

# Chapter 64 Unified Development Code

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## Contents

### Article 5 Procedures

Sec. 64-5-1	General Procedural Requirements & Authority .....	136
Sec. 64-5-2	Filing Applications .....	137
Sec. 64-5-3	Pre-Application .....	137
Sec. 64-5-4	Neighborhood Meetings .....	138
Sec. 64-5-5	Notice Generally .....	140
Sec. 64-5-6	Rezoning and Text Amendments .....	141
Sec. 64-5-7	Conditional Use Permits .....	146
Sec. 64-5-8	Planned Development .....	150
Sec. 64-5-9	Previously approved Planning Approvals and Planned Unit Developments .....	153
Sec. 64-5-10	Appeal of Administrative Zoning Decisions .....	156
Sec. 64-5-11	Variance of Zoning Ordinance .....	157
Sec. 64-5-12	Special Exception .....	159

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## Article 5 Procedures

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### Sec. 64-5-1 General Procedural Requirements & Authority

#### A. Applicability

1. **Generally.** This Article establishes rules and procedures for specific land use decisions under the jurisdiction of the Planning Commission, Board of Zoning Adjustment, the City Council, and Administrative decisions. The Subdivision Regulations and Downtown Development District contain their own Application requirements and Procedures. Therefore, for Applications involving Subdivision Regulations see Appendix B, and for Applications involving the DDD, see Appendix A.
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 establishes rules for procedures, such as pre-application, neighborhood notification, notices and public hearings, as well as the process for specific land use decisions. The procedures all have a common workflow and description, as follows:

*Table 65-5-1 Common Procedural Elements*

Element	What does this mean?
<b>Applicability</b>	The type of development or situation that is subject to the process.
<b>Initiation</b>	This is how the Applicant begins the process, including which department or official receives the Application.
<b>Completeness</b>	This is how the City of Mobile determines that the Application has sufficient information to be processed.
<b>Notice</b>	This describes the type of notice, and how it is provided.
<b>Decision</b>	This states who approves the Application, and the type of proceeding that leads to the decision.
<b>Approval Criteria</b>	These are any standards that apply to the Application. All Applications are subject to this Chapter and zoning district regulations.
<b>Subsequent Applications</b>	If an Application is denied, some processes have a waiting period before that type of Application can be re-filed for the property.
<b>Appeals</b>	This provides a way to review an Application that is denied, or that have conditions that the Applicant disagrees with.
<b>Scope of Approval</b>	This states the activities that the Application authorizes. For example, some approvals send the Applicant to the next step in the overall process, while others authorize construction or use.
<b>Recordkeeping</b>	This states how the formal decision of approval is maintained.

2. The Department will review all applications for building permits, certificates of occupancy, and other permits, certifications or plans where required by this Chapter, and approve or disapprove those applications as they relate to compliance with this Chapter, and make the necessary certifications and issue the necessary certificates and approvals.
3. The Department shall maintain records for all applications and associated actions.

## Article 5 Procedures

### Sec. 64-5-2 Filing Applications

#### A. General Requirements

1. Applications filed under this Chapter must include the information required by Article 10. All Applications shall be made on forms prepared by the Director.
2. The Council shall establish fees for all Applications required in this Chapter and all fees shall be paid at the of Application submission.

#### B. Completeness Review

1. All Applications will first be reviewed for completeness. If the Application is not complete, the Applicant will be notified of those parts of the Application that are incomplete.
2. An Application is not considered complete until all required items are submitted.
3. The time period to process an Application does not commence until the Applicant has corrected any deficiencies in the Application and the Application is determined to be complete.
4. Review of Applications for completeness is solely to determine whether preliminary information required for submission is sufficient to allow further processing. It does not constitute a decision as to whether an Application complies with this Chapter.
5. Incomplete Applications will not be processed.

### Sec. 64-5-3 Pre-Application

#### A. Applicability

1. This section applies to any of the following Applications:
  - (a) Rezoning, or
  - (b) Conditional Use Permit, or
  - (c) Planned Development
2. A Pre-Application meeting may be:
  - (a) Requested by the Applicant, or
  - (b) Required by the Director if the Applicant has insufficient familiarity with the approval process, or
  - (c) Scheduled if the Application process would be best served due to the technical aspects, scope or complexity of the proposed project .

#### B. Timing

The Pre-Application meeting shall occur:

1. If the Application requires a Neighborhood Meeting (see Sec. 64-5-4 below), at least 14 days before the Neighborhood meeting is scheduled, or
2. If a Neighborhood meeting is not required, the Pre-Application meeting shall occur within 180 days prior to filing the Application .

## Article 5 Procedures

### C. Meeting Contents

1. The Applicant and Director shall meet at the Planning Department offices.
2. The Applicant shall provide a brief overview of the project, including proposed location, uses, densities, project layout, and design features.
3. 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.
4. The Applicant's and Director's comments are for purposes of information, but are not binding on either the City or the Applicant.
5. 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.

## Sec. 64-5-4 Neighborhood Meetings

### A. Applicability

1. **Applications.** This section applies to any of the following Applications, subject to subsection 2 below:
  - (a) Any Rezoning to a higher classification;
  - (b) Any Application to create or modify a Planned Development; or
  - (c) Any Conditional Use Permit.

### B. Timing

1. Applicants are encouraged to hold the required Neighborhood meeting prior to the submission of the Application, but the meeting must be held no more than 60 days prior to the Planning Commission hearing date.
2. If the Neighborhood Meeting has not been held prior to the submission of the Application, then it must be held no later than 21 days prior to the Planning Commission hearing date.

### C. 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 the

## Article 5 Procedures

front street line of the project site. Minimum height for letters and numbers is 4 inches for uppercase and 3 inches for lowercase letters.

- (b) The sign shall contain the following information:
    - (1) Type of Application (Rezoning, Conditional Use, Planned Development);
    - (2) Applicant or Agent's valid phone number; and
    - (3) the time, date, location and 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 400 linear feet of street frontage.
  - (d) The Applicant shall, at its sole cost and expense:
    - (1) Install the signs no more than 30 calendar days before, and no later than 10 calendar days before, the proposed Neighborhood Meeting
    - (2) Remove the sign(s) within 3 working days after the neighborhood meeting.
- 2. Postal notification.** The Applicant shall mail notice of the Neighborhood Meeting, as required for the corresponding Application, 15 days prior to the meeting.

### D. Proceedings of Neighborhood Meeting

The Applicant shall facilitate at its sole cost and expense at least one Neighborhood Meeting as follows:

- 1. The Neighborhood Meeting shall provide a complete overview of the proposed Application, including a project description and a complete explanation and details of the proposed development which are sufficient for residents to gain an understanding of the specific Application.
  - (a) For Conditional Use Permits and Planned Developments, a site plan and building elevations shall also be provided.
- 2. The meeting shall 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.

### E. Neighborhood Meeting Documentation

- 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 provided;

## Article 5 Procedures

- (c) The date and location of the meeting;
  - (d) A sign-in sheet documenting meeting attendance;
  - (e) Written summary or minutes of the meeting;
  - (f) Copies of any site plans, building elevations or other documents provided or referenced at the meeting.
2. The Neighborhood Meeting Documentation, signed by the Applicant, will become part of the Application.

### F. Application Submission

1. An Application subject to the requirements of this Article shall include:
- (a) Documentation of the Neighborhood Meeting; or
  - (b) If at the time of Application the Neighborhood Meeting has not occurred, then the Application shall include the following:
    - (1) Statement of the date, time and location where the Neighborhood meeting will occur; and
    - (2) A list of all property owners receiving notice.
2. If at the time of Application the Neighborhood Meeting has not occurred, complete Neighborhood Meeting Documentation must be submitted no later than 15 days prior to the Planning Commission hearing date.
- (a) Failure to submit required Neighborhood Meeting Documentation within the prescribed time period will result in an automatic holdover of the Application(s).
  - (b) Holdovers due to failure to submit required documentation will be charged an amount equal to the initial Application fee, including postage.
  - (c) Any material changes to the Application(s) and associated required plans and documents will result in an automatic holdover. Holdovers will be charged an amount equal to the initial Application fee, including postage.
3. An Application subject to the requirements of this section will not be considered complete unless the above requirements are met and the requisite documentation is timely submitted.

## Sec. 64-5-5 Notice Generally

### A. Generally

1. This Chapter, 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.

## Article 5 Procedures

Table 65-5-2 Type and Description of Notice

Type of notice	Description
<b>Publication</b>	Notice is placed in a newspaper of general circulation published within the City .
<b>Mail</b>	The Applicant is responsible for providing mailing labels and payment to cover the cost of postage and mailing. Unless specific law dictates certified mail, first class mail will be used.
<b>Signs</b>	The City will provide and place weatherproof signs as required by this Code or state law.
<b>Electronic Transmission</b>	<ol style="list-style-type: none"><li>1. The City may communicate with the Applicant or persons requesting notice by electronic transmission.</li><li>2. Electronic transmission may include email, or communication through social media or online notification procedures established by the Director.</li></ol>

### 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, and input from the public will be received;
5. A telephone number for 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. 64-5-6 Rezoning 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.

### B. Initiation

1. A Rezoning may be initiated by:
  - (a) The City Council on its own motion, or
  - (b) The Planning Commission on its own motion, or
  - (c) The property owner, or any authorized agent of the property owner, by filing a written Application with the Director.

**Article 5 Procedures**

- 2. A Text Amendment may be initiated by:
  - (a) The City Council on its own motion, or
  - (b) The Planning Commission on its own motion, or
  - (c) A citizen, neighborhood based/community action group/neighborhood that has developed a formalized plan and built neighborhood consensus, with the support of their City Council representative; said plan to consist of design standards, use regulations and corresponding zoning districts.
- 3. Specific Area Plans (regulating plans, neighborhood plans and overlay districts).
  - (a) Creation or Amendment of the Plan may be initiated by:
    - (1) The City Council on its own motion with amended text or map, or
    - (2) The Planning Commission on its own motion with amended text or map, or
    - (3) A citizen, neighborhood based/community action group/neighborhood that has developed a formalized plan and built neighborhood consensus, with the support of their City Council representative; said plan to consist of design standards, use regulations and corresponding zoning districts.

**C. Notice**

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

**(a) Notice Format**

*Table 65-5- 3 Type and Description of Notice--Rezoning and Text Amendments*

<b>Notice</b>	<b>When</b>	<b>Where / To Whom / Additional Requirements</b>
<b>Mail</b>	15 days prior to hearing before the Planning Commission and the City Council	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Applicant to furnish names and addresses</li> <li>• The Director or City Clerk as applicable, will mail the notices.</li> <li>• First Class mail is sufficient</li> </ul>
<b>Sign</b>	Posted 15 days prior to hearing before the Planning Commission	<ul style="list-style-type: none"> <li>• Posted on subject Property</li> <li>• All signs must be posted in visible locations.</li> </ul>
<b>Publication</b>	15 days or 3 consecutive weeks prior to the hearing before the City Council	<ul style="list-style-type: none"> <li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li> </ul>

- (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.
- (c) Notice shall be given:
  - (1) Before the Planning Commission Hearing:
    - a. Mail: Notice shall include the following information, unless the process includes a different requirement:



**Article 5 Procedures**

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, and input from the public will be received;
5. A telephone number for the Planning Department; and
6. The Planning Department’s website address (URL).

**b. Sign**

**(2) Before the City Council Hearing:**

**a. Mail:** 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, and input from the public will be received;
5. A telephone number for the City Council’s office.

**b. Publication**

**2. Specific Area Plan.** The following notice is required for the creation or amendment of a Specific Area Plan.

**(a) Notice Format**

*Table 65-5- 4 Type and Description of Notice--Specific Area Plan*

<b>Notice</b>	<b>When</b>	<b>Where / To Whom / Additional Requirements</b>
<b>Mail</b>	15 days prior to hearing before the Planning Commission and the City Council	<ul style="list-style-type: none"> <li>• Mailed notice to each owner of property within the Specified Area Plan boundary, and within three hundred (300) feet of the outside boundary.</li> <li>• Applicant to furnish names and addresses</li> <li>• The Director or City Clerk as applicable, will mail the notices.</li> <li>• First Class mail</li> </ul>
<b>Sign</b>	Posted 15 days prior to hearing before the Planning Commission	<ul style="list-style-type: none"> <li>• Posted on subject Property</li> <li>• All signs must be posted in visible locations.</li> </ul>
<b>Publication</b>	15 days or 3 consecutive weeks prior to the hearing before the City Council	<ul style="list-style-type: none"> <li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li> </ul>

**(b) Creation or Amendment of the Plan**

**(1) Notice shall be given:**

**a. Before the Planning Commission Hearing:**

1. Mail: Notice shall include the following information, unless the process includes a different requirement:



## Article 5 Procedures

- (3) No amendment shall be enacted unless the City Council conducts a public hearing.
- (3) 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.
- (4) 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; and
- (2) 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., with a copy of the probated record provided to the Director.

### 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 all of 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
  - (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.

## Article 5 Procedures

**F. Subsequent Applications.** The area or any portion thereof that is the subject of a proposed rezoning shall not be considered again by the Planning Commission or City Council for the same or similar Application or use for at least 6 months from the date the Application was denied or the date of withdrawal if any of the following applies:

1. Has been recommended for denial by the Planning Commission; or
2. Has been denied by the City Council, or
3. Has been formally noticed for public hearing with the Planning Commission but is subsequently withdrawn; or
4. Has been formally noticed for public hearing with the City Council but is subsequently withdrawn.

### **G. Appeals**

Appeal of any City Council action shall be made to the Mobile County Circuit Court within 42 days of the date of the final Council action.

### **H. Recording and Recordkeeping**

1. Restrictions concerning the permissible uses of property shall be recorded in the Office of the Judge of Probate. A copy of the recorded document shall be provided to the Director. Any and all recording costs shall be borne by the Applicant.
2. Upon receipt of the recorded document, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to conform to the approved rezoning.

## Sec. 64-5-7 Conditional Use Permits

### **A. Applicability**

This section applies to any use designated as a conditional use in the applicable zoning district.

**B. Initiation.** A Conditional Use Permit application may be initiated:

1. By the property owner, or any authorized agent of the property owner, by filing a written Application with the Director.
2. If additional Applications are required, they should be filed and heard concurrently with the Condition Use Permit Application.

### **C. Notice**

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

## Article 5 Procedures

Table 65-5- 5 Type and Description of Notice—Conditional Use Permit

Notice	When	Where / To Whom / Additional Requirements
Mail	15 days prior to hearing before the Planning Commission and the City Council	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Applicant to furnish names and addresses</li> <li>• The Director or City Clerk as applicable, will mail the notices.</li> <li>• First Class mail is sufficient</li> </ul>
Sign	Posted 15 days prior to hearing before the Planning Commission	<ul style="list-style-type: none"> <li>• Posted on subject Property</li> <li>• All signs must be posted in visible locations.</li> </ul>
Publication	15 days or 3 consecutive weeks prior to the hearing before the City Council	<ul style="list-style-type: none"> <li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li> </ul>

**2.** Notice shall be given:

**(a)** Before the Planning Commission Hearing:

**(1)** Mail

**(2)** Sign

**(b)** Before the City Council Hearing:

**(1)** Mail

**(2)** Publication

**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. The Planning Commission recommendation shall be filed with the City Council within 15 days after the date of the public hearing.

**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.

## Article 5 Procedures

- (b) Within 30 days of receipt of the Planning Commission's final report and recommendation, the City Council shall place the item on its agenda for the scheduling of a public hearing.
- (c) No Conditional Use Permit shall be enacted unless the City Council conducts a public hearing. 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.
- (d) At the conclusion of the hearing, the City Council shall approve, approve with conditions, or deny the amendment.

### 4. **Conditions.** The Conditional Use Permit decision 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 a Conditional Use Permit must include a site plan. The City Council may place conditions on the Conditional Use Permit requiring the development to comply with the site plan. If a Conditional Use Permit and site 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 reflecting site specific conditions of approval to the Director, and
  - (2) The Director determines that the site plan is consistent with the approved site Plan and any conditions of approval; and,
  - (3) All required permits are issued.
- (c) Conditions fixed in a Conditional Use Permit, including voluntary use restrictions, and required conformance with an approved site plan, shall run with the land and bind Applicants, their heirs, successors and assigns, and be recorded in Probate Court by the Applicant, with a copy of the probated record provided to the Director.

### 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:
  - (a) Any applicable development standards; and
  - (b) Any applicable use regulations.
- 2. Is compatible with the character of the surrounding neighborhood;
- 3. Will not impede the orderly development and improvement of surrounding property; and
- 4. Will not adversely effect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood.
  - (a) In making this determination, the Planning Commission and City Council shall consider:
    - (1) The location, type and height of buildings or structures;

## Article 5 Procedures

- (2) The type and extent of landscaping and screening;
  - (3) Lighting;
  - (4) Hours of operation; and
  - (5) Other conditions that might require mitigation of the adverse impacts of the proposed development.
5. Is designed to provide ingress and egress that minimizes traffic hazards and traffic congestion on the public roads;
  6. Is designed to minimize the impact on storm water facilities;
  7. Will be adequately served by water and sanitary sewer services;
  8. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
  9. Shall not be detrimental or endanger the public health, safety, or general welfare.
- F. Subsequent Applications.** The area or any portion thereof that is the subject of the proposed Conditional Use Permit shall not be considered again by the Planning Commission or City Council for the same or similar Application or use for at least 6 months from the date the Application was denied or the date of withdrawal if any of the following applies:
1. Has been recommended for denial by the Planning Commission; or
  2. Has been denied by the City Council, or
  3. Has been formally noticed for public hearing with the Planning Commission but is subsequently withdrawn; or
  4. Has been formally noticed for public hearing with the City Council but is subsequently withdrawn.
- G. Appeals**  
Appeal of any City Council action shall be made to the Mobile County Circuit Court within 42 days of the date of the Council Action.
- H. Expiration**  
If no construction permit is obtained to implement the approved Conditional Use Permit within 2 years of final approval, the approved Conditional Use Permit shall expire, unless an extension request is filed prior to expiration, and subsequently approved.
- I. Recording and Recordkeeping**
1. The Conditional Use Permit, including all restrictions concerning the conditional uses of the property shall be recorded in the Office of the Judge of Probate. A copy of the recorded document shall be provided to the Director. Any and all recording costs shall be borne by the Applicant.
  2. Upon receipt of the recorded document, 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 5 Procedures**

**Sec. 64-5-8 Planned Development**

**A. Applicability**

This section applies to any Application seeking a Planned Development zoning district designation

**B. Initiation.** A Planned Development application may be initiated:

1. By the property owner, or any authorized agent of the property owner, by filing a written Application with the Director.
2. If additional Applications are required, they should be filed and heard concurrently with the Planned Development Application.

**C. Notice**

1. The following notice is required for a Planned Development:

(a) Notice

*Table 65-5- 6 Type and Description of Notice—Planned Development*

<b>Notice</b>	<b>When</b>	<b>Where / To Whom / Additional Requirements</b>
<b>Mail</b>	15 days prior to hearing before the Planning Commission and the City Council	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Applicant to furnish names and addresses</li> <li>• The Director or City Clerk as applicable, will mail the notices.</li> <li>• First Class mail is sufficient</li> </ul>
<b>Sign</b>	Posted 15 days prior to hearing before the Planning Commission	<ul style="list-style-type: none"> <li>• Posted on subject Property</li> <li>• All signs must be posted in visible locations.</li> </ul>
<b>Publication</b>	15 days or 3 consecutive weeks prior to the hearing before the City Council	<ul style="list-style-type: none"> <li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li> </ul>

2. Notice shall be given:

(a) Before the Planning Commission Hearing:

- (1) Mail
- (2) Sign

(b) Before the City Council Hearing:

- (1) Mail
- (2) Publication

**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**



## Article 5 Procedures

- (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. The Planning Commission recommendation shall be filed with the City Council within 15 days after the date of the public hearing.

### 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 fix a reasonable time for the public hearing.
- (c) No Planned Development shall be enacted unless the City Council conducts a public hearing. 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.
- (d) At the conclusion of the hearing, the City Council shall approve, approve with conditions, or deny the amendment.

### 4. Conditions. The Planned Development decision 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 a Planned Development must include a site plan. The City Council may place conditions on the Planned Development requiring the development to comply with the site plan. If a Planned Development and site 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 reflecting site specific conditions of approval to the Director, and
  - (2) The Director determines that the site plan is consistent with the approved site Plan and any conditions of approval; and,
  - (3) All required permits are issued.
- (c) Conditions fixed in a Planned Development shall run with the land and bind Applicants, their heirs, successors and assigns.

### 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 surrounding neighborhood;
- 3. Will not impede the orderly development and improvement of surrounding property; and

## Article 5 Procedures

4. Will not adversely effect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood.
  - (a) In making this determination, the Planning Commission and City Council shall consider:
    - (1) The location, type and height of buildings or structures;
    - (2) The type and extent of landscaping and screening;
    - (3) Lighting;
    - (4) Hours of operation; or
    - (5) Other conditions that might require mitigation of the adverse impacts of the proposed development.

5. Is designed to provide ingress and egress that minimizes traffic hazards and traffic congestion on the public roads;
6. Is designed to minimize the impact on storm water facilities;
7. Will be adequately served by water and sanitary sewer services;
8. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas;
9. Shall not be detrimental or endanger the public health, safety, or general welfare;
10. Consists of at least one acre of land; and
11. Accommodates existing urban amenities and natural features; and
12. Optimizes available public utilities, streets and community facilities; and
13. Provides open space through efficient or innovative site design.

**F. Subsequent Applications.** The area or any portion thereof that is the subject of the proposed Planned Development shall not be considered again by the Planning Commission or City Council for the same or similar Application or use for at least 6 months from the date the Application was denied or the date of withdrawal if any of the following applies:

1. Has been recommended for denial by the Planning Commission; or
2. Has been denied by the City Council, or
3. Has been formally noticed for public hearing with the Planning Commission but is subsequently withdrawn; or
4. Has been formally noticed for public hearing with the City Council but is subsequently withdrawn.

**G. Appeals**

Appeal of any City Council action shall be made to the Mobile County Circuit Court within 42 days of the date of the Council Action.

**H. Expiration**

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

## Article 5 Procedures

### I. Recording and Recordkeeping

1. The Planned Development, including all restrictions concerning the uses of the property shall be recorded in the Office of the Judge of Probate. A copy of the recorded document shall be provided to the Director. Any and all recording costs shall be borne by the Applicant.
2. Upon receipt of the recorded document, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to reflect the approved Planned Development.

## Sec. 64-5-9 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 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.

### B. Modifications

1. **Minor changes.** Landscaping and tree plantings, building elevation, building materials, parking lot design, screening fences or walls, building location (not reducing setbacks or buffers), or similar elements of site or building design, may be allowed, subject to the approval of a revised site plan.
2. **Major modifications.** Applications for major modifications to an unexpired Planning Approval or Planned Unit Development other than those minor modifications referenced immediately above, shall be filed with the Director. Major modifications require review and recommendation by the Planning Commission and approval by the City Council.

- (a) Notice. The following notice is required for Major modifications to a Planning Approval or Planned Unit Development site plan:

*Table 65-5-7 Type and Description of Notice—Previously Approved Planning Approvals and Planned Unit Developments*

Notice	When	Where / To Whom / Additional Requirements
<b>Mail</b>	15 days prior to hearing before the Planning Commission and the City Council	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Applicant to furnish names and addresses</li> <li>• The Director or City Clerk as applicable, will mail the notices.</li> <li>• First Class mail is sufficient</li> </ul>
<b>Sign</b>	Posted 15 days prior to hearing before the Planning Commission	<ul style="list-style-type: none"> <li>• Posted on subject Property</li> <li>• All signs must be posted in visible locations.</li> </ul>
<b>Publication</b>	15 days or 3 consecutive weeks prior to the hearing before the City Council	<ul style="list-style-type: none"> <li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li> </ul>

- (1) Notice shall be given:

## Article 5 Procedures

- a.** Before the Planning Commission Hearing:
      - 1.** Mail
      - 2.** Sign
    - b.** Before the City Council Hearing:
      - 1.** Mail
      - 2.** Publication
- (b)** Administrative Review. The Director shall transmit the Application with a report to the Planning Commission within 45 days after it is deemed complete.
- (c)** Decision. The Planning Commission shall not recommend a major modification to an existing Planning Approval or Planned Unit Development for approval, and the City Council shall not approve the modification, unless the proposed modification:
  - (1)** Is consistent with all applicable requirements of this Chapter;
  - (2)** Is compatible with the character of the surrounding neighborhood;
  - (3)** Will not impede the orderly development and improvement of surrounding property; and
  - (4)** Will not adversely effect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood:
    - 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; 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.
- (d)** **Conditions.** The decision may:
  - (1)** Attach appropriate conditions to mitigate the impacts of the 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 Major Modification must include a site plan. The City Council may condition approval on compliance with the site plan. If a Major Modification is approved, the Applicant may not commence construction or use of site unless:
    - a.** The Applicant submits a final site plan reflecting site specific conditions of approval to the Director, and

## Article 5 Procedures

- b. The Director determines that the site plan is consistent with the approved site Plan and any conditions of approval; and,
- c. All required permits are issued.

(3) Conditions fixed in a Major Modification shall run with the land and bind Applicants, their heirs, successors and assigns, and be recorded in Probate Court, by the Applicant, with a copy of the probated document provided to the Director.

### (e) 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. The Planning Commission recommendation shall be filed with the City Council within 15 days after the date of the public hearing.

### (f) 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 fix a reasonable time for the public hearing.
- (3) No major modification shall be enacted unless the City Council conducts a public hearing. 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.
- (4) At the conclusion of the hearing, the City Council shall approve, approve with conditions, or deny the amendment.

**C. Subsequent Applications.** The site subject to the Major Modification shall not be considered again by the Planning Commission or City Council for at least 6 months from the date the Application was denied or the date of withdrawal if an Application for Major Modification:

- 1. Has been recommended for denial by the Planning Commission; or
- 2. Has been denied by the City Council, or
- 3. Has been formally noticed for public hearing with the Planning Commission but is subsequently withdrawn; or
- 4. Has been formally noticed for public hearing with the City Council but is subsequently withdrawn.

### D. Appeals

Appeal of any City Council action shall be made to the Mobile County Circuit Court within 42 days of the date of the Council Action.

### E. Expiration

If no construction permit is obtained to implement the approved modification within 2 years after approval, the approved modification shall expire, unless an extension request is filed prior to expiration, and subsequently approved.

## Article 5 Procedures

### F. Recording and Recordkeeping

1. The modification, including all restrictions concerning the uses of the property shall be recorded in the Office of the Judge of Probate. A copy of the recorded document shall be provided to the Director. Any and all recording costs shall be borne by the Applicant.
2. Upon receipt of the recorded document, the Director shall revise the applicable map layers in the City of Mobile Geographic Information Systems (GIS) to reflect the approved Planned Development.

## Sec. 64-5-10 Appeal of Administrative Zoning Decisions

### A. Applicability

Any administrative decision by the Director regarding the Application of the zoning requirements of this Chapter may be appealed to the Board of Zoning Adjustment 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. The Board of Zoning Adjustment is authorized to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto.

### B. Initiation

1. An appeal is initiated by filing a notice of appeal with the Director and the Board of Zoning Adjustment.
2. The notice of appeal shall be filed within ten (10) days from the date of the 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 Zoning 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. Notice

The following notice is required for a hearing on appeal:

Table 65-5- 8 Type and Description of Notice—Appeal of Administrative Zoning Decisions

Notice	When	Where / To Whom / Additional Requirements
Mail	15 days prior to the hearing	<ul style="list-style-type: none"><li>• 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.</li><li>• Applicant to furnish names and addresses</li><li>• The Director will mail the notices.</li><li>• First Class mail is sufficient</li></ul>
Publication	Once each week for 2 consecutive weeks prior to hearing	<ul style="list-style-type: none"><li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li></ul>

### D. Effect of Appeal

1. An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Zoning Adjustment that by reason of facts stated in the certificate a stay would in his or her opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which

## Article 5 Procedures

may be granted by the Board of Zoning Adjustment or by a court of record on Application, on notice to the offices from whom the appeal is taken and on due cause shown.

### E. Hearings

1. The board shall fix a reasonable time for the hearing of an appeal. The hearing shall be open to the public.
2. Any interested party may appear in person or by agent or attorney.

### F. Approval Criteria

The Board of Zoning 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 the 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. Decision.

1. After the hearing is concluded, the Board of Zoning Adjustment shall render a decision based upon findings of fact supported by evidence in the record 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 Zoning Adjustment has all the powers of the officer from whom the appeal is taken.

### H. 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 Mobile County Circuit Court by filing with the Board a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the 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.

## Sec. 64-5-11 Variance of Zoning Ordinance

### A. Applicability

This section applies to any request for a variance from the zoning requirements of this Chapter. The Board of Zoning Adjustment is authorized to grant upon appeal in specific cases such variance from the terms of the Chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Chapter will result in unnecessary hardship and so that the spirit of the Chapter shall be observed and substantial justice done.

### B. Initiation

1. A variance request is initiated by filing an Application requesting a specific variance with the Director, for consideration by the Board of Zoning Adjustment.

## Article 5 Procedures

2. The Application shall specify with particularity the grounds upon which the variance is requested.

### C. Notice

The following notice is required for a hearing on an Application for a variance:

*Table 65-5-9 Type and Description of Notice—Variance of Zoning Ordinance*

<b>Notice</b>	<b>When</b>	<b>Where / To Whom / Additional Requirements</b>
<b>Mail</b>	15 days prior to the hearing	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Applicant to furnish names and addresses</li> <li>• The Director will mail the notices.</li> <li>• First Class mail is sufficient</li> </ul>
<b>Publication</b>	Once each week for 2 consecutive weeks prior to hearing	<ul style="list-style-type: none"> <li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li> </ul>
<b>Sign (Use Variance Only)</b>	Posted 15 days prior to hearing	<ul style="list-style-type: none"> <li>• Posted on subject Property</li> <li>• Posted by the Director or designee.</li> </ul>

### D. Hearings

1. The Board shall fix a reasonable time for the hearing of a variance request. The hearing shall be open to the public.
2. Any interested party may appear in person or by agent or attorney.

### E. Approval Criteria

1. The Board of Zoning 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 of the provisions of this Chapter will result in unnecessary hardship.
2. No variance shall be granted:
  - (a) In order to relieve an owner of restrictive covenants that are 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. Decision.

After the hearing is concluded, the Board of Zoning Adjustment shall render a decision based upon findings of fact supported by evidence in the record that:

1. Grants the variance, or
2. Denies the variance, or
3. Grants the variance with conditions or stipulations as deemed necessary.



## Article 5 Procedures

### G. Subsequent Applications

1. 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.
2. Applications for re-hearings or new Applications may be made in the same manner as original Applications provided that the same shall not be considered for hearing sooner than six months from the date of the original hearing.
3. Withdrawals: An Application that is withdrawn shall be treated in the same manner as a denial.

### H. Appeals

The Board of Zoning Adjustment decision may be appealed by any aggrieved party by filing a written notice of appeal within 15 days to the Mobile County Circuit Court. 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. 64-5-12 Special Exception

### A. Applicability

1. Special Exceptions are those uses that may have some special impact which differs from the potential impacts of permitted uses or exceeds them in intensity, or have a uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed in a particular location.
2. The Board of Zoning Adjustment is authorized to hear and decide requests for Special Exceptions expressly allowed by this Chapter, subject to the approval criteria set-forth in this Section.
3. There shall be a public hearing on each Application for a special exception as required by law.

### B. Initiation

1. A request for Special Exception approval is initiated by filing an Application with the Director for consideration by the Board of Zoning Adjustment.

**C. Notice.** The following notice is required for a hearing on an Application for Special Exception:

Table 65-5-10 Type and Description of Notice—Special Exception

Notice	When	Where / To Whom / Additional Requirements
Mail	15 days prior to the hearing	<ul style="list-style-type: none"><li>• 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.</li><li>• Applicant to furnish names and addresses</li><li>• The Director will mail the notices.</li><li>• First Class mail is sufficient</li></ul>
Publication	Once each week for 2 consecutive weeks prior to hearing	<ul style="list-style-type: none"><li>• Newspaper of general circulation in the City, per Code of Ala. § 11-52-77</li></ul>
Sign	Posted 15 days prior to hearing	<ul style="list-style-type: none"><li>• Posted on subject Property</li><li>• Posted by the Director or designee.</li></ul>

## Article 5 Procedures

1. The Board shall fix a reasonable time for the hearing of a request for Special Exception. The hearing shall be open to the public.
2. Any interested party may appear in person or by agent or attorney.

### D. Approval Criteria

1. The Board of Zoning Adjustment shall not approve an Application for Special Exception unless:
  - (a) The proposed use is in harmony with the general purpose, goals, objectives, and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
  - (b) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
  - (c) The proposed use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval of the proposed Special Exception permit, be responsible for establishing ability, willingness, and commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this Chapter, and other plans, programs, maps, and ordinances adopted by the City to guide its growth and development. The approval of the Special Exception Permit shall be conditioned upon such improvements, facilities, utilities, and services being provided and guaranteed by the applicant.
  - (d) The proposed use is consistent with all applicable requirements of this Chapter, including:
    - (1) Any applicable development standards in Article 3, and
    - (2) Any applicable use regulations in Article 4.
  - (e) The proposed use is compatible with the character of the neighborhood within the same zoning district in which it is located;
  - (f) The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district; and
  - (g) The proposed use will have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.
    - (1) In making this determination, the Board of Zoning Adjustment shall consider:
      - a. The location, type and height of buildings or structures;
      - b. The type and extent of landscaping and screening;

## Article 5 Procedures

- c. Lighting;
    - d. Hours of operation; or
    - e. Other conditions that might require mitigation of any adverse impacts of the proposed development.
  - (h) The site is designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads;
  - (i) The site is designed to minimize the impact on storm water facilities;
  - (j) The use will be adequately served by water and sanitary sewer services;
  - (k) The use is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
  - (l) The use will not be detrimental or endanger the public health, safety, or general welfare.
- 2. Criteria by Use. The Board of Zoning Adjustment shall give careful consideration to the warrants and criteria set forth in this section in judging applications for Special Exceptions involving the following uses. In granting a Special Exception, the board may attach such reasonable conditions and safeguards in addition to those set forth in this section, as it may deem necessary to implement the purposes of this Chapter.
  - (a) Bed and Breakfast Establishments. It is the intent of this Chapter that Bed and Breakfast uses in an area where they are, or may be permitted, will create no greater impact than that of any private residence with temporary houseguests. In line with these general considerations, the following site and design criteria are established:
    - (1) The owner of the establishment must reside on the site. There shall be no more than one (1) nonresident employee.
    - (2) No more than eight (8) guest rooms shall be included in any one establishment.
    - (3) Except for serving meals to overnight guests, the establishment shall not engage in the restaurant business.
    - (4) Guest rooms shall not contain cooking facilities.
    - (5) Guest stays shall not exceed fourteen (14) consecutive nights.
    - (6) The operation shall not alter the residential nature of the neighborhood or the character of the dwelling as a residence.
    - (7) The refuse area shall be screened from view, and shall be no closer than twenty (20) feet from any property line and 100 feet from any dwelling on an adjacent lot.
    - (8) There shall be a minimum of two (2) off-street parking spaces for the principal occupants of the residence, and a minimum of one (1) additional parking space per guest room. The additional parking spaces shall not be located in any required front or side yard setback area and shall be screened from the view of adjacent properties by natural or artificial means.
    - (9) No more than one (1) identification sign shall be permitted for the Bed and Breakfast use. Such signs shall state only the name and street address of the establishment. It shall not exceed four (4) square feet in sign face area. No other signage or advertising copy such as Vacancy/No Vacancy, Rent/Lease, etc. is permitted.

## Article 5 Procedures

### (b) Club or Lodge

- (1) The club or lodge shall be incorporated in the State of Alabama as a nonprofit corporation.
- (2) The structure should be primarily a meeting hall for fellowship, ceremonies, and club business meetings. Any amusement or recreation facilities should be clearly secondary to the primary purposes of the building.
- (3) The Board should determine to its satisfaction that the activities to be conducted on the premises will not be detrimental to the neighborhood, taking into account the physical relationship of the proposed use to the surrounding structures and properties, the probable hours of operation, social activities to be conducted, and the number of people to be assembled or to use the premises at any one time.

### (c) Adult and Child Daycare Facilities

- (1) Safe, convenient driveways shall be provided. All loading and unloading of children or infirm adults shall take place on the premises of the day care facilities and not on the street.
- (2) If the facility is for the care of children, it should be adequate in size, suitably fenced, and adequately landscaped to provide a suitable environment for children and to prevent adverse effects upon adjacent uses.

### (d) Electric Substation

- (1) Must be enclosed within a solid masonry wall or wood fence at least eight (8) feet high to obstruct view, noise and passage of persons; or must be placed underground.
- (2) Storage of materials, trucks, or repair equipment shall not be permitted on the site.

### (e) Marina

- (1) Shall not include activities such as boat building or the repair of barges or other commercial watercraft

### (f) Medical or Dental Clinic

- (1) The Board should determine to its satisfaction that the activities to be conducted on the premises will not be detrimental to the neighborhood, taking into account the physical relationship of the proposed use to the surrounding structures and properties, the probable hours of operation, parking, and the beneficial or adverse effects of the proposed use and structure upon the neighborhood.

### (g) Private or Parochial School

- (1) Building coverage shall not exceed forty (40) per cent of the total lot area.
- (2) Not less than two (2) off-street parking spaces per classroom shall be provided for an elementary school, three (3) per classroom for a junior high school, and eight (8) per classroom for a senior high school.
- (3) Minimum yard dimensions should be: front yard depth, thirty (30) feet; side yard width, forty (40) feet; rear yard depth, forty (40) feet, provided that each of these dimensions should be increased by one foot for every foot by which the height of the building exceeds thirty-five (35) feet.

## Article 5 Procedures

- (4)** Playgrounds, play fields, and other active recreation facilities should not extend into required yards, and no structure for seating spectators at athletic events (except a gymnasium or auditorium completely enclosed within a building) should be located closer than two hundred (200) feet to any residential property line. One off-street parking space should be provided for every three (3) spectator seats in any such facility.
  - (5)** Off-street school bus loading spaces should be provided when school buses are to be used.
  - (6)** Fences or planted buffer strips should be provided as determined by the Board to be necessary for safety purposes or to minimize possible adverse effects upon adjacent property.
- (h)** Recreational Vehicle Park
  - (1)** The proposed park shall comply with applicable regulations of the Alabama Board of Health and with all applicable city ordinances.
  - (2)** The park shall be used for the temporary placement and occupancy of recreational vehicles only. No mobile or manufactured homes shall be placed or occupied in such a park.
  - (3)** No recreational vehicle shall be occupied by a person or family longer than two (2) weeks.
- (i)** Self-Service Storage Facilities
  - (1)** Should not abut a residential district unless adequate separation and screening is provided by vegetation, topography, and the like.
  - (2)** The Board should determine to its satisfaction that the activities to be conducted on the premises will not be detrimental to the neighborhood, taking into account the physical relationship of the proposed use to the surrounding structures and properties, the probable hours of operation, parking, and the beneficial or adverse effects of the proposed use and structure upon the neighborhood.
- (j)** Veterinary Clinic
  - (1)** Means satisfactory to the board shall be provided for the safe, hygienic disposal of clinic wastes, especially infectious-disease-bearing wastes.
  - (2)** The Board should determine to its satisfaction that the activities to be conducted on the premises will not be detrimental to the neighborhood, taking into account the physical relationship of the proposed use to the surrounding structures and properties, the probable hours of operation, parking, and the beneficial or adverse effects of the proposed use and structure upon the neighborhood.
- (k)** Wireless Telecommunications Towers
  - (1)** Must meet all criteria and requirements set forth in Article 4.
- (l)** Bar/Lounge
  - (1)** The Board should determine to its satisfaction that the activities to be conducted on the premises will not be detrimental to the neighborhood, taking into account the physical relationship of the proposed use to the surrounding structures and

## Article 5 Procedures

properties, the probable hours of operation, parking, and the beneficial or adverse effects of the proposed use and structure upon the neighborhood.

- (2) No outside entertainment or music shall be permitted.
- (3) Entertainment or music shall not be audible outside the interior of the licensed premises.
- (4) No entertainment or music shall be permitted or be audible in the areas of any private sidewalk, courtyard, or patio seating; and
- (5) As a condition of Special Exception approval, the Board may limit the hours of operation and/or the hours when entertainment or music can be provided.

### E. Decision.

1. After the hearing is concluded, the Board of Zoning Adjustment shall render a decision that:
  - (a) Grants the Special Exception, or
  - (b) Denies the Special Exception, or
  - (c) Grants the Special Exception with conditions or stipulations as deemed necessary.
2. The Board of Zoning Adjustment may attach reasonable conditions for Special Exception approval, including additional criteria dealing with buffer yards, parking, lighting, building materials, signage or any other aspect of site plan approval necessary to mitigate the impact of the proposed Special Exception on the surrounding property. All conditions imposed upon any Special Exception permit approval, except those which are otherwise stated in this Chapter, shall be expressly set forth in the order granting such Special Exception permits. Unless and until prescribed conditions are met, no Zoning Compliance, Certificate of Occupancy, or Business License shall be granted for the applicant for the Special Exception at the property.
3. No Special Exception shall be granted:
  - (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property; or
  - (b) Where the Special Exception is otherwise unlawful under Alabama law.

### F. Subsequent Applications

1. There is no limit on subsequent Special Exception 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.
2. Applications for re-hearings or new Applications may be made in the same manner as original Applications provided that the same shall not be considered for hearing sooner than six months from the date of the original hearing.
3. Withdrawals: An Application that is withdrawn shall be treated in the same manner as a denial.

- G. Appeals.** The Board of Zoning Adjustment decision may be appealed by any aggrieved party by filing a written notice of appeal within 15 days to the Mobile County Circuit Court. 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.