Chapter 64 Unified Development Code

Contents

Article VI  Procedures

Sec. 64-101  General Procedural Requirements & Authority .................................................. 194
Sec. 64-102  Filing Applications .............................................................................................. 196
Sec. 64-103  Pre-Application .................................................................................................. 196
Sec. 64-104  Neighborhood Meetings .................................................................................... 198
Sec. 64-105  Filing Applications .............................................................................................. 200
Sec. 64-107  Notice Generally ................................................................................................. 201
Sec. 64-108  Rezonings and Text Amendments ..................................................................... 202
Sec. 64-109  Conditional Use Permits .................................................................................... 206
Sec. 64-110  Planned Development ......................................................................................... 209
Sec. 64-111  Previously approved Planning Approvals and Planned Unit Developments .......... 212
Sec. 64-112  Appeal of Administrative Zoning Decisions ...................................................... 216
Sec. 64-113  Variance of Zoning Regulations ....................................................................... 218
Sec. 64-114  to .......................................................................................................................... 220
Sec. 64-130  Reserved .............................................................................................................. 220

DRAFT – FOR DISCUSSION ONLY (1/1/19)
Article VI Procedures | Sec. 64-101 General Procedural Requirements & Authority

Sec. 64-101 General Procedural Requirements & Authority

Purpose: This accomplishes the following:

- Establishes the workflows associated with zoning and subdivision plat processes;
- Assures that the processes comply with state law;
- Assign decision making authority, completeness review, and deadlines to ensure that the processes are efficient and fair to applicants; and
- For discretionary or legislative decisions, provide notice and an opportunity to be heard by persons affected by the application.

A. Applicability

1. Generally. This Article sets up rules and procedures for specific land use decisions under the jurisdiction of the Planning Commission, Board of Zoning Adjustment, the City Council (where applicable), and Administrative decisions.

2. Permits and licenses. If a use is subject to the provisions of this chapter, no permit, license, or other document of approval shall be issued by any City department, agency or board until the Director certifies that it complies with this chapter.

B. Procedures

1. This Article sets up rules for procedures, such as pre-application, neighborhood notification, notices and public hearings. It then describes the process for specific land use decisions. The procedures all have a common workflow and description, as follows:

<table>
<thead>
<tr>
<th>Table 64-71-1 Common Procedural Elements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Element</strong></td>
</tr>
<tr>
<td>Applicability</td>
</tr>
<tr>
<td>Initiation</td>
</tr>
<tr>
<td>Completeness</td>
</tr>
<tr>
<td>Notice</td>
</tr>
<tr>
<td>Decision</td>
</tr>
<tr>
<td>Approval Criteria</td>
</tr>
<tr>
<td>Subsequent Applications</td>
</tr>
<tr>
<td>Appeals</td>
</tr>
<tr>
<td>Scope of Approval</td>
</tr>
<tr>
<td>Recordkeeping</td>
</tr>
</tbody>
</table>

2. The processes established in this Article are summarized below:
Table 64-71-2 Process Summary

<table>
<thead>
<tr>
<th>Process</th>
<th>Agency</th>
<th>Notice</th>
<th>Cross-Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Text Amendments</td>
<td>I</td>
<td>R-PH</td>
<td>D-PH</td>
</tr>
<tr>
<td>Rezonings</td>
<td>I</td>
<td>R-PH</td>
<td>D-PH</td>
</tr>
<tr>
<td>Conditional Use Permits</td>
<td>I</td>
<td>R-PH</td>
<td>D-PH</td>
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<tr>
<td>Alternative Compliance</td>
<td>D</td>
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<td>A-PH</td>
</tr>
<tr>
<td>Preliminary Plan</td>
<td>I</td>
<td>D-PH</td>
<td></td>
</tr>
<tr>
<td>Engineering Plans</td>
<td>D</td>
<td></td>
<td>A-PH</td>
</tr>
<tr>
<td>Final Plat</td>
<td>D</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minor Plats</td>
<td>I</td>
<td>D-PH</td>
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<tr>
<td>Minor Lot Adjustment</td>
<td>D</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vacating Streets or Reservations</td>
<td>I</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Permit Certification</td>
<td>D</td>
<td></td>
<td>D-PH</td>
</tr>
<tr>
<td>Certificate of Occupancy Certification</td>
<td>D</td>
<td>D-PH</td>
<td></td>
</tr>
<tr>
<td>Zoning Appeals</td>
<td>I</td>
<td></td>
<td>D-PH</td>
</tr>
<tr>
<td>Zoning Variances</td>
<td>I</td>
<td></td>
<td>D-PH</td>
</tr>
</tbody>
</table>

Note: this table is a general summary. Refer to the referenced sections for the specific procedure. If there is any conflict between the text section referenced here and this Table, the text section controls.

**Key:**

- I = intake, review and referral
- R = Recommendation
- D = Decision
- A = Appeal
- PH = public hearing
- ✔ = required
Sec. 64-102  Filing Applications

A. General Requirements

1. Applications filed under this Chapter must include the information required by Article 12 (Submittal Requirements). All applications shall be made on forms prepared by the Director.

2. The Council may establish fees for all applications required in this Chapter by resolution.

B. Completeness Review

1. The City of Mobile will not process incomplete applications.

2. An application is not complete until all required items are submitted (see Article 12).

3. When applications are filed, the Director will review them for completeness.

4. The time period to process an application does not commence until the Director determines that the application is properly submitted and the applicant has corrected any deficiencies in the application.

5. Review for completeness of application forms is solely to determine whether preliminary information required for submission with the application is sufficient to allow further processing. It does not constitute a decision as to whether an application complies with this Chapter.

6. The Director will determine whether the application is complete and will transmit the determination to the Applicant. If the Director determines that the application is not complete, the Director will specify those parts of the application that are incomplete and will indicate how they can be made complete, including a list and description of the information needed to complete the application. The Director and the decision making agency are not obligated to further review the application until the required information is corrected.

7. The Director or the approving authority may provide submission deadlines for materials required in support of any application provided for in Article 12. Compliance with those deadlines is required to have the application placed on an agenda to be heard by the approving authority.

Sec. 64-103  Pre-Application

A. Applicability

1. This section applies to any of the following applications:
   
   (a) Rezoning,
   
   (b) Conditional use permits,
   
   (c) Appeals or variances to the Board of Adjustment,
   
   (d) Preliminary Plans (Subdivision), or
   
   (e) All applications for new development, redevelopment, significant additions or exterior modifications in the “D” (Downtown) district, excluding:

   (i) The erection or replacement of signs for existing buildings, and that are not associated with a rezoning, building permit, or certificate of occupancy for new building construction, or
(2) Exterior modifications that do not alter the building materials or frontage types, or
(3) Landscaping, tree planting, or fences that are not associated with a rezoning, building permit, or certificate of occupancy for new building construction.

2. The Director may waive the pre-application meeting upon finding that the applicant has sufficient familiarity with the approval process that a pre-application meeting would not serve a valid purpose.

B. Timing
The pre-application meeting shall occur:

1. If the application requires a Neighborhood Meeting (see Sec. 64-104 below), at least 14 days before the Neighborhood meeting is scheduled, or

2. If a Neighborhood meeting is not required, at least 10 days before the application is filed.

C. Meeting Contents

1. The applicant and Director shall meet at the Planning Department offices.

2. For applications in the “D” (Downtown) district, pre-application meetings shall include the applicant, the applicant’s design professionals, the associated City Departments, and the CRC. The Planning Director will coordinate City Departments attendance at any “D” (Downtown) pre-application meetings. Pre-application meetings will be scheduled at the request of the applicant.

3. The applicant shall provide a brief overview of the project, including proposed location, uses, densities, project layout, and design features.

4. The Director will provide information and comments at the pre-application meeting, but will not take formal action on the application. In addition to provision of verbal information, the Director may provide a Pre-application meeting checklist.

5. The applicant’s and Director’s comments are for purposes of information, but are not binding on either the City or the applicant.

6. The pre-application meeting shall include the following:

   (a) A discussion of technical studies, plans and other information deemed relevant to the specific application request,

   (b) Discussion of the anticipated level of citizen interest,

   (c) Identification of neighborhood notification and Neighborhood Meeting requirements, if applicable, and

   (d) A discussion of the general project consistency with the Comprehensive Plan.

D. Documentation

1. During the meeting, the Director may review and complete an informational checklist, based on the scope of the application.

2. The Director will record in writing and provide the applicant any pertinent information concerning the project scope, as described by the applicant, as well as verbal guidance provided by City staff.
Sec. 64-104 Neighborhood Meetings

**Purpose:** This Section establishes a neighborhood meeting process for designated applications. This process does not give residents a veto over proposed developments and does not supersede the UDC standards that apply to a development. Instead, this process creates a forum to resolve disputes, and to involve neighborhood residents in reviewing applications at an early stage of the development process.

A. Applicability

1. **Applications.** This section applies to any of the following applications, subject to subsection 2 below:
   
   (a) Rezoning (including planned development), or
   
   (b) Conditional use permit, or
   
   (c) Appeals or variances to the Board of Adjustment, or
   
   (d) Preliminary subdivision plat.

2. **Scope or Location of Application.** This section applies to any application described in subsection 1 above that:

   (a) Is located within:
       
       (1) any of the following areas depicted on the Future Land Use Map of the Map for Mobile: Neighborhood Center, District Center, Mixed Commercial Corridor, Traditional Mixed-Use Corridor, or Downtown Waterfront, or
       
       (2) any historic district designated pursuant to Chapter 44 of the City Code [refer to Chapter 44, Article IV, § 44-74].

B. Notice

1. **Signs**

   (a) The applicant will provide and place at least 1 weatherproof sign on the property at a location that is visible from the public right-of-way and no more than 10 feet from front street line of the project site. Minimum height for letters and numbers is 6 inches for uppercase and 4 inches for lowercase letters.

   (b) The sign shall contain the applicant’s name, phone number, time, date, location and purpose of the Neighborhood Meeting.

   (c) Posting of multiple signs on the property may be warranted, based on the configuration of the site and the total linear feet of street frontage abutting the development site, as follows:

       (1) Corner lots shall include at least 1 sign posted along each street abutting the project site.

       (2) Project sites with continuous frontage abutting existing streets shall post signs at a ratio of 1 additional sign per 200 linear feet of street frontage.

   (d) The sign(s) shall include the information required by Error! Reference source not found.
Article VI Procedures | Sec. 64-104 Neighborhood Meetings

(e) The applicant shall, at its sole cost and expense, remove the sign(s) within 7 working days after the neighborhood meeting.

2. **Postal notification.** The applicant shall mail notice as required for the corresponding application, 15 days prior to the meeting. (see Sec. 64-108 [Rezoning and Text Amendments], Sec. 64-109 [Conditional Use Permit], or Planned Development)

3. **Timing.** The signs and website information shall be posted no more than 30 calendar days before, and no later than 10 calendar days before, the proposed Neighborhood Meeting.

C. **Proceedings of Neighborhood Meeting**
The applicant or its or their designated design professional(s) shall facilitate at least one Neighborhood Meeting as follows:

1. The Neighborhood Meeting shall include a complete overview of the proposed application. The applicant shall provide a project description, site plan, building elevations and complete explanation and details of the proposed development which are sufficient for residents to gain an understanding of the specific application.

2. The meeting may be held on weekdays, between the hours of 4:00 P.M. and 8:00 P.M.

3. Meetings must be held in a public or institutional building such as a school, library, community center, or similar facility, which will accommodate the anticipated attendance and be located near the proposed site.

D. **Statement of Neighborhood Meeting**

1. After the Neighborhood Meeting, the applicant shall prepare the following summary material as exhibits to the application:

   (a) Dated photograph(s) of the posted sign(s).

   (b) The verified address list of surrounding property owners to whom notification was required and provided,

   (c) A sign-in sheet documenting meeting attendance,

   (d) Written summary or minutes of the meeting,

   (e) The date and location of the meeting,

   (f) An audio or audio/video recording of the meeting,

   (g) A list of questions and comments posed by the parties in attendance,

   (h) The applicant’s response to those questions and comments, including any issues that remain unresolved, and

   (i) The time at which the meetingadjourned.

2. The summary documentation will become part of the application.

E. **Application Submission**
No application meeting the above criteria shall be accepted by the City for processing unless the above meeting procedures are met and the requisite documentation accompanies the application.
Sec. 64-105 Filing Applications

A. General Requirements

1. Applications filed under this Chapter must include the information required by Article XII (Submittal Requirements). All applications shall be made on forms prepared by the Director.

2. The Council may establish fees for all applications required in this Chapter by resolution, excluding Subdivision applications, which may be established by the Planning Commission, and all fees shall be paid at the time of application submission.

B. Completeness Review

1. When applications are filed, the Director will review them for completeness.

2. Review for application completeness is solely to determine whether preliminary information required for submission with the application is sufficient to allow further processing. It does not constitute a decision as to whether an application complies with this Chapter.

3. The Director will determine whether the application is complete, and if the application is not complete, the Director will specify those parts of the application that are incomplete.

4. The City of Mobile will not process incomplete applications.

5. An application is not complete until all required items are submitted.

6. The time period to process an application does not commence until the Director determines that the application is complete.

7. The Director or the approving authority may provide submission deadlines for materials required in support of any application provided for in Article XII. Compliance with those deadlines is required to have the application placed on an agenda to be heard by the approving authority.
Sec. 64-107 Notice Generally

A. Generally

1. This Chapter, relying on the minimum threshold set by State law, establishes various requirements for public notice.

2. The Table below, along with subsection B, describes the various types of Notice and its contents. More specific notice requirements are located in each procedural section.

<table>
<thead>
<tr>
<th>Type of notice</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication</td>
<td>The Director will publish in a newspaper of general circulation throughout the City.</td>
</tr>
<tr>
<td>Mail</td>
<td>The Director will mail the notices. Regular mail is sufficient, unless certified mail is required by a specific process or state law.</td>
</tr>
<tr>
<td>Signs</td>
<td>1. The applicant will provide and place weatherproof signs as required by this Code or state law.</td>
</tr>
<tr>
<td></td>
<td>2. All signs must be posted in visible locations.</td>
</tr>
<tr>
<td></td>
<td>3. The sign shall conform to specifications published by the Director.</td>
</tr>
<tr>
<td></td>
<td>4. The applicant shall, at its sole cost and expense, remove the sign(s) within 7 working days following the public hearing, unless the decision is appealed. If an appeal is filed and considered, the applicant shall remove the sign(s) within 7 working days after a final decision on appeal.</td>
</tr>
<tr>
<td>Electronic Transmission</td>
<td>1. The City may communicate with the applicant or persons requesting notice by electronic transmission.</td>
</tr>
<tr>
<td></td>
<td>2. Electronic transmission may include email, or communication through social media or online notification procedures established by the Director.</td>
</tr>
</tbody>
</table>

B. Required Information
Notice shall include the following information, unless the process includes a different requirement:

1. A synopsis of the proposed ordinance or application,

2. Time, date, and place of the public hearing or meeting;

3. The type of land use or development decision that is being considered;

4. If a public hearing is required, a statement that at the time and place of the hearing all persons who desire will have an opportunity to be heard in opposition to or in favor of the ordinance or application;

5. A telephone point of contact within the Planning Department; and

6. The Planning Department’s website address (URL).

C. Failure to Provide Notice
The failure of the City of Mobile to provide any notice not otherwise required under State law does not affect the validity of any action undertaken pursuant to this Chapter, and no person may challenge an action for lack of notice where the City has complied with the applicable State law governing notice.
Sec. 64-108  Rezonings and Text Amendments

A. Applicability
This section applies to any rezoning or text amendment, defined as follows:

1. **Rezoning**: Any amendment to the Zoning Map.

2. **Text Amendment**: An ordinance to amend the regulations or standards established in this Chapter.

For purposes of this Section, “amendment” refers to any Rezoning or Text Amendment.

B. Initiation
An amendment to the Zoning Regulations may be initiated by:

1. the City Council on its own motion, or

2. the Planning Commission on its own motion, or

3. any person by filing a written application with Director.

⇔ Refer to Article XII for submittal requirements

C. Notice

1. The following notice is required for a rezoning or a Text Amendment to the Zoning Regulations:

(a) Notice

<table>
<thead>
<tr>
<th>Notice</th>
<th>When</th>
<th>Where / To Whom / Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication</td>
<td>15 days or 3 consecutive weeks prior to the hearing before the City Council</td>
<td>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</td>
</tr>
<tr>
<td>Mail</td>
<td>15 days prior to hearing before the Planning Commission and the City Council</td>
<td>• Mailed notice to each owner of property which either abuts or lies within three hundred (300) feet of the property the subject of the application. • Applicant to furnish names and addresses • The Director will mail the notices. • Regular mail is sufficient</td>
</tr>
<tr>
<td>Sign</td>
<td>Posted 15 days prior to hearing before the Planning Commission and the City Council</td>
<td>• Posted on subject Property • All signs must be posted in visible locations.</td>
</tr>
</tbody>
</table>

(b) The sign and mailing requirements above may be waived when the proposed amendment is initiated by the City Council or the Planning Commission, and:

(1) the proposed amendment would change the text of the zoning ordinance; or

(2) would affect a general or substantial change in the districts set out on the zoning map.

2. Notice shall be given:

(a) Prior to the public hearing before the Planning Commission; and,
(b) Prior to the public hearing before the City Council.

D. Decision

1. Zoning Regulations (Rezoning or Text Amendment)

   (a) Administrative Review. The Director shall transmit the application with a report to the Planning Commission within 45 days after it is deemed complete.

   (b) Planning Commission Action

      (1) If an application is withdrawn after notice for a public hearing has been sent, then the Planning Commission will not consider the same or similar application within a period of 6 months.

      (2) An application may receive a maximum one (1) holdover request and the applicant shall be responsible for any costs incurred for re-notification of property owners.

      (3) Following the public hearing, the Planning Commission shall prepare a record of its proceedings and recommend that the application be approved, approved with conditions, or denied.

      (4) The Planning Commission shall submit a report with its recommendations relative to the rezoning and its reasons for making the recommendation. The report shall be filed with the Council within 15 days after the date of the public hearing held to consider the amendment.

      (5) The City Clerk shall file the certified record and recommendation to the City Council for final action.

   (c) City Council Action

      (1) The Council shall not take action on the application until the Council receives the Planning Commission’s final report and recommendation.

      (2) The City Council shall examine Planning Commission recommendation.

      (3) The City Council shall fix a reasonable time for the public hearing.

      (4) The City Clerk shall notify the applicant of the time and place of the public hearing and give public notice as required by this Chapter.

         a. No amendment shall be enacted unless the City Council conducts a public hearing.

         b. The City Council may adopt by rule, a consent agenda procedure where a final action on a rezoning is taken on the basis of the Planning Commission’s record.

      (5) At the conclusion of the hearing, the City Council shall approve, approve with conditions, or deny the amendment.

   (d) Conditions. The rezoning decision may:

      (1) Attach appropriate conditions to mitigate the impacts of the proposed development, such as restrictions relative to the site plan and any future modifications, setback requirements, and other restrictions appropriate to mitigate the impacts of the development; or,

      (2) An application for rezoning may include a concept plan. The City Council may condition the amendment to require the development to comply with the concept plan. If a
rezoning and concept plan is approved, the applicant may not commence construction or use of any building, structure or use unless:

a. The applicant submits a final site plan to the Director, and

b. The Director determines that the site plan is consistent with the approved Concept Plan and any conditions of approval; and,

c. A land disturbance permit is issued by City Engineering, if applicable.

(3) Limit the time frame for development and, if the area fails to develop within the specified time or in accordance with any condition, a rezoning may be initiated as provided in subsection B.

(4) Conditions fixed in amendments relating to rezoning, including voluntary use restrictions, shall run with the land in the area involved and bind applicants for amendments, their heirs, successors and assigns, and be recorded in Probate Court, by the applicant.

E. Approval Criteria

1. This chapter, including the zoning map, is based on comprehensive planning studies and is intended to carry out the objective of a sound, stable and desirable development. It is recognized that casual change or amendment to the chapter would be detrimental to the achievement of that objective.

2. Changes to this Chapter are committed to the City Council’s legislative discretion and should be consistent with the Comprehensive Plan.

3. An application for rezoning or a text amendment shall include a Statement of Justification addressing the following:

   (a) **Consistency.** Whether the proposed amendment or rezoning is consistent with the comprehensive plan;

   (b) **Mistake.** Whether there was a mistake or error in the original zoning map or text;

   (c) **Compatibility.** Whether the proposed amendment or rezoning is compatible with:

      (1) the current development trends, if any, in the vicinity of the subject property;

      (2) surrounding land uses;

      (3) would adversely impact neighboring properties; or

      (4) cause a loss in property values.

   (d) **Health, Safety and General Welfare.** Whether the proposed amendment or rezoning promotes the community’s public health, safety, and general welfare;

   (e) **Capacity.** Whether the infrastructure is in place to accommodate the proposed rezoning or text amendment; and/or

   (f) **Change.** Whether changed or changing conditions in a particular area, or in the planning region generally, make an amendment or rezoning necessary and desirable.

F. Subsequent Applications

1. This subsection applies to a rezoning application that:
Article VI Procedures | Sec. 64-108 Rezonings and Text Amendments

(a) Has been denied by the City Council, or

(b) Is officially advertised for public hearing but is subsequently withdrawn.

2. The area subject to the proposed rezoning shall not be considered again by the Planning Commission or City Council for the same classification for at least 6 months from the date the application was denied. This period begins on the date of the final action on the application or the date of withdrawal of the officially advertised petition.

G. Appeals
Appeal of any City Council action shall be made to the 13th Judicial Circuit Court of Mobile County, within 30 days of the date of the final Council action.

H. Reversion
If the project or area fails to develop within the specified time or in accordance with any condition, a rezoning may be initiated as provided in subsection B.

I. Recordkeeping

1. The City Clerk shall codify a zoning text amendment as part of this Chapter.

2. After a rezoning is approved, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to conform to the approved rezoning.

3. Restrictions concerning the permissible uses of the property shall be recorded with the Office of the Judge of Probate. Any and all recording costs shall be borne by the Applicant.
Sec. 64-109  Conditional Use Permits

A. Applicability
This section applies to any use designated as a conditional use in the applicable zoning district (see § 64-31).

B. Initiation

1. The applicant files an application for a conditional use permit with the Director.

2. The applicant may file an application for a conditional use permit concurrent with an application for rezoning.

C. Notice

1. The following notice is required for a Conditional Use Permit:

<table>
<thead>
<tr>
<th>Notice</th>
<th>When</th>
<th>Where / To Whom / Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication</td>
<td>15 days or 3 consecutive weeks prior to the hearing before the City Council</td>
<td>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</td>
</tr>
</tbody>
</table>
| Mail     | 15 days prior to hearing before the Planning Commission and the City Council | • Mailed notice to each owner of property which either abuts or lies within three hundred (300) feet of the property the subject of the application.  
• Applicant to furnish names and addresses  
• The Director will mail the notices.  
• Regular mail is sufficient |
| Signs    | Posted 15 days prior to hearing before the Planning Commission and the City Council | • Posted on subject Property  
• All signs must be posted in visible locations.  
• The sign shall conform to specifications published by the Director. |

2. Notice shall be given:

(a) Prior to the public hearing before the Planning Commission; and,

(b) Prior to the public hearing before the City Council.

D. Decision

1. Administrative Review. The Director shall transmit the application with a report to the Planning Commission within 45 days after it is deemed complete.

2. Planning Commission Action

(a) If an application is withdrawn after notice for a public hearing has been sent, then the Planning Commission will not consider the same or similar application within a period of 6 months.

(b) An application may receive a maximum one (1) holdover request and the applicant shall be responsible for any costs incurred for re-notification of property owners.
(c) Following the public hearing, the Planning Commission shall prepare a record of its proceedings and recommend that the application be approved, approved with conditions, or denied.

3. The Planning Commission shall submit a report with its recommendations relative to the Conditional Use Permit and its reasons for making the recommendation. The report shall be filed with the Council within 15 days after the date of the public hearing held to consider the Conditional Use Permit he City Clerk shall file the certified record and recommendation to the City Council for final action.

4. Council Action

(a) The Council shall not take action on the application until the Council receives the Planning Commission’s final report and recommendation.

(b) The City Council shall examine Planning Commission recommendation.

(c) The City Council shall fix a reasonable time for the public hearing.

(d) No conditional use permit shall be enacted unless the City Council conducts a public hearing.

(e) The Council may adopt, by rule, a consent agenda procedure where final action on a conditional use permit is taken on the basis of the Planning Commission’s record.

(f) At the conclusion of the hearing, the Council will approve, approve with conditions, or deny the conditional use permit.

5. Conditions. The Conditional Use Permit Approval may:

(a) Attach appropriate conditions to mitigate the impacts of the proposed development, such as restrictions relative to the site plan and any future modifications, setback requirements, and other restrictions appropriate to mitigate the impacts of the development; or,

(b) An application for Conditional Use may include a concept plan. The City Council may condition the approval to require the development to comply with the concept plan. If a conditional use permit and concept plan is approved, the applicant may not commence construction or use of any building, structure or use unless:

   (1) The applicant submits a final site plan to the Director, and
   
   (2) The Director determines that the site plan is consistent with the approved Concept Plan and any conditions of approval; and,

   (3) A land disturbance permit is issued by City Engineering, if applicable.

   (c) Limit the time frame for development and, if the area fails to develop within the specified time or in accordance with any condition, a rezoning may be initiated as provided in Sec. 64-108.

   (d) Conditions relating to a Conditional Use Permit, including voluntary use restrictions, required conformance with an approved concept plan, or other, shall run with the land in the area involved and bind applicants for amendments, their heirs, successors and assigns, and be recorded in Probate Court, by the applicant.

E. Approval Criteria
The Planning Commission shall not recommend a Conditional Use Permit for approval, and the City Council shall not approve the permit unless the proposed use:

1. Is consistent with all applicable requirements of this Chapter, including:
Article VI Procedures | Sec. 64-109 Conditional Use Permits

(a) Any applicable development standards in Article IV, and

(b) Any applicable use regulations in Article VI, and

2. Is compatible with the character of the neighborhood within the same zoning district in which it is located;

3. Will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district; and

4. Shall have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district:

(a) In making this determination, the Planning Commission shall consider the location, type and height of buildings or structures, the type and extent of landscaping and screening, lighting, hours of operation, or any other conditions that mitigate the impacts of the proposed development; and

(b) Includes adequate public facilities and utilities as provided in Article IV; and

5. Is subject to adequate design standards to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads; and

6. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and

7. Shall not be detrimental or endanger the public health, safety, or general welfare.

F. Subsequent Applications

1. This subsection applies to a conditional use permit application that –

(a) Has been denied by the City Council, or

(b) Is officially advertised for public hearing but is subsequently withdrawn.

(c) The area subject to the proposed Conditional Use Permit shall not be considered again by the Planning Commission or City Council for the same classification for at least 6 months from the date the application was denied or withdrawn. This period begins on the date of the final action on the application, or the date of withdrawal of the officially advertised petition.

G. Appeals

Appeal of any City Council action shall be made to the 13th Judicial Circuit Court of Mobile County within 30 days of the date of the Council Action.

H. Reversion

If no permit is obtained to implement the approved CUP within 2 years of final approval, the approved CUP shall expire, unless an extension request is filed prior to expiration.

I. Recordkeeping

After a conditional use permit is approved, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to reflect the approved conditional use permit.
Article VI Procedures | Sec. 64-110 Planned Development

Sec. 64-110 Planned Development

A. Applicability
This section applies to any use proposed as a Planned Development, seeking a Planned Development zoning district designation (see Sec. 64-29).

B. Initiation
An application for a Planned Development (PD) is initiated upon submittal of an application with the Director.

C. Notice
The notice of a Planned Development shall be in accordance with the provisions of Sec. 64-108.C.

1. The following notice is required for a proposed Rezoning to a Planned Development (PD) zoning district:

   (a) Notice

<table>
<thead>
<tr>
<th>Notice</th>
<th>When</th>
<th>Where / To Whom / Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication</td>
<td>15 days or 3 consecutive weeks prior to the hearing before the City Council</td>
<td>Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</td>
</tr>
<tr>
<td>Mail</td>
<td>15 days prior to hearing before the Planning Commission and the City Council</td>
<td>Mailed notice to each owner of property which either abuts or lies within three hundred (300) feet of the property the subject of the application.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Applicant to furnish names and addresses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Director will mail the notices.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Regular mail is sufficient.</td>
</tr>
<tr>
<td>Sign</td>
<td>Posted 15 days prior to hearing before the Planning Commission and the City Council</td>
<td>Posted on subject Property</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All signs must be posted in visible locations.</td>
</tr>
</tbody>
</table>

2. Notice shall be given:
   (a) Prior to the public hearing before the Planning Commission; and,
   (b) Prior to the public hearing before the City Council.

D. Decision

1. Administrative Review. The Director shall transmit the application with a report to the Planning Commission within 45 days after it is deemed complete.

2. Planning Commission Action

   (a) If an application is withdrawn after notice for a public hearing has been sent, then the Planning Commission will not consider the same or similar application within a period of 6 months.

   (b) An application may receive a maximum one (1) holdover request and the applicant shall be responsible for any costs incurred for re-notification of property owners

   (c) The Planning Commission shall submit a report with its recommendations relative to the Planned Development and its reasons for making the recommendation. The report shall be filed with the Council within 15 days after the date of the public hearing held to consider the amendment.
(d) Following the public hearing, the Planning Commission shall prepare a record of its proceedings and recommend that the application be approved, approved with conditions, or denied.

(e) The City Clerk shall file the certified record and recommendation to the City Council for final action.

3. City Council Action

(a) The Council shall not take action on the application until the Council receives the Planning Commission’s final report and recommendation.

(b) The City Council shall examine Planning Commission recommendation.

(c) The City Council shall fix a reasonable time for the public hearing.

(d) The City Clerk shall notify the applicant of the time and place of the public hearing and give public notice as required by this Chapter.

(e) If an application is withdrawn after the notice for a public hearing has been sent, the Planning Commission will not consider the same or similar application within a period of six months.

(f) The Council may adopt, by rule, a consent agenda procedure where final action on a planned development is taken on the basis of the Planning commission’s record.

(g) At the conclusion of the hearing, the City Council shall approve, approve with conditions, or deny the amendment.

E. Approval Criteria

The Planning Commission shall not recommend a Planned Development for approval, and the City Council shall not approve such an application, unless the proposed Planned Development:

1. Is consistent with all applicable requirements of this Chapter;

2. Is compatible with the character of the neighborhood within the same zoning district in which it is located;

3. Will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district; and

4. Shall have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district:

   (a) In making this determination, the Planning Commission shall consider the location, type and height of buildings or structures, the type and extent of landscaping and screening, lighting, hours of operation, or any other conditions that mitigate the impacts of the proposed development; and

   (b) Includes adequate public facilities and utilities as provided in Article IV; and

5. Is subject to adequate design standards to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads; and

6. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and

7. Shall not be detrimental or endanger the public health, safety, or general welfare; and

8. Consists of at least one acre of land; and
9. Accommodates existing urban amenities and natural features; and
10. Optimizes available public utilities, streets and community facilities; and
11. Provides open space through efficient or innovative site design.

F. Subsequent Applications

1. This subsection applies to a Planned Development application that:
   
   (a) Has been acted upon by the City Council, or
   
   (b) Is officially advertised for public hearing before City Council but is subsequently withdrawn.

2. The area subject to the proposed Planned Development shall not be considered again by the Planning Commission or City Council for the same classification for at least 6 months from the date the application was denied. This period begins on the date of the final action on the application or the date of withdrawal of the officially advertised petition.

G. Appeals

Appeal of any City Council action shall be made to the 13th Judicial Circuit Court of Mobile County within 30 days of the date of the Council Action.

H. Reversion

Approval of a Planned Development Shall expire two (2) years from the date of approval if construction has not begun or an extension of such 2 year period granted by the Commission.

I. Recordkeeping

After a Planned Development is approved, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to reflect the approved Planned Development. The Director and the applicant shall maintain copies of the Planned Development, and all supporting documentation.
Sec. 64-111   Previously approved Planning Approvals and Planned Unit Developments

A. Applicability

1. **Planning Approvals.** All Planning Approvals approved prior to the adoption of this Chapter, that have not expired, and have not commenced development as of the date of the adoption of this Ordinance shall expire two years after the date of the adoption of this ordinance unless development has commenced within this period of time.

2. **Planned Unit Developments.** All Planned Unit Developments approved prior to the adoption of this Chapter, that have not expired, and have not commenced development as of the date of the adoption of this Ordinance shall expire two years after the date of the adoption of this ordinance unless development has commenced within this period of time.

3. **Minor Modifications to an existing Planning Approval or Planned Unit Development.** Any revision or modification to an unexpired Planning Approval or Planned Unit Development (PUD) plan approved before the effective date of this Chapter, within the following parameters:

   (a) **Substitution.** The landscaping for an approved Planning Approval or Planned Unit Development may be changed to meet current tree and landscape requirements, subject to the provision of a revised tree and landscape plan to the Director.

   (b) **Minor changes** to elevation, building materials, parking lot design, screening fences or walls, building location, or similar elements of site or building design, that would improve the site or are needed because of circumstances not foreseen at the time the development plan was approved by the Planning Commission.

B. Initiation

1. This subsection applies to applications for modification/revision to an unexpired Planning Approval or Planned Unit Development other than those minor modifications referenced immediately above

2. The applicant shall file an application for modification with the Director.
Article VI Procedures | Sec. 64-111 Previously approved Planning Approvals and Planned Unit Developments

C. Notice

1. The following notice is required for a Modification or Revision to an unexpired Planning Approval or Planned Unit Development:

<table>
<thead>
<tr>
<th>Notice</th>
<th>When</th>
<th>Where / To Whom / Additional Requirements</th>
</tr>
</thead>
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<tr>
<td>Publication</td>
<td>15 days or 3 consecutive weeks prior to the hearing before the City Council</td>
<td>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</td>
</tr>
<tr>
<td>Mail</td>
<td>15 days prior to hearing before the Planning Commission and the City Council</td>
<td>• Mailed notice to each owner of property which either abuts or lies within three hundred (300) feet of the property the subject of the application.</td>
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<tr>
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<td>• Applicant to furnish names and addresses</td>
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<tr>
<td>Sign</td>
<td>Posted 15 days prior to hearing before the Planning Commission and the City Council</td>
<td>• Posted on subject Property</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• All signs must be posted in visible locations.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The sign shall conform to specifications published by the Director.</td>
</tr>
</tbody>
</table>

2. Notice shall be given:

(a) Prior to the public hearing before the Planning Commission; and,

(b) Prior to the public hearing before the City Council.

D. Decision

1. Administrative Review. The Director shall transmit the application with a report to the Planning Commission within 45 days after it is deemed complete.

2. Planning Commission Action

(a) If an application is withdrawn after notice for a public hearing has been sent, then the Planning Commission will not consider the same or similar application within a period of 6 months.

(b) An application may receive a maximum one (1) holdover request and the applicant shall be responsible for any costs incurred for re-notification of property owners

(c) The Planning Commission shall submit a report with its recommendations relative to the Planned Development and its reasons for making the recommendation. The report shall be filed with the Council within 15 days after the date of the public hearing held to consider the amendment.

(d) Following the public hearing, the Planning Commission shall prepare a record of its proceedings and recommend that the application be approved, approved with conditions, or denied.

(e) The City Clerk shall file the certified record and recommendation to the City Council for final action

3. City Council Action

(a) The Council shall not take action on the application until the Council receives the Planning Commission’s final report and recommendation.

(b) The City Council shall examine Planning Commission recommendation.

(c) The City Council shall fix a reasonable time for the public hearing.
Article VI Procedures | Sec. 64-111 Previously approved Planning Approvals and Planned Unit Developments

(d) No modification of an existing Planning Approval or Planned Unit Development shall be enacted unless the City Council conducts a public hearing. The City Council may adopt by rule, a consent agenda procedure where final action on a modification to an existing Planned Unit Development or Planning Approval is taken on the basis of the Planning Commission's record.

(e) At the conclusion of the hearing, the City Council shall approve, approve with conditions, or deny the modification to an existing Planning Approval or Planned Unit Development.


(a) The approval to modify an existing Planning Approval or Planned Unit Development Approval may:

(1) Attach appropriate conditions to mitigate the impacts of the proposed development, such as restrictions relative to the site plan and any future modifications, setback requirements, and other restrictions appropriate to mitigate the impacts of the development; or,

(2) An application for a modification to an existing Planning Approval or Planned Unit Development shall include a concept plan. The City Council may condition the approval to require the development to comply with the concept plan. If a conditional use permit and concept plan is approved, the applicant may not commence construction or use of any building, structure or use unless:

   a. The applicant submits a final site plan to the Director, and

   b. The Director determines that the site plan is consistent with the approved Concept Plan and any conditions of approval, and

   c. A land disturbance permit is issued by City Engineering, if applicable.

(3) Limit the time frame for development

(b) Conditions relating to a modification of an existing Planning Approval or Planned Unit Development, including voluntary use restrictions, shall run with the land in the area involved and bind applicants for amendments, their heirs, successors and assigns, and be recorded in Probate Court, by the applicant.

E. Approval Criteria
The Planning Commission shall not recommend a modification to an existing Planning Approval or Planned Unit Development for approval, and the City Council shall not approve the permit, unless the proposed use:

1. Is consistent with all applicable requirements of this Chapter, including:

   (a) Any applicable development standards in Article IV, and

   (b) Any applicable use regulations in Article V, and

2. Is compatible with the character of the neighborhood within the same zoning district in which it is located;

3. Will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district; and

4. Shall have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district:
Article VI Procedures | Sec. 64-111 Previously approved Planning Approvals and Planned Unit Developments

(a) In making this determination, the Planning Commission shall consider the location, type and height of buildings or structures, the type and extent of landscaping and screening, lighting, hours of operation, or any other conditions that mitigate the impacts of the proposed development; and

(b) Includes adequate public facilities and utilities as provided in Article IV; and

5. Is subject to adequate design standards to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads; and

6. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and

7. Shall not be detrimental or endanger the public health, safety, or general welfare.

F. Subsequent Applications

1. This subsection applies to a modification to an existing Planning Approval or Planned Unit Development application that:

   (a) Has been acted upon by the City Council, or

   (b) Is officially advertised for public hearing before City Council but is subsequently withdrawn.

2. The area subject to the proposed modification to an existing Planning Approval or Planned Unit Development shall not be considered again by the Planning Commission or City Council for the same request for at least 6 months from the date the application was denied. This period begins on the date of the final action on the application or the date of withdrawal of the officially advertised petition.

G. Appeals

Appeal of any City Council action shall be made to the 13th Judicial Circuit Court of Mobile County within 30 days of the date of the Council Action.

H. Reversion

If no permit is obtained to implement the approved modification to an existing Planning Approval or Planned Unit Development application within 2 years of final approval, the approved modification to an existing Planning Approval or Planned Unit Development shall expire, unless an extension request is filed prior to expiration.

I. Recordkeeping

After a modification to an existing Planning Approval or Planned Unit Development is approved, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to reflect the approved conditional use permit.
**Sec. 64-112 Appeal of Administrative Zoning Decisions**

### A. Applicability
Any administrative decision by the Director regarding the application of the zoning regulations may be appealed by any person aggrieved or by any officer, department or board of the City affected by any decision of the Director with respect to the administration or enforcement of the Zoning regulations, to the Board of Zoning Adjustment. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department or board of the City affected by any decision of the Director with respect to the administration or enforcement of this Chapter. For purposes of this Section, “Director” refers to the Director or to any administrative official acting to enforce this Chapter or of any ordinance adopted pursuant to this Chapter. [☞ see Code of Alabama § 11-52-80]

### B. Initiation

1. An appeal is initiated by filing a notice of appeal with the Director and the Board of Adjustment.

2. The notice of appeal shall be filed within ten (10) days from the date of the Letter of Decision.

3. The notice of appeal shall specify the particular grounds upon which the appeal is taken.

4. Upon receipt of a notice of appeal, the Director shall transmit to the Board of Adjustment all of the original documents and materials, or true copies, constituting the record upon which the order or decision appealed from is based.

### C. Completeness
See § Sec. 64-102.

### D. Notice
The following notice is required for a hearing on appeal:

<table>
<thead>
<tr>
<th>Notice</th>
<th>When</th>
<th>Where / To Whom / Additional Requirements</th>
</tr>
</thead>
</table>
| Mail or Electronic Transmission | 15 days prior to the hearing | • The applicant and to the person whose name and address appears in the application as the owner of the land.  
• Any other persons that the Director or Board of Adjustment determines are parties in interest to the appeal. |
| Signs | 15 days prior to the hearing | • At least one publicly visible location on the subject property. |

[☞ Refer to Code of Alabama § 11-52-80]

### E. Decision

1. **Effect of Appeal**
   
   (a) An appeal stays all proceedings in furtherance of the action appealed.
(b) The stay is lifted if the Director certifies to the Board of Adjustment that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property.

(c) If the Director submits a certification as provided in subsection (2), the proceedings shall not be stayed other than by a restraining order granted by the Board of Adjustment or by a court of record on application, on notice to the Director and on due cause shown.

2. Hearings

(a) The board shall fix a reasonable time for the hearing of an appeal. The hearing shall be open to the public.

(b) Any interested party may appear in person or by agent or attorney.

3. Decision. After the hearing is concluded, the Board of Adjustment shall render a decision that:

(a) reverses or affirms, wholly or partly, the Director’s decision, or

(b) modifies the order, requirement, decision or determination appealed from, and

(c) includes any order, requirement, decision or determination as ought to be made. To that end, the Board of Adjustment has all the powers of the officer from whom the appeal is taken.

F. Approval Criteria
The Board of Adjustment, in reaching its decision, shall consider the following:

1. Whether there was error in any order, requirement, decision or determination made by an administrative official?

2. Whether decision was the result of an arbitrary or capricious interpretation of this Chapter;

3. Whether the decision was an incorrect interpretation of this chapter.

G. Appeals

1. Any party aggrieved by any final judgment or decision of the Board of Zoning Adjustment may within 15 days thereafter appeal therefrom to the circuit court by filing with such board a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal such board shall cause a transcript of the proceedings in the action to be certified to the court to which the appeal is taken, and the action in such court shall be tried de novo. Code of Ala. § 11-52-81

2. The Board of Adjustment decision may be appealed by any aggrieved party by filing a written notice of appeal within 15 days to the 13th Judicial Circuit Court of Mobile County. In case of such appeal, the board shall cause a transcript of the proceedings in the action to be certified to the court, and the action shall be tried de novo.
Sec. 64-113 Variance of Zoning Regulations

A. Applicability
This section applies to any request for a variance from the Zoning Regulations of this chapter.

B. Initiation
1. A variance request is initiated by filing an application specifically requesting a variance with the Director and the Board of Adjustment.
2. The application shall specify the particular grounds upon which the variance is requested.

C. Notice
The following notice is required for a hearing on an application for a variance:

<table>
<thead>
<tr>
<th>Notice</th>
<th>When</th>
<th>Where / To Whom / Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication</td>
<td>3 consecutive weeks</td>
<td>Newspaper of general circulation</td>
</tr>
<tr>
<td>Mail</td>
<td>15 days prior to hearing</td>
<td>Mailed notice to each owner of property which either abuts or lies within three hundred (300) feet of the property the subject of the application.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Applicant to furnish names and addresses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The Director will mail the notices.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Regular mail is sufficient</td>
</tr>
<tr>
<td>Sign</td>
<td>Posted 15 days prior to hearing</td>
<td>Posted on subject Property</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The applicant will provide and place weatherproof signs as required by this Code or state law.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All signs must be posted in visible locations.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The sign shall conform to specifications published by the Director.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The applicant shall, at its sole cost and expense, remove the sign(s) within 7 working days following the public hearing, unless the decision is appealed.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If an appeal is filed and considered, the applicant shall remove the sign(s) within 7 working days after a final decision on appeal.</td>
</tr>
</tbody>
</table>

D. Decision
1. Hearings
   (a) An application for a variance shall be set for a hearing within ten (10) days of it being deemed complete.
   (b) Any interested party may appear in person or by agent or attorney.
2. Decision. After the hearing is concluded, the Board of Adjustment shall render a decision that:
   (a) Grants the variance, or

\[\Rightarrow\] Refer to Code of Alabama § 11-52-80
(b) Denies the variance, or

(c) Grants the variance with conditions or stipulations negotiated at the hearing and to which the Applicant agrees.

E. Approval Criteria

1. The Board of Adjustment may grant a variance if the applicant demonstrates that:

   (a) the variance will not be contrary to the public interest, and

   (b) the variance is needed to resolve special conditions, and

   (c) literal enforcement this Chapter will result in unnecessary hardship.

2. No variance shall be granted:

   (a) In order to relieve an owner of restrictive covenants, recorded in Mobile County Probate Court, and applicable to the property;

   (b) Where economic loss is the sole basis for the application for variance; or

   (c) Where the variance is otherwise unlawful under Alabama law.

F. Subsequent Applications

There is no limit on subsequent variance requests. However, findings of fact from prior appeals for the same application that were not reversed by a higher tribunal (such as on appeal to a court with subject matter jurisdiction) are binding on successive requests.

G. Appeals

The Board of Adjustment decision may be appealed by any aggrieved party by filing a written notice of appeal within 15 days to the 13th Judicial Circuit Court of Mobile County. In case of such appeal, the board shall cause a transcript of the proceedings in the action to be certified to the court, and the action shall be tried de novo.
Article VI Procedures | Sec. 64-114 to Sec. 64-130

Sec. 64-114 to Sec. 64-130 Reserved.