

# Chapter 64 Unified Development Code

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**DRAFT – FOR DISCUSSION ONLY (1/11/19)**

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## Article VIII Enforcement

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### Sec. 64-151 Generally



**Purpose:** *This Article establishes the procedures to enforce a violation of this Chapter, or a condition of an approval, permit, or subdivision plat approved under this Chapter.*

### Sec. 64-152 Violations

#### A. Applicability

Any of the following are considered unlawful and a violation of this Chapter, and are subject to the enforcement remedies provided by Section 64-157 and Alabama state law:

- 1. Activities Inconsistent with Zoning Regulations (Zoning Violation).** Any of the following activities if they occur in a manner that does not conform to the Zoning Regulations, including the district where the land or structure is located:
  - (a)** The use or occupancy of **land**.
  - (b)** The design, erection, alteration, use or occupancy of a **structure**.
  - (c)** Operating a use.
  - (d)** Designing, erecting, altering, using, or occupying a structure that:
    - (1)** exceeds the applicable height limits,
    - (2)** has less building site area than required by the Zoning Regulations,
    - (3)** has larger, narrower or smaller front, side and rear yards than required by the district where the structure is located.
  - (e)** Reducing a building site so that the building site area, yards, or other spaces become smaller than prescribed by the Zoning Regulations.
  - (f)** Every structure in an RL district, other than an accessory structure, shall have provided and continuously maintained for it a separate building site.
- 2. Development or use without, or inconsistent with, permit or approval.** Any activity that is not authorized or is inconsistent with all of the required permits, approvals, certificates and authorization required by this Chapter (see Article V).
- 3. Development or use inconsistent with Unified Development Code.** An activity that is inconsistent with any applicable zoning, subdivision or general regulation of this Chapter or any amendment to this Chapter.
- 4. Development or use inconsistent with conditions.** To violate, by act or omission, any term, condition or qualification placed by the City upon a required permit, certificate, rezoning,

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plan approval or other form of authorization granted by the City to allow the use, development or other activity upon land or improvements of land.

5. **Making lot or yard nonconforming.** To reduce or diminish any lot area so that the yards or open spaces are smaller than prescribed by these requirements or the final plat or plan.
6. **Increasing use intensity.** To increase the intensity and/or density of use of any land or structure, except in accordance with the procedural and substantive requirements of this Chapter.
7. **Removing, defacing, obscuring notice.** To remove, deface or obscure any sign required by this Chapter or otherwise interfere with any notice required by this Chapter.
8. **Subdivision Violation.** To convey, transfer, or sell any land by reference to or exhibition of or by other use of a plat of a subdivision before the plat has been approved as provided in Article V.

### B. Violations of Prior Regulations

1. All violations of prior City zoning regulations in the corporate area of the City as of the effective date of this Chapter, or of subdivision regulations in the Planning Jurisdiction, continue to be violations and are not considered legal nonconforming situations under this Chapter.
2. The City has the same authority to secure remedies for violations of those regulations to the same extent that it may secure civil remedies for violations of this Chapter.

## Sec. 64-153 Penalties

### A. Generally

1. A violation of this Chapter shall be punished by:
  - (a) a fine of at least than one dollar (\$1.00) or more than one hundred dollars (\$100.00), or
  - (b) imprisonment in the jail or a hard labor for a period of not exceeding six (6) months, or
  - (c) such fine and imprisonment, at the discretion of the court trying the case, or
  - (d) where a specific violation is listed there, as provided in Chapter 1, Article II, City Code.
2. Each offense is subject to Section 1-31 et seq. of the City Code regarding administration of municipal offense tickets.
3. Each day any violation or any provision of this Chapter continues is a separate offense.

### B. Subdivision Violations

Subdivision violations are enforced as provided in Code of Alabama § 11-52-33.

### C. Withhold permits or approvals

1. The City may deny or withhold all permits, certificates, plan or plat approvals or other forms of authorization on any building, structure or land, or improvements, upon which there is an uncorrected violation of any provision of this Chapter or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City.

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- 2.** The City may, instead of withholding or denying an authorization, grant the authorization subject to the condition that the violation be corrected.
- 3.** This subsection applies regardless of whether the current owner or applicant is responsible for the violation in question

### **D. Revoke permits**

- 1.** A permit may be revoked by the official issuing the permit at any time prior to the completion of the use, building, structure or sign for which the permit was issued, when any of the following conditions is present:
  - (a)** There is departure from the plans, specifications or conditions as required under the terms of the permit.
  - (b)** That the permit was procured by false representation.
  - (c)** That the permit was issued by mistake.
  - (d)** Any provision of this Chapter are being violated.
- 2.** Written notice of the revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which the permit was issued or shall be posted in a prominent location on the property. Where notice of revocation is served or posted, no further construction or use of the property shall proceed.
- 3.** Any revocation of a permit may be appealed to the Board of Adjustment as provided in Section 64-89.

### **E. Stop work**

With or without revoking permits, the City may stop work on any development, building, or structure on any land on which there is an uncorrected violation of a provision of this Chapter or a violation of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City.

### **F. Revoke Plan or Other Approvals**

Where a violation of this Chapter involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the City shall, upon notice to the applicant, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or other conditions that the City may reasonably impose.

### **G. Civil Remedies**

The City may take any action authorized by Code of Ala. § 11-52-83 to prevent, restrain, correct or abate a violation of this Chapter.

### **H. Cumulative**

These remedies are cumulative.

### **I. Other Remedies**

In addition to the enforcement powers and remedies specified in this title, the City may exercise any and all enforcement powers and remedies granted to it by Alabama state law.

**Sec. 64-154 Enforcement Procedures**

**A. Notice**

- 1.** The Planning Director shall serve written orders requiring compliance (“Compliance Orders”) with this Chapter personally or by certified or registered mail.
- 2.** Compliance Orders shall be served upon the person, firm, or corporation that the Planning Director deems to be violating this chapter.
  - (a)** If that person, firm or corporation is not the owner of the land on or the structure in which the violation is deemed to exist or to have occurred, the Planning Director shall send a copy of the Compliance Order by certified or registered mail to the owner of the land or structure.
  - (b)** The owner to be determined from the tax roll for the preceding year in the office of the Revenue Commissioner of Mobile County.
  - (c)** The date of mailing is deemed the date of service of any Compliance Order served by certified or registered mail.
- 3.** The contents of the Compliance Order shall describe the nature of the violation that would reasonably allow the property owner or other responsible person, representative or tenant to determine the nature of the violation to allow for self-abatement.
- 4.** The person to which notice is directed shall correct the violation before further enforcement action.

**B. Immediate enforcement**

- 1.** If the Planning Director or an authorized building official, or public officer makes a reasonable determination that a violation of this Chapter creates an emergency situation, the City may immediately use the enforcement powers and remedies available to it pursuant to Section 64-157.
- 2.** No other notification procedures are required as a prerequisite to this action.

**Sec. 64-155 To**

**Sec. 64-160 Reserved.**