

**City of Mobile**  
**Zoning Code – Subdivision Regulations**  
**COMMENT RESPONSE—COMPOSITE DOCUMENT**

**October, 2017**

**A compilation of comments by the general public, and responses by staff, regarding  
the proposed Zoning Ordinance and Subdivision Regulations revisions**



**City of Mobile**  
**BUILD MOBILE Department**

# PUBLIC COMMENTS RECEIVED THROUGH OCTOBER 14, 2017

## List of Commentators

No.	Commentator Name	Community Role (citizen, business owner, neighborhood organization, developer, other )
1	Teresa Tessner	Resident, Leinkauf Neighborhood
2	Teresa Tessner	Resident, Leinkauf Neighborhood
3	Casey Pipes	Attorney representing client, Resident, Business Owner
4	General Public	Comments from the Zoning Technical Advisory Committee meeting on September 14, 2017

Thank you for your feedback and involvement in this process. Following each upcoming Zoning Technical Advisory Committee (ZTAC) meeting, public comments will be received for approximately 30 days. Responses will be prepared, in a composite format, approximately ten days following the end date of the public comment period. A response document will be uploaded to the City's *Map for Mobile* website ([www.mapformobile.org](http://www.mapformobile.org)).

We look forward to reviewing and responding to your comments. For additional information please contact us by phone at (251) 208-5895, or by email at [Planning@cityofmobile.org](mailto:Planning@cityofmobile.org).

# Responses to Public Comments regarding the Zoning Ordinance and Subdivision Regulations

## 1. Comment: RE: Table of Permitted Uses Matrix - Article III

### **Residential:**

Cottage Court—definition? Use in RL should be conditional and limited to 2 units

Manufactured home—trailers should not be permitted in RL; possible that “kit” homes might be ok, but conditional

Manufactured Housing Land Lease Community—should not be permitted even as a conditional use in RL

Apartment House—definition? Use in RL should be limited to 2 dwelling units

Townhouse/Rowhouse—conditional use permitted in RL if limited to 2 units

Rooming & Boarding—conditional use in RM, not by right

Community residential facility—conditional use in RL limited to 2 units, conditional use in RM

Residential Care Facilities—conditional use in RM

### ***Response:***

***Cottage Court***— (defined in Article XII) - A single lot that includes detached single family dwellings or duplexes arranged around a courtyard or open space.

***Manufactured Home*** - Policy guidance within the Map for Mobile, Framework for Growth Action Plan directs the City to “Evaluate regulations and revise to allow and encourage innovative affordable housing types.” Federal law prohibits the City from banning homes built to the HUD Code. “Trailers” are not allowed in RL, but homes built to the HUD Code (referred to as “manufactured homes” are. Very few of those homes are ever relocated after they are placed on a lot. In addition, a “mobile home” (trailer) may not built to the same construction and architectural standards as a “Manufactured Home.” Policy guidance within the Map for Mobile, Framework for Growth Action Plan directs the City to “Evaluate regulations and revise to allow and encourage innovative affordable housing types.” This does not allow pre-HUD homes, commonly referred to as “mobile homes” - basically, homes built in a factory but conforming to neither the City building code (a “modular home”) or a HUD-Code home (a “manufactured home”).

***Manufactured Housing Land Lease Community*** - RM only? If we allow the rental of lots for single-family homes built to the local building code, we probably have to allow the same thing for homes that are built to the HUD code.

***Apartment House***—(defined in Article XII) - A building that - (1) is a converted single-family detached dwelling, or with architectural features and massing that are compatible with single-family dwellings, and (2) that consists of at least 3 separate dwelling units. This use type is different from a boarding house in that the units are intended for occupancy as permanent residences, and each unit may have separate kitchens and bathroom facilities. This use type is sometimes called a “big house.” This use was deleted from the table of uses as an allowance in RL per comments during October, 2017 meetings. Note: the draft Use Regulations will allow one accessory dwelling unit, which amounts to 2 dwelling units per lot.

***Townhouse/Rowhouse*** – This use is not allowed in RL as currently written – add?

***Rooming & Boarding*** – This would only allow rooming and boarding anywhere in the City as a conditional use – i.e. no by-right locations.

**Community residential facility** – Permissions are needed to comply with state and federal law.

**Residential Care Facilities** - OK

**Lodging/Short-Term Rental:**

Bed & Breakfast—conditional use permitted in RL

Short-term rental—definition? Perhaps conditional use in RM

**Response:**

**Bed & Breakfast**—OK

**Short-term rental** - (defined in Article XII) - The rental of a residential dwelling unit or an accessory building on a residential lot for a period of less than 30 days. The use does not include an extension for less than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more. The use does not include a rental between parties to the sale of that residential dwelling unit. (Because RM allows a variety of housing types at 10-15 dwelling unit/acre, why are these more intensive?)

**Commercial/Mixed Use:**

Automated teller machine, stand alone—not permitted in NCT or CT; maybe conditional use in NCT, but not at all in CT

Financial Institution—not permitted in RM

Pawnbroker—not permitted in CT

Payday lender—not permitted in CT

Bar/Lounge—conditional use in RL and RM

Farmers Market—conditional use in RM

Food preparation—conditional use in RL and RM

Grocer—conditional use in RL and RM

Mobile vendor—definition? Would food trucks be included? If so, conditional use for all zoning districts where not currently permitted by right

Restaurant—conditional use in RL and RM

Restaurant, drive-in—not permitted in NCT

Restaurant, drive-thru—not permitted in CT, maybe conditional use if able to control density and all aspects of design/site for lots outside of historic district

Snack or beverage bars—conditional in RL and RM

Mixed use building—definition? Conditional use in RL if limited to 2 units and conditional in RM could be appropriate depending on what the definition is.

Office—conditional in RL and RM

Convenience store with gasoline sales—not permitted in CT due to design and impact concerns.

Non-store retailer—definition? Not sure if by right use is appropriate for CT without definition.

Carwash-- not permitted in NCT or CT due to design and impact concerns.

Gasoline or diesel fuel sales-- not permitted in CT due to design and impact concerns.

**Response:**

**Automated teller machine, stand alone**— The NC is lower intensity than CT, so why allow it in NC but not CT?

**Financial Institution—not permitted in RM**

Discuss - this is only allowed as an accessory use (i.e., an ATM in an apartment lobby)

**Pawnbroker—not permitted in CT**

Under staff review for further consideration

<b>Payday lender—not permitted in CT</b>	<i>Under staff review for further consideration</i>
<b>Bar/Lounge—conditional use in RL and RM</b>	<i>Allow bars in residential districts?</i>
<b>Farmers Market—conditional use in RM</b>	<i>Under staff review for further consideration</i>
<b>Food preparation—conditional use in RL and RM</b>	<i>This appears too intense for a residential district. This does not refer to restaurants, but rather industrial type food preparation.</i>
<b>Grocer—conditional use in RL and RM</b>	<i>Appears too intense for a residential district.</i>

**Mobile vendor**— (defined in Article XII) - Any person, including any employee or agent of another, who sells or offers to sell, barter or trade from a vending vehicle, trailer or cart.....Food trucks would be included. There should be at least one by-right location.

<b>Restaurant—conditional use in RL and RM</b>	<i>Appears too intense for a residential district.</i>
<b>Restaurant, drive-in—not permitted in NCT</b>	<i>Under staff review for further consideration</i>
<b>Restaurant, drive-thru—not permitted in CT, maybe conditional use if able to control density and all aspects of design/site for lots outside of historic district</b>	<i>Under staff review for further consideration</i>
<b>Snack or beverage bars—conditional in RL and RM</b>	<i>Appears too intense for a residential district.</i>

**Mixed use building**— (defined in Article XII) - A building with any of the following floor space configurations: (1) an office, as defined below, located above the ground floor, where the ground floor is occupied by any use listed in the "convenience store," "restaurant," "retail," or "theater" categories, or (2)"office," "convenience store," "restaurant," "retail," or "theater" categories on the ground floor, and residential dwelling units above the ground floor or behind the non-residential floor area. The floor space above the ground floor may be occupied by non-residential floor area in addition to dwelling units. *Appears too intense for a residential district.*

<b>Office—conditional in RL and RM</b>	<i>Appears too intense for a residential district.</i>
<b>Convenience store with gasoline sales—not permitted in CT due to design and impact concerns.</b>	<i>What design and impact concerns would entirely disqualify a gas station in CT?</i>

**Non-store retailer**—(defined in Article XII) - Establishments that retail merchandise through online, mass media, telephone, mail, or similar methods (infomercials, direct-response advertising, paper and electronic catalogs, door-to-door solicitation, inhome demonstration, selling from portable stalls, vending machines, and similar methods). Examples include mail-order houses, vending machine operators, home delivery sales, door-to-door sales, party plan sales, electronic shopping, and sales through portable stalls (e.g., street vendors).

<b>Carwash-- not permitted in NCT or CT due to design and impact concerns.</b>	<i>What design and impact concerns would entirely disqualify a car wash in CT?</i>
<b>Gasoline or diesel fuel sales</b>	<i>No change is requested here.</i>

**Public/Civic/Institutional:**

Cemetery/Mausoleum--conditional in CT  
Public Safety Facility—conditional in RL and RM  
Hospital—conditional in NCT and CT  
Art Studio—conditional in RL and RM  
Cultural Facility—conditional in RL and RM  
Entertainment Facility—definition? Depending upon definition, conditional use in CT rather than by right  
Recreational Facility, Outdoor or Major—conditional use in CT

***Response:***

***Cemetery/Mausoleum--conditional in CT*** *Under staff review for further consideration*  
***Public Safety Facility—conditional in RL and RM*** *Under staff review for further consideration*  
***Hospital—conditional in NCT and CT*** *Under staff review for further consideration*  
***Art Studio—conditional in RL and RM*** *Under staff review for further consideration*  
***Cultural Facility—conditional in RL and RM*** *Under staff review for further consideration*  
***Entertainment Facility— (defined in Article XII) - An establishment where the primary source of revenue is derived from live or recorded performances shown or played for the amusement of an audience. Examples include auditoriums, music clubs and dance halls. Kept as permitted - CT are corridors with a variety of business and entertainment-related uses***  
***Recreational Facility, Outdoor or Major*** *Under staff review for further consideration*  
***—conditional use in CT***

**Industrial/Production:**

Manufacturing, Light—definition? Would small-scale, artisanal type operations such as furniture-making be included in the definition? This type of enterprise could be a conditional use in CT.  
Oil and gas company (drilling and exploration)—not permitted in RL, RM, CT, or CM  
Oil and mining support activities—not permitted in CT or CM

***Response:***

***Manufacturing, Light— (defined in Article XII) - The use associated with a business or activity involving the creation, assemblage or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their retail sale. An example is jewelry manufacturing.*** *Under staff review for further consideration*  
***Oil and gas company (drilling and exploration)*** *Agreed*  
***—not permitted in RL, RM, CT, or CM***  
***Oil and mining support activities*** *Agreed*  
***—not permitted in CT or CM***

**Infrastructure:**

Parking facility—not permitted in CT  
Transit shelter—conditional in RL, RM, and CT  
Utility, minor—conditional in CT  
Weather or environmental monitoring station—conditional in CT

***Response:***

***Parking facility—not permitted in CT*** *Changed to conditional use*

<b>Transit shelter—conditional in RL, RM, and CT</b>	<i>Why would infrastructure require special review? Under current conditions, these would be bus shelters.</i>
<b>Utility, minor—conditional in CT</b>	<i>Changed to conditional use</i>
<b>Weather or environmental monitoring station—conditional in CT</b>	<i>These are very low intensity uses, and not like to occupy much space.</i>

**Agriculture:**

Agriculture & Forestry—not permitted in RL  
 Community Garden—conditional use in RL, RM, NCT, and CT  
 Community Supported Agriculture—conditional in RM, NCT and CT

**Response:**

<b>Agriculture &amp; Forestry—not permitted in RL</b>	<i>Why would we not allow this in our lowest intensity district?</i>
<b>Community Garden—conditional use in RL, RM, NCT, and CT</b>	<i>These provide neighborhood civic spaces - why require discretionary review?</i>
<b>Community Supported Agriculture—conditional in RM, NCT and CT</b>	<i>These provide neighborhood civic spaces - why require discretionary review?</i>

**Accessory:**

In general I find this category confusing and potentially hard to interpret. Some designations such as “Accessory use (generally)” seem overly broad and open to abuse.  
 Remove “Accessory building or structure” line entirely. Zoning district designations should cover if/what accessory structures are permitted.  
 Are there any limits on how long an accessory use can continue?  
 Are all accessory structures, whether permanent or not, governed by design/site regulations?

**Response:**

**Accessory use (generally)** – (defined in Art. X and regulated in Art. VI.) - A use customarily incidental to the principal use of a building site or to a structure and located upon the same building site with the principal use.....  
 The Accessory building or structure reference is important in that it distinguishes that the structure is not the principle use or structure occurring on property. Generally, there would be no limits on how long the accessory use can continue, if it occurred with a principle use. If the principle use / structure ceased to exist on the site, the accessory structure may represent a legal-nonconformity, and would be subject to code provisions concerning nonconformities. Design/site regulations would apply to accessory structures, as they would be considered permanent, and could be detrimental to the scale and character of a neighborhood if built out of conformance with applicable design / site regulations.

<b>Some designations such as “Accessory use (generally)” seem overly broad and open to abuse.</b>	<i>See response above.</i>
<b>Remove “Accessory building or structure” line entirely. Zoning district designations should cover if/what accessory structures are permitted.</b>	<i>Art. VI includes detailed regulations of accessory structures and uses.</i>
<b>Are there any limits on how long an accessory use can continue?</b>	<i>No. They are allowed as part of the principle use.</i>
<b>Are all accessory structures, whether permanent or not, governed by design/site regulations?</b>	<i>Yes. See Art. VI.</i>

**Miscellaneous:**

Temporary Uses—definition? Too vague to be permitted by right across the board.

**Response:**

**Temporary Uses – Definition? Too vague to be permitted by right across the board.** Regulated by Article VI.

## 2. Comment: RE: Unified Development Code Articles II & III

In general, how are facades at corner properties handled? Is there a hierarchy regarding which street facade must meet the facade requirements? Or must any façade facing a street meet the facade requirements. It should be made explicit that all street facing facades meet the facade requirements, even at a corner for buildings in NCT, CT, and RM.

**Response:** *It is suggest that this be added to the building design standards in Art IV. There should be an exception for designated "B" Streets.*

There should be a restriction on how much of a lot can be used as a vehicular courtyard; constructed as canopied space with pavement underneath; or as garage openings in NCT, CT, and RM. (See Building Design Type C and Type D).

**Response:** *The minimum frontage buildout will limit the areas of a frontage that are useable for vehicular spaces.*

Regarding “Limited application of Building Design Type D in CT and NCT”: the term “limited application” needs to be defined. A definition regarding context into which “suburban” elements can be inserted, and how often along the streetscape in NCT and CT, is needed.

**Response:** *This is just guidance for applying the districts. I suggest a statement in 64-11.A simply stating that these subsections are guidelines for applying the composite zoning designations.*

Many of the Site Design Types show placement of pavement & parking lots inconsistent with the building design elements and dimensional standards of Article III listed for the district. Parking lot designs shown in Site Design Type 1 & Type 2 are not appropriate in traditional neighborhoods of either RL or RM type. The “unscreened” parking lots shown in Site Design Type 3 and 4 are not appropriate for use in CT or NCT. Parking of more than just a couple of cars should always occur behind buildings in CT and NCT.

**Response:** *Minimum frontage buildout will screen most of the parking areas in traditional neighborhoods with buildings.*

For historic district overlay areas, pre-development steps should incorporate ARB and representatives of registered neighborhood and/or district entities. ARB standards should prevail in cases where there is a conflict between standards.

**Response:** *The City’s reliance upon the requirement for ARB meetings to guide pre-development will continue within the Historic District Overlay areas, consistent with the provisions of Chapter 44 of the City Code. The pre-application process in Article V will involve historic preservation staff. The conflict standard will be added to Article X.*

In all cases (HO, and CT, NCT, and RM in traditional areas not currently in HO) dimensional standards application should take into account the overall streetscape to determine if scale and placement is appropriate and consistent with the historic fabric of the area. Buildings and site plans that are not historic model examples within the area should not be used for determining dimensional standards, even if they are within close proximity of the subject site.

**Response:** *This is already part of ARB review (see Chapters Design Review Guidelines for Mobile’s Historic Districts, chapters 6 and 7), but is too indefinite for baseline zoning districts.. This would require either discretionary review for all projects in the CT, NCT, and RM districts or a map or some other reference identifying all appropriate and non-appropriate models on a parcel by parcel or block by block basis.*

In CT and NCT not included in an historic district overlay, the unique status, history, character, and proximity to historic residences and historic districts, requires regulations that are more restrictive—most likely needing conditional use zoning for many activities vs. permitted by right and needing design, site, and dimensional standards consistent with historic overlay. Building/site/dimensional standards negotiations should go to the ARB and include representatives of neighborhood groups in the area. Conditional uses hearings should include neighborhood representation. Conditional Use zoning status should revert to prior Zoning when the current conditional Use lapses or owner changes. Registered and defined neighborhood association Boards should have veto authority for both commercial and residential development proposals (use and design) within the footprint of that district. At the least, Boards should have early review and feedback opportunity as part of the pre-development procedure.

**Response:** *What specific uses are you suggesting that we convert from by-right to conditional use? Adding specific design standards and defining them in advance in the UDC should eliminate the need for most discretionary approvals. Why would buildings outside of historic districts require ARB approval? This could significantly increase their workload and delay development approvals in those areas. The City’s reliance upon the requirement for ARB meetings to guide pre-development will continue within the Historic District Overlay areas, consistent with the provisions of Chapter 44 of the City Code. Article V, Section 64-76 of the draft zoning code incorporates a new requirement for developers to schedule and facilitate a Neighborhood Meeting in advance of submittal of applications seeking project approval. It is anticipated that neighborhood leaders may use these meetings as an opportunity to voice their thoughts regarding proposed development projects, so that areas of disagreement may be discussed in advance of any required public hearings. The conditional use permit (CUP) process will have neighborhood pre-meetings as provided in Article V. When a CUP lapses, the zoning district does not change. When ownership transfers, the new owner is subject to all conditions of the existing CUP and will need a new CUP if they want to change them.*

In cases where existing building design and site plan are not consistent with the new standards (those being reviewed now as part of the Unified Development Code), new standards should be applied for building and site if an existing non-conforming building is significantly remodeled/re-built or the existing non-conforming building is demolished.

**Response:** *To be addressed in Article 7. Concerning the repurposing of existing structures, it is not anticipated that this activity would automatically trigger requirements to bring non-conforming structures into compliance. Demolition would represent such a trigger.*

### 3. Comment: RE: Table of Permitted Uses Matrix - Article III

On the Zoning Map, will the Dimensional Standards sub-district be specified? For example, in Zoning District DW, will the owner be allowed to build under either District A or District B dimensional standards?

**Response:** *The zoning map will depict the locations of the areas subject to the Type A or Type B dimensional standards. For example, DW will be either DW(A) or DW(B). DW(A) is more industrial in character, but DW(B) includes urban building design standards with reduced landscaping. If a property is in DW(A), for example, the Site 3-Building D standards of DW(B) do not apply - but the minimum landscaping required is 12%, not 5%.*

64-27(B)(2) says all uses must be conducted entirely within a completely enclosed structure except in a few

situations. Does this mean no outdoor seating at restaurants, cafes, etc.? For example, Serda's downtown (chairs on sidewalk); Hero's downtown (wooden deck); Hero's downtown (outside seating by front door under roof)?

**Response:** *Outdoor seating represents a use which may be allowed outside of an enclosed structure, subject to appropriate review and approval. The comment seems to refer to the statement that "'Buildings per lot' refers to structures containing enclosed air-conditioned space." There is no limit on buildings per lot, so I suggest deleting this, along with Row 3, and state that there is no limit on buildings per lot. I also suggest adding language to Article IV or VI acknowledging and establishing appropriate standards for outdoor dining.*

If you have a structure that complies with all the zoning codes EXCEPT one or more of the Building Design criteria, will it have fewer restrictions on expansion and change in use as a non-conforming structure than other types of non-conforming structures?

**Response:** *To be addressed in Article VII.*

Will the initial rezoning of land generally follow the current use of the developed property, or will it be based on the Future Land Use Map?

**Response:** *The Future Land Use Map, adopted by the Mobile City Planning Commission on May 18, 2017, represents the baseline document which will guide preparation of the new zoning map. Additionally, current, existing uses will be reviewed and will support the zoning designations depicted on the new zoning map.*

Who will be responsible for maintaining the required open space in a subdivision? (e.g., City or HOA). If HOA, what happens when it is not maintained after lots are sold?

**Response:** *The property owner or HOA maintains the space, unless the City accepts dedication - or example, as part of a subdivision plat approval.*

Will there be maximum parking lot sizes in NCT, D, and CT districts? If so, why?

**Response:** *Provisions for maximum parking standards will not be included in the zoning code. It is anticipated that increasing land values within these districts will ultimately result in fewer, and smaller, surface parking lots.*

Why is a parking facility not allowed by right in NC or DC districts?

**Response:** *NC districts are small in scale and designed to be walkable. I suggest we include strict standards, such as maximum parking size/number if we allow stand-alone parking facilities there. I suggest we allow parking in DC but as a conditional use in TC.*

Will off-site parking be allowed which can serve as required/available parking for 2+ properties?

**Response:** *An appropriate shared parking agreement, following review by City staff, may be determined to be satisfactory for meeting off-street parking requirements of the Code.*

Is there a difference between a drive-thru restaurant and a restaurant that has only a pick up/order window (and not a menu ordering microphone/speaker)?

**Response:** *Based upon the definition of Drive-thru in Article X, there is no difference between the two uses which you describe.*

In Section 64-27, Uses Not Listed says that the Director, the Planning Commission, and the ZBA all have some role to play. How/Why?

**Response:** The reference to "Planning Commission" is a typo and should be changed to the Director. The Director, as the agency involved in the day to day administration of the UDC, makes the decision. Affected parties may appeal this decision to the ZBA as required by state law.

The standards for D4 were not included.

**Response:** There is no D4 in the current draft. We are considering expanding the D districts, and will add the appropriate standards at that point.

How would one know which Downtown sub-district they may be placed in? Is there some correlation to the existing zoning districts?

**Response:** The existing Downtown Development District Code may generally be relied upon to determine which sub-district a parcel may be placed within on the zoning map. It is anticipated that additional residential sub-districts may be designated within the Downtown district, based on location of existing residential uses.

#### 4. Comments from the Zoning Technical Advisory Committee (ZTAC) meeting on September 14, 2017

An audience member asked if there would be changes regarding real estate advertising signs.

**Response:** Mr. White stated that there wouldn't necessarily be a specific category regarding real estate signs as that would regulate what the sign says, but there will be regulations regarding temporary signage to accommodate them.

An audience member asked how the limits on building heights downtown would be affected.

**Response:** Mr. White replied that the building height limits will be carried forward from the current Downtown Development District Code.

An audience member pointed out that the Community Plans referenced by Ms. Beaco such as Texas Street and Africatown were not referenced.

**Response:** Ms. Beaco stated that all of the community plans and associated maps were provided to the consultant team and were incorporated into the Future Land Use Plan.