tree survey drawn to scale of one (1) inch equals thirty (30) feet by a land surveyor and/or engineer registered in the State of Alabama showing:

1. The location of existing wetlands and jurisdictional lines as approved by the appropriate environmental agency.
 2. Water bodies to include but not be limited to streams, lakes, marshes and coastal waters.
 3. Existing site elevations shown on a twenty-five (25) foot grid, including off site elevations within twenty-five (25) feet of the property. Contour lines shall be shown at a contour interval of one (1) foot.
 4. Location, specie and size of all on site protected trees and off site protected trees within twenty-five (25) feet of proposed construction and earthwork.
- C.** A signed and sealed Development Plan drawn at a minimum scale of one (1) inch equals thirty (30) feet by an engineer, architect or landscape architect registered in the State of Alabama showing:
1. The boundaries of the site.
 2. Width, location and names of surrounding streets or public rights-of-way.
 3. Surrounding land uses within seven hundred fifty (750) feet of the site.
 4. Proposed streets and street names and other vehicular and pedestrian circulation systems including off-street parking and indicating number of spaces, walkways and trails.
 5. The use, size and location of all proposed building sites and lots.
 6. Location and size of common open spaces and public or semi-public areas such as schools, parks, playgrounds and other open spaces.
 7. All easements for utilities or other uses, indicating width.
 8. A vicinity map.
 9. Front, side, and rear elevations for all multifamily, commercial, and industrial buildings, identifying colors and materials.
 10. A master sign plan, showing location, size, and type for all commercial signage visible from any public right-of-way;
 11. If development is to be built in phases, phase lines showing the order in which development is to occur.
 12. The following information in tabular form (if development date for each phase shall be shown, in addition to the overall site).
 13. Dimensional Restrictions: The location of all proposed building sites shall be shown on the Final Development Plan subject to the minimum lot sizes, setback lines, and lot coverage or floor area, specified in the Preliminary PUD Master Plan as approved by the City Council.
- D.** A signed and sealed utility service plan prepared by an engineer, architect or landscape architect as applicable, registered in the State of Alabama showing:
1. Any and all existing drainage, water, sewer or electrical lines.
 2. Proposed water, sewer, electrical, telephone and cable lines, indicating size or capacity.
 3. A site lighting plan conforming to all city requirements.
 4. Location and width of all utility easements and/or rights-of-way.
- E.** A landscape plan prepared by a landscape architect registered in the State of Alabama meeting all City requirements showing:
1. Landscaped areas.

2. Location, height and material for walks, fences, walkways, and other man-made landscape features. Including hardscape areas such as plazas and courtyard.
 3. Any special landscape features such as, but not limited to, man-made lakes, land sculpture and waterfalls.
 4. Designation of all protected trees to be removed and retained on site.
- F.** Statistical information in tabular format:
1. Total acreage of the site.
 2. Maximum building coverage expressed as a percent of the area.
 3. Total area covered by impervious surfaces with separate totals for buildings and vehicular use areas.
 4. Area of land devoted to landscaping and/or open space useable for recreation purposes expressed as a percent of the total site area.
 5. Gross and net density for residential areas.
 6. Aggregate lot square footage, average lot size, lot size range, and average lot width and lot width range for development with multiple subdivided residential lots.
 7. Gross floor calculation for all buildings.
 8. Character and elevations for commercial and industrial buildings calling out colors and materials.
 9. Schedule of development staging, if any.
 10. A Final Boundary Survey, prepared by a surveyor registered in the State of Alabama indicating the total site area (expressed in acres) and the area (expressed in acres) for each development stage (if any).
- G.** The covenants, grants, easements or other restrictions to be imposed on the use of the land, buildings and structures, including proposed easements for public and private utilities. All such legal documents, including homeowner's associations and deed restrictions, must be approved by the City Attorney before final approval of the plan.
- H.** In cases where the proposed use or uses of the subject parcel will potentially generate a greater number of trip generation rates than the allowable uses/densities of the underlying zoning district or require improvements to the transportation infrastructure as determined by Article 7.05, B.16 or the Community Development staff, a transportation analysis shall be required. The transportation analysis shall be prepared by a professional traffic engineer licensed in the State of Alabama. The analysis shall include the total trips onto the adjacent streets. Institution of Traffic Engineers (ITE) trip generation rates or another approved source shall be used as the basis for trip generation calculations. In addition, the detailed traffic analysis shall include, but not be limited to the following:
1. Level of service calculations at each project access point for both the A.M. and P.M. peak hour;
 2. Level of service calculations at major and minor intersections that would be impacted by the proposed development for both the A.M. and P.M. peak hour;
 3. A determination of need for auxiliary lanes;
 4. A determination of need for traffic signals or other traffic-control devices;

5. Other transportation factors as may be appropriate as determined by the City of Orange Beach Community Development Department, based upon generally accepted traffic engineering practices;
 6. Traffic counts on all frontage streets and any other streets as requested by the City of Orange Beach.
- I. Verification that the land is in full single interest control. This may be in the form of a title or binding sales agreement.
 - J. Master Storm Water Management Plans prepared by an engineer registered in the State of Alabama, including but not limited to a comprehensive drainage plan showing existing and proposed elevations, proposed private and public drainage easements, an erosion and sediment control plan, drainage calculations, soils report with water table and percolation data and a storm water management facility maintenance plan. The Master Storm Water Management Plan must conform in all respects to Article IV, Storm Water Management Regulations, and Orange Beach Land Development Code.

7.08 FINAL APPROVAL

Upon completion of the Final Development Plan in accordance with Section 7.06, the Department shall schedule the matter for a Public Hearing at a regularly scheduled Planning Commission meeting. The application for approval of the Final Development Plan constitutes a rezoning and will be processed in the same manner as any other Zoning Ordinance amendment.

Zoning Map: Upon final plan approval, the official Zoning Map will be changed to indicate the area as Planned Unit Development; provided, however that if the PUD is not constructed within the time period herein specified, the Department shall initiate the process to return the property to its original zoning classification. The approved Final Development Plan shall be binding on all subsequent owners of the land until revised or repealed as authorized in this article and in the same manner as any other rezoning.

Building Permits: No building permit shall be issued for any portion of a proposed Planned Unit Development until the Final Development Plan has been approved as required by this Article.

Construction shall proceed only in accordance with the plans and specifications approved and in conformity with any conditions attached to the approval. If the construction is to proceed in stages, then the developer must begin the construction of each stage within the time limits specified in the final development plan.

The Building Official shall periodically monitor the construction of the PUD with respect to the start of construction and development phasing. The Director is authorized to extend the time for start of construction, or the length of time needed to complete a phase, but only any extension greater than one month shall be considered a minor modification.

The Building Official shall not issue any permit for any proposed building, structure, activity or use within the project unless such is in accordance with the approved development plan and any conditions imposed in conjunction with its approval.

The Director shall issue a certificate of occupancy for any structure upon its completion in accordance with the development plan

Control of Area Following Completion: After approval of a Final Planned Unit Development, the use of the land/or modification or alteration of any buildings or structures within the area covered by the plan shall continue to be regulated in accordance with the approved plan except as otherwise provided for herein.

Amendments to a Planned Unit Development: Amendments shall be considered major or minor. Minor amendments are changes which do not alter the concept of the PUD in terms of density, floor area ratio, land usage, height, provision of open space, or the physical relationship of elements of the development, including, small changes in the location of buildings, open space, or parking; or realignment of minor streets.

Minor amendments may be authorized by the Director and the City Engineer As follows:

- A.** Does not increase the proposed floor area for nonresidential use by more than five percent (5%). Does not increase total number of dwelling units by more than five percent (5%) within a given phase. Fluctuation greater than the above shall be permissible provided overall density is maintained. Does not increase total building coverage by more than five percent (5%).
- B.** Does not increase total building coverage by more than five percent (5%).
- C.** Does not increase total building height by more than five percent (5%) to a maximum of eight (8) feet for buildings less than four (4) stories nor more than one (1) story for buildings greater than four (4) stories.
- D.** Provides for a decrease of up to ten percent (10%) in land coverage, height or numbers of dwelling units.

Major amendments represent substantial deviations from the PUD concept approved, including, large changes in floor space, mix of uses, density, lot coverage, height, setbacks, lot sizes, open space, changes in the location of buildings, open space, or parking; or changes in the circulation system

Any proposed major or substantial change in the approved Preliminary or Final Planned Unit Development Master Plan which affects the intent and character of the development, the density or land use pattern, proposed buffers, the location or dimensions of arterial or collector streets, or similar substantial changes, shall be reviewed by the Planning Commission and the City Council in the same manner as the initial zoning application. A request for a revision to the Preliminary or Final Planned Unit Development Plan shall be supported by a written statement and by revised plans demonstrating the reasons the revisions are necessary or desirable.

Minor changes or mere deviations from the Preliminary or Final Planned Unit Development Master Plan, which do not affect the intent or character of the development or the items identified as “major or substantial changes”, shall be reviewed and identified by the Department of Community Development and approved by the City Council. Changes to names of streets, roads, access easements, whether public or private previously approved through the PUD process, are considered revisions or amendments. Upon approval of the revisions or amendment, the owner/developer shall make modifications to the plans and attachments and file with the Department of Community Development within thirty (30) days.

Planned Unit Development Time Limitations: If a building permit has not been issued within one (1) year of the final approval, the applicant can request a one-year extension. If no extension is requested to the Department of Community Development, the Department will place on the Planning Commission’s agenda a zoning request to return the zoning to its original classification. The Planning Commission will then make their rezoning recommendation to the City Council for final action.

7.09 CONFLICTS

In the event of a conflict between the provisions of this article and other provisions of the zoning ordinance, the provisions of this article shall prevail and be controlling. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions would be declared invalid or unconstitutional.