



MONTGOMERY, AL

# UPDATED SUBDIVISION REGULATIONS

PUBLIC DRAFT

MARCH 2026



planning  
**NEXT**  
**CLARION**



# Table of Contents

<b>Article 1: General Provisions .....</b>	<b>1-1</b>
<b>Section 1.1 Title .....</b>	<b>1-1</b>
<b>Section 1.2 Authority .....</b>	<b>1-1</b>
1.2.1. General Authority .....	1-1
1.2.2. Amendments to Code of Alabama .....	1-1
<b>Section 1.3 General Purpose and Intent .....</b>	<b>1-2</b>
<b>Section 1.4 Applicability.....</b>	<b>1-2</b>
<b>Section 1.5 Relationship with Other Laws, Covenants, or Decrees.....</b>	<b>1-3</b>
1.5.1. Conflicts with Provisions of Adopted Codes or Ordinances.....	1-3
1.5.2. Conflicts with State or Federal Law .....	1-3
1.5.3. Relationship to Restrictive Covenants and Deed Restrictions .....	1-3
<b>Section 1.6 Transitional Provisions .....</b>	<b>1-3</b>
1.6.1. Violations Continue .....	1-3
1.6.2. Completed Applications Upon Which No Final Action Taken .....	1-3
<b>Section 1.7 Severability.....</b>	<b>1-4</b>
<b>Section 1.8 Effective Date.....</b>	<b>1-4</b>
<b>Article 2: Administration .....</b>	<b>2-1</b>
<b>Section 2.1 Purpose and Organization .....</b>	<b>2-1</b>
2.1.1. Purpose .....	2-1
2.1.2. Organization.....	2-1
<b>Section 2.2 Summary Table of Development Review Responsibilities.....</b>	<b>2-2</b>
<b>Section 2.3 Advisory and Decision-Making Bodies and Persons .....</b>	<b>2-2</b>
2.3.1. Planning Commission .....	2-2
2.3.2. Land Use Control Administrator.....	2-2
<b>Section 2.4 Standard Application Requirements and Procedures.....</b>	<b>2-3</b>
2.4.1. General .....	2-3
2.4.2. Pre-Application Conference .....	2-4
2.4.3. Application Submission .....	2-5
2.4.4. Determination of Completeness.....	2-5
2.4.5. Staff Review and Action .....	2-6
2.4.6. Scheduling of Public Hearing and Notification .....	2-7
2.4.7. Decision-Making Body Hearing, Review, and Decision .....	2-8

## Table of Contents

---

2.4.8. Notification to Applicant of Decision .....	2-8
2.4.9. Post-Decision Actions and Limitations .....	2-8
<b>Section 2.5 Application-Specific Review Procedures and Decision Standards .....</b>	<b>2-10</b>
Discretionary Appeals.....	2-10
2.5.1. Subdivision Ordinance Text Amendment .....	2-10
Subdivision.....	2-11
2.5.2. Subdivision Procedures Differentiated .....	2-11
2.5.3. Major Subdivision.....	2-12
2.5.4. Minor Subdivision.....	2-16
2.5.5. Resubdivision.....	2-17
Relief and Interpretation.....	2-19
2.5.6. Interpretation.....	2-19
2.5.7. Subdivision Variance .....	2-20
<b>Article 3: Design Standards and Required Improvements .....</b>	<b>3-1</b>
<b>Section 3.1 General Provisions .....</b>	<b>3-1</b>
3.1.1. General Standards .....	3-1
3.1.2. Monuments .....	3-2
3.1.3. Naming.....	3-2
3.1.4. Public Site Reservations and Open Spaces .....	3-2
3.1.5. Reserve Strips .....	3-3
<b>Section 3.2 Lot and Block Standards .....</b>	<b>3-3</b>
3.2.1. Block Standards .....	3-3
3.2.2. Lot Design Standards .....	3-3
3.2.3. Subdivision Proximity to Arterial Streets and Limited or No-Access Rights-of-Way .....	3-4
<b>Section 3.3 Street Standards .....</b>	<b>3-4</b>
3.3.1. General Standards .....	3-4
3.3.2. Street Design Standards .....	3-4
3.3.3. Curbs and Gutters.....	3-5
3.3.4. Limits of Allowable Variances.....	3-5
<b>Section 3.4 Water and Sewer Standards.....</b>	<b>3-6</b>
3.4.1. General Standards .....	3-6
3.4.2. Sanitary Sewer .....	3-6
3.4.3. Septic Systems.....	3-7
3.4.4. Water Mains .....	3-7
<b>Section 3.5 Drainage Standards .....</b>	<b>3-7</b>
3.5.1. Purpose .....	3-7

**Table of Contents**

---

3.5.2. Drainage Easements ..... 3-8

3.5.3. Storm Drainage ..... 3-8

3.5.4. Storm Water Detention ..... 3-8

**Article 4: Acceptance and Surety Requirements ..... 4-1**

**Section 4.1 Inspection and Acceptance of Improvements ..... 4-1**

**Section 4.2 Guarantee in Lieu of Improvements ..... 4-2**

4.2.1. Amount of Financial Guarantee ..... 4-2

4.2.2. Form of Financial Guarantee ..... 4-2

4.2.3. Failure to Complete Improvements ..... 4-2

**Section 4.3 Maintenance of Certain Improvements ..... 4-2**

4.3.1. General ..... 4-2

4.3.2. Maintenance Guarantee ..... 4-2

**Article 5: Enforcement ..... 5-1**

**Section 5.1 General Provisions ..... 5-1**

5.1.1. Purpose ..... 5-1

5.1.2. Compliance Required ..... 5-1

5.1.3. Violations ..... 5-1

5.1.4. Responsible Persons ..... 5-2

5.1.5. Enforcement Generally ..... 5-2

**Section 5.2 Remedies and Penalties ..... 5-3**

5.2.1. Available Remedies ..... 5-3

5.2.2. Available Penalties ..... 5-4

5.2.3. Remedies Are Cumulative ..... 5-4

**Article 6: Definitions and Rules of Construction and Measurement ..... 6-1**

**Section 6.1 Rules of Construction ..... 6-1**

6.1.1. Mandatory and Discretionary Terms ..... 6-1

6.1.2. Used or Occupied ..... 6-1

6.1.3. Word Tense ..... 6-1

6.1.4. Property ..... 6-1

6.1.5. Headings, Illustrations, and Text ..... 6-1

6.1.6. Time ..... 6-2

6.1.7. Lists and Examples ..... 6-2

6.1.8. References to Other Regulations/Publications ..... 6-2

6.1.9. Public Officials and Agencies ..... 6-2

6.1.10. Term Not Defined ..... 6-2

## Table of Contents

---

<b>Section 6.2</b>	<b>Rules of Measurement .....</b>	<b>6-2</b>
6.2.1.	Lots.....	6-2
6.2.2.	Lot-Related Measurements .....	6-3
<b>Section 6.3</b>	<b>Definitions .....</b>	<b>6-5</b>

# Index of Tables

Table 2-1: Subdivision Regulations Review Procedures .....2-2  
Table 2-2: Public Notification Requirement.....2-7  
Table 3-1: Street Right-of-Way, Lane, and Width Requirements .....3-5  
Table 3-2: Street Grades by Street Type .....3-5

# Index of Figures

Figure 2-1: Summary of Standard Review Procedures .....2-4  
Figure 2-2: Summary of Subdivision Ordinance Text Amendment Procedure .....2-10  
Figure 2-3: Summary of Preliminary Plat Procedure .....2-12  
Figure 2-4: Summary of Final Plat Procedure.....2-14  
Figure 2-5: Summary of Minor Subdivision Procedure .....2-16  
Figure 2-6: Summary of Resubdivision Procedure .....2-18  
Figure 2-7: Summary of Interpretation Procedure .....2-19  
Figure 2-8: Summary of Subdivision Variance Procedure.....2-21



# Article 1: General Provisions

## Commentary on Draft:

**Article 1: General Provisions**, contains important provisions that pertain to the Subdivision Regulations as a whole. It includes eight sections that:

- Establish the title or official name, of the Subdivision Regulations;
- Identify the statutory authority for the Planning Commission to adopt the Regulations;
- State the Planning Commission’s purpose and intent in adopting the Regulations;
- Set out areas in and activities to which the regulations apply;
- Clarify that the more restrictive regulation applies in cases where there is a conflict between two ordinance regulations or between ordinance provisions and state or federal law;
- Address the rules governing development that have been approved under the previous regulations but not yet started or completed, or development applications that have been submitted but not yet approved;
- Provide a severability provision in the event a portion of the Regulations is determined invalid by a court of law; and
- Establish the effective date of the Regulations.

*This commentary is provided for reference purposes. It will be deleted in the adopted Subdivision Regulations.*

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## Section 1.1 Title<sup>1</sup>

These Regulations shall be officially known as the “Subdivision Regulations of the City of Montgomery, Alabama,” and may be referred to as the “Montgomery Subdivision Ordinance,” “Subdivision Ordinance,” or “these Regulations.”

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## Section 1.2 Authority<sup>2</sup>

### 1.2.1. General Authority

These Regulations are adopted in accordance with the enabling authority in the Code of Alabama, 1975, including Title 11, Chapter 52 and Section 11-52-31; and all other relevant laws of the state of Alabama.

### 1.2.2. Amendments to Code of Alabama

Whenever any provision of these Regulations refer to or cites a section of the Code of Alabama, 1975, and that section is later amended or superseded, these Regulations shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

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<sup>1</sup> This builds on Section I of the current Subdivision Regulations.

<sup>2</sup> This is a new section that references the applicable state statutes that authorize the City to exercise land-use regulatory authority.

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### Section 1.3 General Purpose and Intent<sup>3</sup>

The purpose of these Regulations is to promote the health, safety, and general welfare of the city, and to implement the goals and policies of the Comprehensive Plan. More specifically, the intent of these Regulations is to:

- (A) To promote the public health, safety, and general welfare of the jurisdictional area;
- (B) To guide the development of the jurisdictional area in accordance with the General Plan, considering the suitability of nonresidential and public areas and having regard for the most beneficial land use in such areas;
- (C) Ensuring the character of the various regions of the City is maintained and protected;
- (D) To enhance the character and economic stability and encourage the orderly, beneficial development of the jurisdictional area;
- (E) Ensuring new development is coordinated with available planned public services and infrastructure, and adequate public facilities are available to serve new growth and development;
- (F) To conserve the value of land, buildings, and improvements throughout the jurisdictional area and to minimize detrimental conflicts among the uses of land and structures;
- (G) To guide public and private policy and action providing for transportation, water, sewage, schools, recreational areas, solid waste, stormwater, and other public requirements and facilities;
- (H) Mitigating and/or avoiding the hazards of flooding, topography, steep slopes, storm water accumulation, and run-off;
- (I) To establish reasonable standards of design and procedures for subdivisions and resubdivisions; to further the orderly layout and use of land, and to ensure proper legal descriptions and proper monumentation of land.
- (J) To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision;
- (K) To prevent the pollution of air, streams, sinkholes and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to preserve the integrity, stability, character, and value of the jurisdictional area;
- (L) To preserve the natural character and topography of the jurisdictional area, and to ensure appropriate development with regard to these natural features.
- (M) To provide for open spaces through efficient design and layout of the land as established in the Zoning Ordinance; and
- (N) To encourage subdivision design to maximize the conservation of all forms of energy.

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### Section 1.4 Applicability<sup>4</sup>

1.4.1. The provisions of these Regulations shall apply to the development of all land within the corporate limits and the police jurisdiction of the City, conducted by all public and private entities to the full extent permitted by law, unless the land or development is expressly

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<sup>3</sup> These are new general purpose statements.

<sup>4</sup> This new section establishes the area in which these Regulations applies and is identical to new provisions in the updated Zoning Ordinance except that the exemption for development and redevelopment by local governments has not been included.

exempted by a specific provision of these Regulations. Development shall not occur except in accordance with the requirements of these Regulations and all other applicable City, county, state, and federal laws and regulations.

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## Section 1.5 Relationship with Other Laws, Covenants, or Decrees<sup>5</sup>

### 1.5.1. Conflicts with Provisions of Adopted Codes or Ordinances

- (A) If a provision of these Regulations is inconsistent or conflicts with another provision of these Regulations or with a provision found in other adopted ordinances or codes of the City, including but not limited to the Zoning Ordinance, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.
- (B) When it is possible to implement, administer, or construe a particular provision of these Regulations in more than one way, it shall be implemented, administered, or construed in a way that eliminates or minimizes conflicts with other Ordinance provisions and Zoning Ordinance provisions.

### 1.5.2. Conflicts with State or Federal Law

If the provisions of these Regulations are inconsistent or conflict with the laws or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

### 1.5.3. Relationship to Restrictive Covenants and Deed Restrictions

The City shall not be responsible for monitoring or enforcing easements, covenants, deed restrictions, or other agreements between private parties. All development shall comply with the minimum requirements of these Regulations regardless of the terms of any such agreements.

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## Section 1.6 Transitional Provisions<sup>6</sup>

### 1.6.1. Violations Continue

Any violation of the prior Subdivision Ordinance and other regulations replaced by these Regulations shall continue to be a violation under these Regulations, and subject to the procedures and penalties set forth in Article 5: Enforcement, unless the development complies with the express terms of these Regulations.

### 1.6.2. Completed Applications Upon Which No Final Action Taken

- (A) Any application submitted and accepted as complete before      [insert the effective date of these Regulations], but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted as complete. Complete applications shall be processed in good faith. If the applicant fails to take reasonable efforts to secure approval of an application within one year of      [insert the effective date of

<sup>5</sup> This are new general rules for interpreting the Ordinance in the context of other City codes and state and federal statutes and regulation, and build upon similar standards in Article V, Section 1 of the current Zoning Ordinance and included in Section 1.5 of the updated Zoning Ordinance .The section on restrictive covenants and deed restrictions is also new and is identical to a new provision in the updated Zoning Ordinance.

<sup>6</sup> This is a new section which addresses several impacts of the new Ordinance, such as the treatment of violations of the current Subdivision Regulations, how applications in the development review process should be handled, and the transitions from the set of current zone districts to the new set of zone districts. Identical provisions are included in Section 1.7 of the updated Zoning Ordinance.

*these Regulations*], the application shall expire, and future development shall be subject to the requirements and standards of these Regulations.

- (B) An applicant with a pending application accepted as complete before [ ] *[insert the effective date of these Regulations]* may choose to have the application reviewed and decided under the standards of these Regulations by withdrawing the pending application and submitting a new application in accordance with the requirements of these Regulations.

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## **Section 1.7 Severability<sup>7</sup>**

If any section, subsection, sentence, clause, or phrase of these Regulations is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity and continued enforcement of any other section, subsection, sentence, clause, or phrase of these Regulations. The Planning Commission hereby declares that it would have passed these Regulations and any section, subsection, sentence, clause, and phrase, thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid by a court of competent jurisdiction.

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## **Section 1.8 Effective Date**

The Effective Date of this Subdivision Ordinance is [ ] *[insert the effective date of these Regulations]*

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<sup>7</sup> This is identical to a new provision in Section 1.9 of the updated Zoning Ordinance, which revises, clarifies, and simplifies Article II, Section 4 of the current Zoning Ordinance

# Article 2: Administration

**Article 2: Administration**, consolidates all development review procedures and creates a set of standard procedures that generally apply to the review of development applications. It also makes changes to the development review procedures to streamline and simplify the review process. The article is organized into five sections.

**Section 2.1, Purpose and Organization**, provides an overview of the organization of the article.

**Section 2.2, Summary Table of Development Review Responsibilities**, consists of a summary table of the development approvals and permits required under these Regulations, and the staff and review and decision-making bodies responsible for reviewing, making recommendations on, and making decisions on each application.

**Section 2.3, Advisory and Decision-Making Bodies and Persons**, identifies the powers and duties of the different bodies and staff under these Regulations, including the responsibilities of each with regard to the various types of applications in the Regulations.

**Section 2.4, Standard Application Requirements and Procedures**, establishes a standard set of review procedures that are generally applicable to the review of development applications. It provides the framework under which the development review procedures for applications are made uniform to the greatest degree possible.

**Section 2.5, Application-Specific Review Procedures and Decision Standards**, supplements the standard review procedures. For each type of development application, it identifies in what situations application approval is necessary (or available), any applicable modifications of or additions to the standard procedures, and the standards for making a decision on the application.

*This commentary is provided for reference purposes. It will be deleted in the adopted Subdivision Regulations.*

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## Section 2.1 Purpose and Organization

### 2.1.1. Purpose

The purpose of this article is to establish the review and approval procedures for all applications subject to these Regulations.

### 2.1.2. Organization

The remaining sections of this article are organized as follows:

- (A) Section 2.2, Summary Table of Development Review Responsibilities, includes a summary table of development review procedures that provides an overview of the development approvals under the Subdivision Ordinance.
- (B) Section 2.3, Advisory and Decision-Making Bodies and Persons identifies, and clarifies the roles of the different bodies and staff responsible for review, advice, and decision-making on applications for development approvals.
- (C) Section 2.4, Standard Application Requirements and Procedures, establishes a standard set of review procedures that generally apply to the review of all applications for development approvals.

- (D) Section 2.5, Application-Specific Review Procedures and Decision Standards includes the specific review standards and any unique procedural review requirements for each individual application.

## Section 2.2 Summary Table of Development Review Responsibilities

Table 2-1: Subdivision Regulations Review Procedures D = Decision S = Staff Review * = Public Hearing + = Pre-application conference required			
Review Procedure	Section	Land Use Control Administrator	Planning Commission
<b>Discretionary Approvals</b>			
Text Amendment	2.5.1	S	D*
<b>Site Development</b>			
Major Subdivision+	2.5.3		
Preliminary Plat	2.5.3(A)	S	D*
Final Plat	2.5.3(B)	S	D*
Minor Subdivision	2.5.4	D	
Resubdivision+	2.5.5	S	D
<b>Relief and Interpretation</b>			
Interpretation	2.5.6	D	
Subdivision Variance+	2.5.7	S	D

## Section 2.3 Advisory and Decision-Making Bodies and Persons

### 2.3.1. Planning Commission

The Planning Commission, which is established in accordance with Sec. 21-31 of the City Code, shall have the following powers and duties:<sup>8</sup>

- (A) To review and decide the following:
  - (1) Subdivision Ordinance Text Amendment (see Section 2.5.1);
  - (2) Major Subdivision Preliminary Plat (see Section 2.5.3(A));
  - (3) Major Subdivision Final Plat (see Section 2.5.3(B));
  - (4) Resubdivision (see Section 2.5.5); and
  - (5) Subdivision Variance (see Section 2.5.7); and
- (B) Any other powers and duties assigned to it by the City Council or by state law in accordance with Title 11, Ch. 52 of the Code of Alabama, 1975.

### 2.3.2. Land Use Control Administrator<sup>9</sup>

The position of Land Use Control Administrator (Administrator) is hereby established.

<sup>8</sup> We have not recommended changes to Chapter 21, Planning, of the City Code, and reference the section here. We recommend the duplicative provision establishing the size of the Planning Commission in Section 2-302 of the City Code be repealed.

<sup>9</sup> This section designates the Land Use Control Administrator as the single position generally charged with administering the code. See detailed discussion on page II-14 of the Code Assessment.

**(A) Powers and Duties**

The Administrator shall have the following powers and duties under these Regulations:

- (1)** To provide staff review and make recommendations for the following:
  - (a) Subdivision Ordinance Text Amendment (see Section 2.5.1);
  - (b) Major Subdivision Preliminary Plat (see Section 2.5.3(A));
  - (c) Major Subdivision Final Plat (see Section 2.5.3(B));
  - (d) Resubdivision (see Section 2.5.5); and
  - (e) Subdivision Variance (see Section 2.5.7);
- (2)** To review and decide the following:
  - (a) Minor Subdivision (see Section 2.5.4); and
  - (b) Interpretation (see Section 2.5.6);
- (3)** To establish and chair a Technical Review Committee composed of representatives of relevant departments or agencies with expertise or review responsibilities pertaining to the development applications for the purpose of streamlining review of applications;<sup>10</sup>
- (4)** To establish application content requirements for the review of applications;
- (5)** To compile and amend as necessary a Procedures Manual that includes requirements for application contents and forms, submission schedules, a schedule of fees (established by the Planning Commission), and any additional information that the Administrator deems appropriate and relevant to the submittal of, review of, and decision on development applications;
- (6)** To maintain a copy of the current schedule of fees and payment procedures or, if compiled, the Procedures Manual, in an office available to the public or online;
- (7)** To oversee the enforcement of these Regulations, in accordance with Article 5: Enforcement; and
- (8)** To carry out any other activities described in these Regulations.

**(B) Delegation**

The Administrator may delegate any authority granted to the Administrator under these Regulations to any professional-level subordinate staff.

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## Section 2.4 Standard Application Requirements and Procedures<sup>11</sup>

### 2.4.1. General

This section establishes standard procedures that are generally applicable to the review of development applications under these Regulations. Not all procedures in this section are required for every development application. Section 2.5, Application-Specific Review Procedures and Decision Standards, identifies for a specific type of application which standard procedures are required, and whether there are additions or modifications to the standard procedure. Figure 2-1: Summary of Standard Review

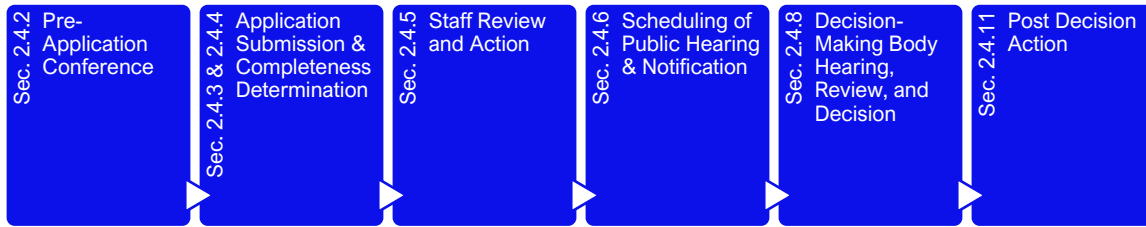
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<sup>10</sup> This subsection builds upon Section VI-(D)(4) of the current Subdivision Regulations, which states that for planned commercial districts, the Planning Commission “shall receive a report from the planning controls director, the city engineer, the health officer, and the traffic engineer that the development plan conforms with all requirements of city codes and that the plan will be consistent with the general health, safety, and welfare of the city and allows it to be extended to subdivision applications generally,” and establishes a general Technical Review Committee (as in the updated Zoning Ordinance) that can perform technical reviews as appropriate.

<sup>11</sup> This is a new section that establishes standard requirements for the submission and processing of development applicants in accordance with these Regulations. As discussed in the Code Assessment (pages II-12 through II-13), these standard procedures contribute to an efficient development review process by providing a consistent set of procedures that apply to multiple application types. These procedures are modified as necessary for specific types of applications. A similar structure is used in the updated Zoning Ordinance.

Procedures provides a summary of the standard review procedures. A similar figure with applicable changes is provided for each application-specific procedure.

**Figure 2-1: Summary of Standard Review Procedures**



### 2.4.2. Pre-Application Conference<sup>12</sup>

**(A) Purpose**

The purpose of a pre-application conference is to provide an opportunity for the applicant to review submission requirements, procedures, and standards that may apply to an anticipated application. The conference is also an opportunity for staff to become familiar with the project and offer preliminary comments about the scope, features, and impacts of the proposed development as they relate to the standards of the Ordinance.

**(B) Applicability**

A pre-application conference is voluntary and may be requested by an applicant before the submission of any development application.

**(C) Procedure**

**(1) Scheduling**

Upon receipt of a request for a pre-application conference, the Administrator shall schedule the conference and notify the applicant of the meeting time and location.

**(2) Submission of Materials Prior to Meeting**

Before a pre-application conference is held, the applicant shall submit to the Administrator a narrative describing the scope of the proposed application, a conceptual site plan, other information that the applicant believes will assist City staff in evaluating the project, and any other information requested by the Administrator.

**(3) Conduct of Meeting**

The Administrator and relevant staff shall review the materials submitted by the applicant prior to the meeting, and at the meeting, seek any additional clarification needed from the applicant regarding the proposed application. The Administrator and staff shall identify any concerns, problems, or other factors the applicant should consider regarding the proposed application.

**(D) Effect**

The pre-application conference facilitates the application review process. Any verbal or written comments made by staff during the pre-application conference are not binding on the City. Processing times for review of a development application do not begin until an application is

<sup>12</sup> This is a new procedure which will allow an applicant to request a meeting with staff prior to the submission of a development application. Meeting early in the process allows the applicant and staff to address issues with a proposal that may make the review of the eventual application more efficient. A similar provision is included in the updated Zoning Ordinance.

submitted and determined to be complete in accordance with Section 2.4.4, Determination of Completeness.

### **2.4.3. Application Submission<sup>13</sup>**

**(A) Application Submitted to Land Use Division**

All applications shall be submitted to the Land Use Division.

**(B) Authority to Submit Application**

All applications for development approvals shall be submitted by the owner or owners of the land upon which the development is proposed, or their authorized agent.

**(C) Required Contents and Form<sup>14</sup>**

The application contents and form shall be in accordance with requirements established by the Administrator for the specific type of application.

**(D) Required Fees<sup>15</sup>**

Required application fees shall be those established for the specific application by the Planning Commission.

**(E) Schedule**

The schedule for application submission and review, including time frames for review, shall be established for the specific application type by the Administrator.

**(F) Simultaneous Processing of Applications**

When two or more forms or instances of review and approval are required under these Regulations, the applications for those approvals may proceed simultaneously at the discretion of the Administrator, so long as all applicable City and state requirements are met. Simultaneous processing may result in additional fees for the applicant. Where multiple applications are reviewed simultaneously, a revision of one may require corresponding revisions in the others.

**(G) Examination and Copying of Application and Associated Materials**

At any time, upon reasonable request and during normal business hours, any person may examine a development application, a finalized staff report, and materials submitted in support or opposition to an application, in the Land Use Division.

### **2.4.4. Determination of Completeness<sup>16</sup>**

**(A) General**

Upon receipt of an application, the Administrator shall determine if the application is complete. A complete application is one that:

- (1)** Contains all content required for the particular type of application.
- (2)** Is in the form required for the particular type of application.
- (3)** Includes information in sufficient detail to allow an evaluation of the application to determine whether it complies with the appropriate review standards of these Regulations.

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<sup>13</sup> This new section establishes consistent rules for the submission of development applications and related matters. A similar provision is included in the updated Zoning Ordinance.

<sup>14</sup> As discussed in the Code Assessment (page II-7), we recommend removing specific application content requirements from the code and placing them in a separate document maintained by staff.

<sup>15</sup> Fees are listed in Section III-E of the current Subdivision Regulations. We recommend establishing those fees in a separate resolution.

<sup>16</sup> As recommended in the Code Assessment (page II-13), this new section adds a formal step of review to ensure an application is complete, preventing wasted time and effort of both the applicant and staff. A similar provision is included in the updated Zoning Ordinance.

(4) Is accompanied by the fee established for the particular type of application.

**(B) Application Incomplete<sup>17</sup>**

(1) If the Administrator determines that the application is incomplete, the Administrator shall send notice to the applicant of the application's deficiencies electronically or by mail within 15 business days of receipt of the application, and review of the application shall not proceed. The applicant may correct the deficiencies and resubmit the revised application for another completeness determination without payment of an additional fee.

(2) If the applicant fails to resubmit an incomplete application within 60 days after being notified of submittal deficiencies, the application shall be considered withdrawn.

(3) Notwithstanding the other provisions of this subsection, after an application is determined to be incomplete three times, the applicant may request, and the Administrator shall undertake, processing and review of the application.

**(C) Application Complete**

If the application is determined to be complete, it shall be reviewed in accordance with the applicable procedures and standards in these Regulations. Any established time frame for review of the application shall start on the date the application is determined to be complete.

**(D) Amendment or Withdrawal of Application**

**(1) Application Amendment**

- (a) An applicant may submit a revised application to the Land Use Division after receiving initial staff review comments on the application or on requesting and receiving permission from an advisory or decision-making body after that body has reviewed but not yet taken action on the application. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by the Administrator or the advisory or decision-making body, as long as they constitute only minor additions, deletions, or corrections, and do not include significant substantive changes to the plan for development proposed in the application.
- (b) Any other revisions to the application may be submitted at any time during the review procedure, but the revised application shall be submitted and reviewed as if it were a new application, and may be subject to additional application fees to defray the additional costs of processing the revised application.

**(2) Application Withdrawal**

- (a) An applicant may withdraw an application at any time by submitting a letter of withdrawal to the Administrator.
- (b) Applications withdrawn after required notice of any public hearing scheduled for the application shall be subject to limitations on the subsequent submittal of similar applications in accordance with Section 2.4.9(D), Limit on Subsequent Applications.
- (c) If an application is withdrawn by the applicant, no further review of the application shall take place unless or until a new application (including new application fees) is submitted and determined to be complete. Application fees shall not be refunded for withdrawn applications.

**2.4.5. Staff Review and Action**

If review or a decision on the application by the Administrator is required in accordance with Section 2.2, Summary Table of Development Review Responsibilities, the review or decision shall be in accordance with this section.

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<sup>17</sup> This is a new procedure that provides staff a certain number of days to review the application and allows the applicant opportunities to correct any deficiencies. A similar provision is included in the updated Zoning Ordinance.

**(A) Review and Opportunity to Revise**

- (1) If an application is determined to be complete, the Administrator shall distribute the application to all appropriate staff, departments, and other review agencies for review and comment. At the discretion of the Administrator this may include the assembly of a formal Technical Review Committee composed of representatives of different departments and agencies for the purpose of coordinating review.
- (2) The Administrator shall review the application, relevant support material provided, and any comments or recommendation from the appropriate staff. If deficiencies in complying with the applicable standards of these Regulations are identified, the Administrator shall notify the applicant of the deficiencies and provide the applicant a reasonable opportunity to revise the application to address them.

**(B) Application Subject to Staff Review**

If an application is subject to staff review, the Administrator shall, following completion of the review, prepare written notification that addresses the application’s compliance with applicable review standards and recommends action on the application, including any recommended conditions of approval. The Administrator shall transmit the application and written notification to the Planning Commission, provide the applicant a copy of the staff report, and make a copy of the staff report available for examination by the public during normal hours of operation.

**(C) Application Subject to Decision by Staff**

If an application is subject to a final decision by the Administrator, the Administrator shall review the application and make a decision authorized for the particular type of application, based on the decision standards applicable for the application type as set forth in Section 2.4, Application-Specific Review Procedures and Decision Standards.

**(D) Delegation of Staff Review to Professional Staff**

As described in Section 2.3.2(B), Delegation, the Administrator may delegate duties, including the organizing and conduct of staff review, to any knowledgeable professional staff of the City.

**2.4.6. Scheduling of Public Hearing and Notification<sup>18</sup>**

**(A) Compliance with State Law**

If a public hearing is required for an application, the public hearing shall be scheduled and public notification of the hearing provided in accordance with state law and applicable bylaws.

**(B) Public Notice**

Notification of a public hearing on an application shall be as required by state law and these Regulations, as shown in Table 2-2: Public Notification Requirement.

Table 2-2: Public Notification Requirement		
Application Type	Published Notice	Mailed Notice
Subdivision Ordinance Text Amendment	In accordance with state law	Not required
Sketch Plan	Not required	In accordance with the notification requirements for a preliminary plat
Preliminary Plat	Not Required	In accordance with Section 11-52-32, Code of Alabama 1975

<sup>18</sup> This section clarifies that notification provisions must be in compliance with state law. It carries forward notice requirements from Sec. 2.6.4(B) of the updated Zoning Ordinance. The current Zoning Ordinance references the posting requirements, which we have carried forward, but there do not seem to be any provisions in the code which require the posting of notice. Therefore, though we have carried forward the posting standards, we have not included any new requirements for posting of notice.

### 2.4.7. Decision-Making Body Hearing, Review, and Decision

If an application is subject to a final decision by the Planning Commission, in accordance with Section 2.2, Summary Table of Development Review Responsibilities, the Planning Commission shall review and make a final decision on the application in accordance with the following requirements:

- (A) The Planning Commission shall conduct a public hearing on the application if required and shall consider the application, relevant support materials, staff reports and recommendations, and any comments received during the hearing. Following the public hearing, the Planning Commission shall make in writing one of the decisions authorized for the particular type of application, based on the decision standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Decision Standards. The decision shall state the basis or rationale for the decision.
- (B) The Planning Commission body shall take action as promptly as reasonably possible in consideration of the interests of the applicant, affected parties, and citizens of the City.
- (C) Before making its decision, the Planning Commission may remand the application to staff, as applicable, for further consideration of any issue.
- (D) If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Decision Standards, the Planning Commission may approve the application subject to conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

### 2.4.8. Notification to Applicant of Decision

Within ten business days<sup>19</sup> after a final decision on a development application, or within another period of time as required by state law, the Administrator shall send notice of the decision to the applicant. The notification shall be in writing and in accordance with applicable state law. The Administrator shall also make a copy of the decision available to the public at the Land Use Division office during normal business hours.

### 2.4.9. Post-Decision Actions and Limitations<sup>20</sup>

#### (A) Effect of Approval

Approval of a development application in accordance with these Regulations authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application and approval. If one development approval is a prerequisite to another development approval (e.g., sketch plan approval prior to a preliminary plat approval), development may not take place until all required development approvals are obtained. Approval of one development application does not necessarily guarantee approval of any subsequent development application.

#### (B) Lapse in Approval<sup>21</sup>

- (1) Development approvals shall expire as provided in Section 2.5, Application-Specific Review Procedures and Decision Standards, for each type of development approval.
- (2) A change in ownership of the land that is the subject of a development approval shall not affect the established expiration time period for the development approval.

<sup>19</sup> The 10-day requirement for the County to notify an applicant of a decision on an application is new and consistent with the new 10-day notification requirements in the new Zoning Ordinance.

<sup>20</sup> This new section describes the effect of an approval, other actions an applicant may take following a decision, and establishes an expiration for most approvals (other than text amendment) if further action is not taken following the approval.

<sup>21</sup> As noted in the Code Assessment (page II-13), we recommend establishing general expiration rules for most development applications so that "stale" development approvals do not remain valid for years. The language has been updated as specific expiration timeframes have been relocated to the application-specific sections.

**(C) Amendment of Development Approval or Permit**

Unless otherwise specified in the procedure for the particular type of development application in Section 2.5, Application-Specific Review Procedures and Decision Standards, a development approval may only be amended or modified in accordance with the procedures and standards established for its original approval.

**(D) Limit on Subsequent Applications<sup>22</sup>**

**(1) Prior Application Denied**

- (a) If a development application requiring a public hearing is denied, an application proposing the same development on all or part of the same land shall not be submitted within one year after the date of decision denying the application unless the Planning Commission waives this time limit in accordance with subsection (b) below. Only one request for a waiver of this time limit may be submitted during the one-year period.
- (b) The owner of land that is the subject of an application that was denied, or the owner's authorized agent, may submit a written request for a waiver of the time limit established in subsection (a) above, along with a fee to defray the cost of processing the request, to the Administrator, who shall transmit the request to the Planning Commission. Upon a favorable vote by two-thirds of its membership, the Planning Commission may grant a waiver of the time limit only upon making a finding that the owner or agent has demonstrated at least one of the following:
  - 1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the application of relevant review standards;
  - 2. New or additional information is available that was not available at the time of review that might reasonably affect the application of relevant review standards;
  - 3. The new application proposed to be submitted is not substantially the same as the prior application; or
  - 4. The final decision on the application was based on a material mistake of fact.

**(2) Prior Application Withdrawn**

If an application requiring a public hearing is withdrawn after required notice of the public hearing is provided, no identical or similar application shall be submitted within six months after the date of withdrawal. Any such application shall be considered a new application.

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<sup>22</sup> This new section establishes minimum time periods following the denial or withdrawal of an application during which applications proposing the same development cannot be submitted. Such limitations support the integrity of the application review process by providing a degree of finality.

## Section 2.5 Application-Specific Review Procedures and Decision Standards

### Discretionary Appeals

#### 2.5.1. Subdivision Ordinance Text Amendment<sup>23</sup>

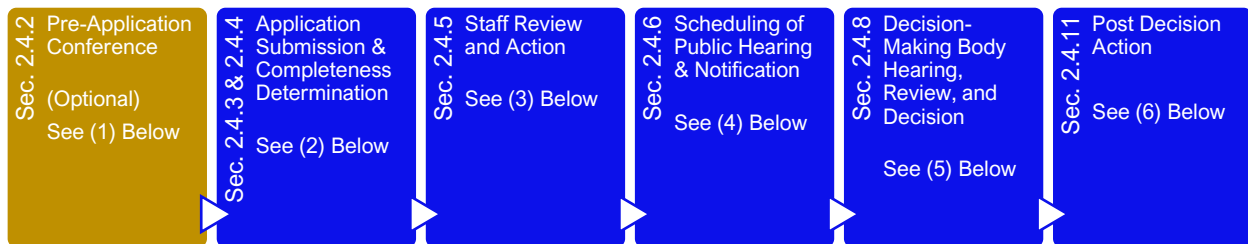
**(A) Applicability**

Approval of a Subdivision Ordinance Text Amendment in accordance with this section is required to amend the text of these Regulations.

**(B) Procedure for Subdivision Ordinance Text Amendment**

An application for a Subdivision Ordinance Amendment shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-2: Summary of Subdivision Ordinance Text Amendment Procedure, identifies the standard procedures that apply to text amendment applications and those that do not apply.

**Figure 2-2: Summary of Subdivision Ordinance Text Amendment Procedure**



**(1) Pre-Application Conference**

A pre-application conference is optional at the discretion of the applicant, in accordance with Section 2.4.2, Pre-Application Conference.

**(2) Application Submission and Completeness Determination**

- (a) Applications shall be submitted in accordance with Section 2.4.3, Application Submission, except that text amendments may be initiated by the Planning Commission, the Administrator, an owner of land in the City, or a person with a financial or other interest in land in the City.
- (b) For purposes of this section, a resolution adopted by the Planning Commission initiating a text amendment shall constitute the application.

**(3) Staff Review and Action**

The Administrator shall review the application and provide a recommendation in accordance with Section 2.4.5, Staff Review and Action.

**(4) Scheduling of Public Hearing and Notification**

Public hearings shall be scheduled and notification of the hearings provided in accordance with Section 2.4.6, Scheduling of Public Hearing and Notification.

<sup>23</sup> This section is new. It creates an official procedure for subdivision regulations in keeping with the authority granted to the Planning Commission by Sec. 11-52-31, Code of Alabama 1975. It also provides an analogous procedure to that procedure included in the revised Zoning Ordinance. See footnote 18 for further discussion.

**(5) Decision-Making Body Hearing, Review, and Decision**

The Planning Commission shall conduct a public hearing on the application and make a decision on the application in accordance with Section 2.4.7, Decision-Making Body Hearing, Review, and Decision, and subsection (C) below. The Planning Commission's decision shall be one of the following:

- (a) Approve the ordinance adopting the Text Amendment;
- (b) Approve the ordinance adopting the Text Amendment, with revisions; or
- (c) Deny the application for Text Amendment.

**(6) Post-Decision Actions and Limitations**

- (a) An approved Subdivision Regulations Amendment does not lapse.
- (b) The Planning Commission and the Administrator are not subject to the limitations in Section 2.4.9(D), Limit on Subsequent Applications.

**(C) Decision-Making Standards for Subdivision Ordinance Text Amendment<sup>24</sup>**

The advisability of amending the text of these Regulations is a matter committed to the legislative discretion of the Planning Commission and is not controlled by any one factor. In determining whether to approve or deny the proposed Subdivision Ordinance Text Amendment, the Planning Commission may consider many factors, including but not limited to whether, and the extent to which, the proposed amendment:

- (1) Is in accordance with the goals and policies of all applicable and adopted plans;
- (2) Is required by changed conditions;
- (3) Addresses a demonstrated community need;
- (4) Is consistent with the purpose and intent of these Regulations, or would improve compatibility among uses and ensure efficient development within the City;
- (5) Is consistent with other related federal, state, and local laws and regulations;
- (6) Would result in a logical and orderly development pattern; and
- (7) Would avoid creating significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

## Subdivision

**2.5.2. Subdivision Procedures Differentiated<sup>25</sup>****(A) Major Subdivision**

Divisions of land that are not minor subdivisions or resubdivisions shall be considered a major subdivision. The major subdivision includes three steps:

- (1) Submission and approval of an application for preliminary plat, in accordance with Sec. 2.5.3(A), Preliminary Plat; and
- (2) Submission and approval of an application for final plat, in accordance with Sec. 2.5.3(B), Final Plat.

<sup>24</sup> This new section provides decision-making standards for this application type. Amendments to the ordinance are a legislative action and so the Planning Commission may consider a wide array of factors.

<sup>25</sup> As noted in the Code Assessment (page II-19), state law allows for administrative approval of a minor subdivision without a public hearing. Per the discussion in the Assessment, this new section replaces the short-form procedure in Section II-(C) of the current Subdivision Regulations. This increases the number of lots that constitute a "minor" subdivision from five to six. Language about subdivision that "does not affect any major operation of utility installation" has not been carried forward.

**(B) Minor Subdivision**

A minor subdivision is a division of land that does not extend public facilities, create any public improvements, or affect any major operation of utility installation, has frontage on a previously dedicated street, and either:

- (1)** Creates six or fewer lots; or
- (2)** Reduces the number of lots in an existing subdivision.

**(C) Resubdivision<sup>26</sup>**

A resubdivision is a rearrangement of the boundaries of lots within an existing subdivision that does not change the number of lots within the subdivision or propose or include any new streets.

**2.5.3. Major Subdivision**

**(A) Preliminary Plat<sup>27</sup>**

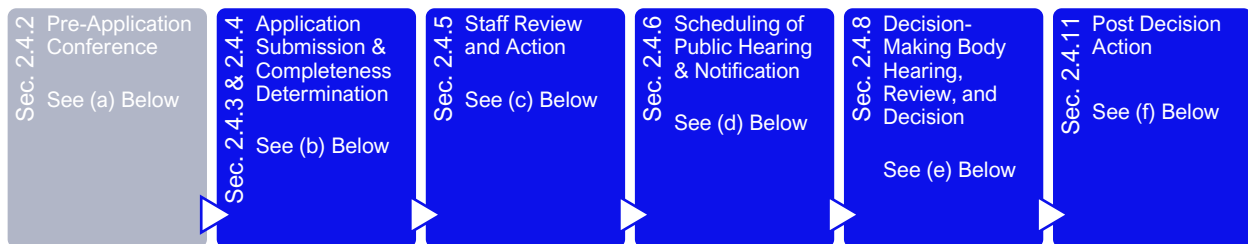
**(1) Applicability**

A preliminary plat is required for all applications for major subdivision.

**(2) Procedure for Preliminary Plat**

An application for a preliminary plat shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-3: Summary of Preliminary Plat Procedure, identifies the standard procedures that apply to preliminary plat applications and those that do not apply.

**Figure 2-3: Summary of Preliminary Plat Procedure**



**(a) Pre-Application Conference**

A pre-application conference is optional in accordance with Section 2.4.2, Pre-Application Conference. Prior to this conference, the applicant may submit to the Administrator a scale drawing or survey, which may be a freehand sketch and may include the following:

- 1.** The basic street layout, which should conform or be drawn onto the topographic map of the area being subdivided; and
- 2.** The basic lot areas (listed, in either acreage or square footage). The lots themselves do not need to be drawn on the street layout map.

<sup>26</sup> This section builds on Section II-(E)(3) of the current Subdivision Regulations, which references “resubdivisions and replats.” This section establishes a separate, streamlined procedure for resubdivision.

<sup>27</sup> Per staff, sketch plans are uncommon and so this procedure has been made part of an optional pre-conference application.

**(b) Application Submission and Completeness Determination<sup>28</sup>**

- 1.** Applications shall be submitted in accordance with Section 2.4.3, Application Submission, except that an application for a preliminary plat may only be submitted following approval of a sketch plan involving the same land.
- 2.** The Administrator shall make a determination as to whether the application is complete in accordance with Sec. 2.4.4, Determination of Completeness.

**(c) Staff Review and Action**

The Administrator shall review the application and prepare a staff report that includes a recommendation in accordance with Section 2.4.5, Staff Review and Action.

**(d) Scheduling of Public Hearing and Notification**

Public hearings shall be scheduled and notification of the hearings provided in accordance with Section 2.4.6, Scheduling of Public Hearing and Notification.

**(e) Decision-Making Body Review and Decision**

- 1.** The Planning Commission shall make a decision on the application in accordance with Section 2.4.7, Decision-Making Body Hearing, Review, and Decision, and Section (3) below, within 30 days of the date on which the application was submitted, unless the applicant agrees to an extension of time for Planning Commission review. The Planning Commission's decision shall be one of the following:
  - I.** Approve the preliminary plat as proposed;
  - II.** Approve the preliminary plat with conditions; or
  - III.** Deny the preliminary plat.
- 2.** If the Planning Commission fails to make a decision on the application within 30 days of submission and the Planning Commission and applicant did not agree to an extension of time for Planning Commission review, the Planning Commission shall be deemed to have approved the final plat as proposed.<sup>29</sup>

**(f) Post-Decision Actions and Limitations**

- 1.** Post-decision actions and limitations shall be in accordance with Section 2.4.9, Post-Decision Actions and Limitations.
- 2.** If the preliminary plat is denied, the grounds for denial shall be stated in the records of the Planning Commission.<sup>30</sup>
- 3.** If the preliminary plat is approved because of the Planning Commission's failure to make a decision within 30 days of the date on which the application was submitted (including any extensions permitted by the applicant), the Planning Commission shall provide, on demand, a certificate of approval of the final plat, and the applicant may proceed to apply for a final plat in accordance with this section.
- 4.** The Planning Commission's decision, as well as any conditions attached to any approval, shall be noted on two copies of the preliminary plat. One copy may be

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<sup>28</sup> This section replaces Section II-(B)(2) of the current Subdivision Regulations but does not carry forward application requirements.

<sup>29</sup> This section incorporates the 30-day limit between application submission and Planning Commission decision established in Sec. 11-52-32(a), Code of Alabama 1975. This replaces the current regulations which establish a requirement that the application materials be submitted to the Planning Commission at least 20 days prior to the meeting, and make a decision within 10 days after the meeting.

<sup>30</sup> We recommend including this provision, which applies in the current Subdivision Regulations to disapproval of final plats, Section II-(D)(9), to ensure the Planning Commission provides a reason for its decision in case of appeal to court. See [T Investments, LLC v. City of Montgomery Planning Commission](#), No SC-2023-0017 (Ala., Dec 9, 2023).

returned to the subdivider if requested and the other copy retained by the Planning Commission.<sup>31</sup>

5. Approval of the preliminary plat reflects support for the general layout of the preliminary plat but shall not guarantee approval of the final plat.<sup>32</sup>
6. No construction shall begin until the applicant has secured proper approvals from the City or County, as applicable.<sup>33</sup>

**(3) Decision-Making Standards for a Preliminary Plat**

A preliminary plat shall be approved only on finding the applicant demonstrates all the following standards are met:

- (a) The development proposed in the preliminary plat is consistent with all other applicable standards of these Regulations;
- (b) The development proposed in the preliminary plat and its general layout and design comply with all applicable standards in the Zoning Ordinance; and
- (c) The development proposed in the preliminary plat and its general layout and design comply with any terms and conditions of approval to which the property is subject.

**(B) Final Plat**

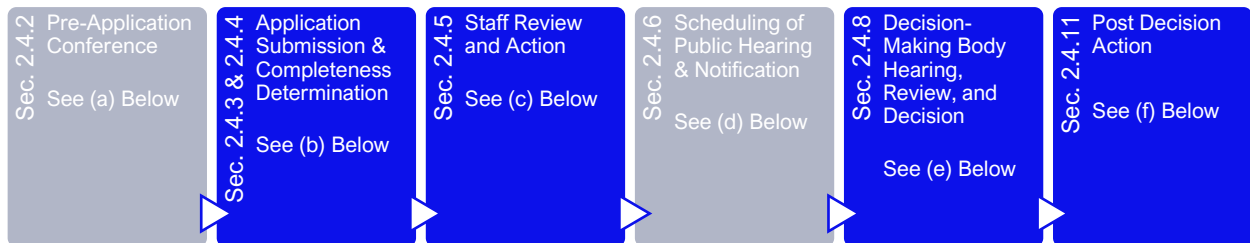
**(1) Applicability**

A final plat is required for all major subdivisions.

**(2) Procedure for Final Plat**

An application for a final plat shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-4: Summary of Final Plat Procedure, identifies the standard procedures that apply to final plat applications and those that do not apply.

**Figure 2-4: Summary of Final Plat Procedure**



**(a) Pre-Application Conference**

Not applicable.

**(b) Application Submission and Completeness Determination<sup>34</sup>**

1. Applications shall be submitted in accordance with Section 2.4.3, Application Submission, following approval of a preliminary plat for the same land. At least ten copies of the final plat shall be submitted.

<sup>31</sup> This carries forward Section II-(B)(4) of the current Subdivision Regulations.

<sup>32</sup> This carries forward, simplifies, and clarifies Section II-(B)(5) of the current Subdivision Regulations.

<sup>33</sup> This simplifies Section II-(B)(6) of the current Subdivision Regulations.

<sup>34</sup> The specific application requirements in Section II-(D)(3)-(5) of the current Subdivision Regulations have not been carried forward.

2. The Administrator shall make a determination as to whether the application is complete in accordance with Section 2.4.4, Determination of Completeness.

**(c) Staff Review and Action**

The Administrator shall review the application and issue a recommendation in accordance with Section 2.4.5, Staff Review and Action.

**(d) Scheduling of Public Hearing and Notification**

Not applicable.

**(e) Decision-Making Body Review and Decision**

1. The Planning Commission shall make a decision on the application in accordance with Section 2.4.7, Decision-Making Body Hearing, Review, and Decision, and subsection (3) below, within 30 days of the date on which the application was submitted, unless the applicant agrees to an extension of time for Planning Commission review. The Planning Commission's decision shall be one of the following:

- I. Adopt the final plat as proposed;
- II. Approve the final plat with conditions; or
- III. Deny the final plat.

2. If the Planning Commission fails to make a decision on the application within 30 days of submission and the Planning Commission and applicant did not agree to an extension of time for Planning Commission review, the Planning Commission shall be deemed to have approved the final plat as proposed.<sup>35</sup>
3. If the plat is denied, the grounds for denial shall be stated in the records of the Planning Commission.

**(f) Post-Decision Actions and Limitations<sup>36</sup>**

1. The approval of the final plat shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public ways or space shown on the plat.
2. Following approval, the ten copies of the plat shall be distributed as follows:
  - I. The Executive Secretary of the Planning Commission shall sign all ten copies of the final plat and return five to the subdivider.
  - II. The City Building Department, City Engineer, City Water Works and Sanitary Sewer Board, and City Fire Department shall each receive one copy of the final plat.
  - III. The City Engineer, the Traffic Engineer and the Water Works and Sanitary Sewer Board Engineer will sign a copy of the plat to be retained in the office of the Planning Controls division.
  - IV. The subdivider shall have these five copies signed by the County Engineer and deliver these copies to the probate office of the Montgomery County Probate Judge.
  - V. The probate office shall retain two copies for recording and stamp the other three copies with a stamp that shows the book and page number of the recording. The three stamped copies shall be returned to the subdivider.

<sup>35</sup> This section incorporates the 30-day limit between application submission and Planning Commission decision established in Sec. 11-52-32(a), Code of Alabama 1975. This replaces the current regulations which establish a requirement that the application materials be submitted to the Planning Commission at least 20 days prior to the meeting, and make a decision within 10 days after the meeting.

<sup>36</sup> This section carries forward with revisions Sections II-(D)(6)-(7) of the current Subdivision Regulations.

- vi. The subdivider shall return two of the stamped copies of the final plat to the Planning Commission.

**(3) Decision-Making Standards for Final Plat<sup>37</sup>**

A final plat shall be approved only on finding the applicant demonstrates all the following standards are met:

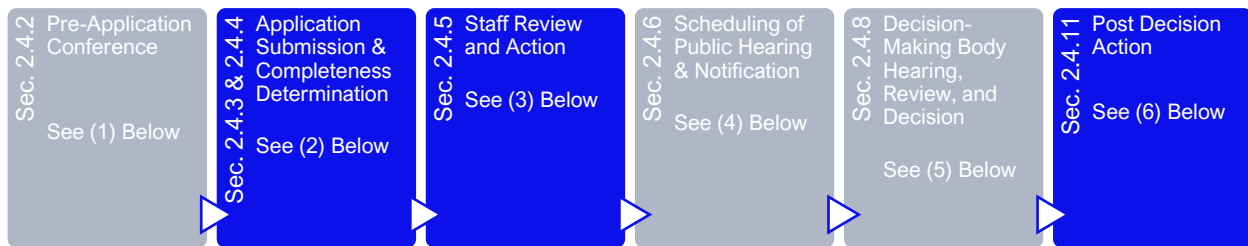
- (a) The development proposed in the final plat is consistent with all applicable standards of these Regulations;
- (b) The development proposed in the final plat and its general layout and design comply with all applicable standards in the Zoning Ordinance;
- (c) The development proposed in the final plat and its general layout and design comply with any terms and conditions of approval to which the property is subject;
- (d) The development proposed in the final plat complies substantially with all or a portion of the preliminary plat,<sup>38</sup> and complies with the preliminary plat conditions of approval, if any; and
- (e) The applicant has either:
  1. Installed and dedicated all public improvements, including public ways and uses, utilities, parks, and easements, including all improvements included in the irrevocable offers of dedication; or
  2. Entered into a Performance Agreement with a financial guarantee to ensure completion of improvements in accordance with Article 4: Acceptance and Surety Requirements.<sup>39</sup>

**2.5.4. Minor Subdivision<sup>40</sup>**

**(A) Procedure for Minor Subdivision**

An application for a minor subdivision shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-5: Summary of Minor Subdivision Procedure, identifies the standard procedures that apply to minor subdivision applications and those that do not apply.

**Figure 2-5: Summary of Minor Subdivision Procedure**



**(1) Pre-Application Conference**

Not applicable.

<sup>37</sup> These are new standards that build on Sections II-(D)(1)-(2) of the current Subdivision Regulations.

<sup>38</sup> This clause carries forward Section II-(D)(1) of the current Subdivision Regulations with revisions for compatibility.

<sup>39</sup> This references a new section that provides basic standards for subdivision performance guarantees.

<sup>40</sup> This section is new. As discussed on page II-19 of the Code Assessment, it replaces the “short form procedure for conditional approval of the preliminary plat” (Section II-(C) of the current Subdivision Regulations) and provides a streamlined process for administrative approval of minor subdivisions.

**(2) Application Submission and Completeness Determination**

Applications shall be submitted in accordance with Section 2.4.3, Application Submission. The Administrator shall make a determination as to whether the application is complete in accordance with Section 2.4.4, Determination of Completeness.

**(3) Staff Review and Action**

(a) The Administrator shall review the application and make a decision in accordance with Section 2.4.5, Staff Review and Action and Section (B) below within 30 days of the date on which the application was submitted, unless the applicant agrees to an extension of time for review. The Administrator's decision shall be one of the following:

1. Approve the minor subdivision as proposed;
2. Approve the minor subdivision with conditions; or
3. Deny the minor subdivision.

(b) If the Administrator fails to make a decision on the application within 30 days of submission and the applicant did not request to an extension of time for Administrator review, the Administrator shall be deemed to have approved the plat as proposed.

**(4) Scheduling of Public Hearing and Notification**

Not applicable.

**(5) Post-Decision Actions and Limitations**

Post decision actions and limitations shall be in accordance with Section 2.4.9, Post-Decision Actions and Limitations. The applicant shall be responsible for recording an approved minor subdivision with the Montgomery County Probate Judge.

**(B) Decision-Making Standards for Minor Subdivision**

Minor subdivisions shall be approved only on finding the applicant demonstrates all the following standards are met:

- (1) The development proposed in the application is consistent with all applicable standards of these Regulations;
- (2) The development proposed in the application and its general layout and design comply with all applicable standards in the Zoning Ordinance;
- (3) The development proposed in the application and its general layout and design comply with any terms and conditions of approval to which the property is subject.

**2.5.5. Resubdivision<sup>41</sup>**

**(A) Applicability**

An application for a resubdivision is required for all rearrangements of lot lines within subdivisions containing more than six lots. A resubdivision may not:

- (1) Extend public facilities,
- (2) Create any public improvements,
- (3) Affect any major operation of utility installation,
- (4) Propose or include any new streets; or
- (5) Create any new or eliminate any existing lots.

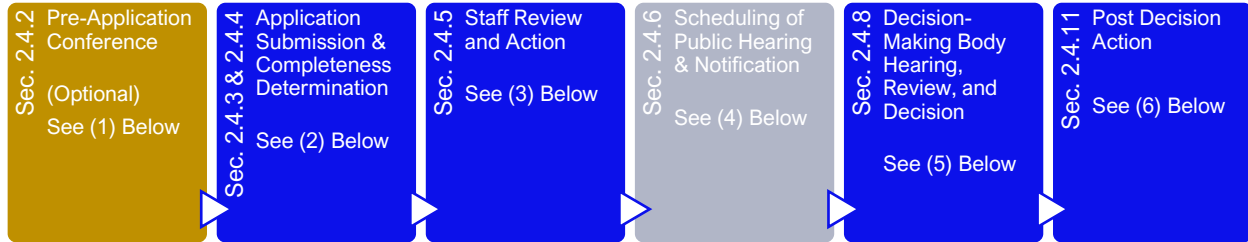
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<sup>41</sup> This section is new. Resubdivisions and replats are briefly mentioned in Section II-(E)(3) of the current Subdivision Regulations but are not fleshed out. This section provides a procedure for this type of miscellaneous subdivision procedure. This section adopts the same format as the new minor subdivision procedure but assigns decision-making authority to the Planning Commission, not the Administrator, in keeping with state law.

**(B) Procedure for Resubdivision**

An application for a resubdivision shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-6: Summary of Resubdivision Procedure, identifies the standard procedures that apply to resubdivision applications and those that do not apply.

**Figure 2-6: Summary of Resubdivision Procedure**



**(1) Pre-Application Conference**

Optional.

**(2) Application Submission and Completeness Determination**

- (a) Applications shall be submitted in accordance with Section 2.4.3, Application Submission.
- (b) The Administrator shall make a determination as to whether the application is complete in accordance with Section 2.4.4, Determination of Completeness.

**(3) Staff Review and Action**

The Administrator shall review the application and prepare a staff report that includes a recommendation in accordance with Sec. 2.4.5, Staff Review and Action.

**(4) Scheduling of Public Hearing and Notification**

Not applicable.

**(5) Decision-Making Body Review and Decision**

- (a) The Planning Commission shall make a decision on the application in accordance with Section 2.4.7, Decision-Making Body Hearing, Review, and Decision, and subsection (3) above, within 30 days of the date on which the application was submitted, unless the applicant agrees to an extension of time for review. The Planning Commission's decision shall be one of the following:
  - 1. Approve the resubdivision plat as proposed;
  - 2. Approve the resubdivision plat with conditions; or
  - 3. Deny the resubdivision plat.
- (b) If the Planning Commission fails to make a decision on the application within 30 days of submission and the applicant did not request to an extension of time for Administrator review, the Planning Commission shall be deemed to have approved the resubdivision plat as proposed.

**(6) Post-Decision Actions and Limitations**

Post decision actions and limitations shall be in accordance with Section 2.4.9, Post-Decision Actions and Limitations.

**(C) Decision-Making Standards for Resubdivision**

- (1)** The development proposed in the resubdivision plat is consistent with all applicable standards of these Regulations;
- (2)** The development proposed in the resubdivision plat and its general layout and design comply with all applicable standards in the Zoning Ordinance;
- (3)** The development proposed in the resubdivision plat and its general layout and design comply with any terms and conditions of approval to which the property is subject.

**Relief and Interpretation**

**2.5.6. Interpretation<sup>42</sup>**

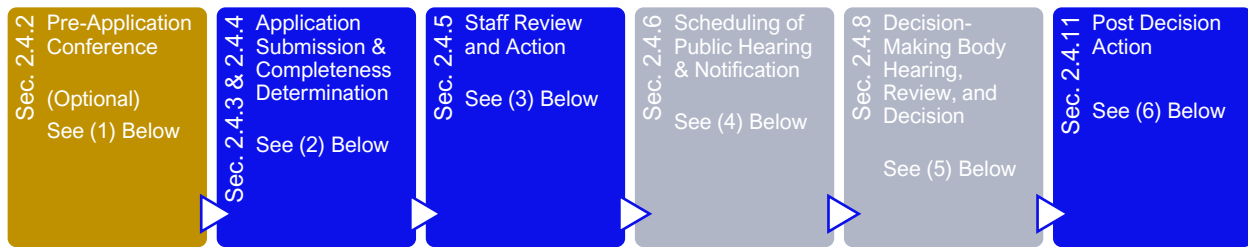
**(A) Applicability**

The section establishes a procedure for the Administrator to make formal written interpretations of all provisions of these Regulations.

**(B) Procedure for Interpretation**

An application for an Interpretation of these Regulations shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-7: Summary of Interpretation Procedure, identifies the standard procedures that apply to Interpretation applications and those that do not apply.

**Figure 2-7: Summary of Interpretation Procedure**



**(1) Pre-Application Conference**

A pre-application conference is optional at the discretion of the applicant, in accordance with Section 2.4.2, Pre-Application Conference.

**(2) Application Submission and Completeness Determination**

An Interpretation request shall be submitted in accordance with Section 2.4.3, Application Submission. For purposes of this section, the request for an interpretation shall be considered the application.

**(3) Staff Review and Action**

The Administrator shall review the application and make an interpretation, which shall constitute the decision on the application, in accordance with Section 2.4.5, Staff Review and Action, based on the decision standards set forth in subsection (C) below. Prior to rendering an interpretation, the Administrator shall consult with the City Attorney and other affected City officials as appropriate.

<sup>42</sup> This is a new procedure, recommended in the Code Assessment, that builds on the similar procedure at Sec. 2.5.15 of the new Zoning Ordinance.

**(4) Scheduling of Public Hearing and Notification**

Not applicable.

**(5) Decision-Making Body Review and Decision**

Not applicable.

**(6) Post-Decision Actions and Limitations**

- (a) The provisions of Section 2.4.9, Post-Decision Actions and Limitations, are not applicable.
- (b) A written interpretation shall be binding on subsequent decisions by the Administrator or other officials in applying the same provision of these Regulations in the same circumstance, unless the interpretation is modified in accordance with this section, or the relevant text of these Regulations is modified.
- (c) The Administrator shall maintain in the Land Use Division office a record of formal written interpretations rendered in accordance with this section, which shall be available to the public, upon reasonable request during normal business hours.

**(C) Decision-Making Standards for Interpretation**

Interpretation of a text provision in these Regulations and its application shall be based on Section 6.1, Rules of Construction; Section 1.5, Relationship with Other Laws, Covenants, or Decrees; and considerations including, but not limited to, the following:

- (1)** The plain meaning of the provision's wording, considering any terms specifically defined in Section 6.3, Definitions, and the common and accepted usage of terms; and
- (2)** The purpose of the provision, as indicated by:
  - (a) Any purpose statement in the section(s) where the text is located;
  - (b) The provision's context and consistency with surrounding and related provisions;
  - (c) Any legislative history related to the provision's adoption;
  - (d) The general purposes served by these Regulations, as set forth in Section 1.3, General Purpose and Intent; and
  - (e) The Comprehensive Plan.

**2.5.7. Subdivision Variance<sup>43</sup>**

**(A) Applicability**

This section establishes a procedure for a variance to the numerical dimensional standards of Article 3: Design Standards and Required Improvements.

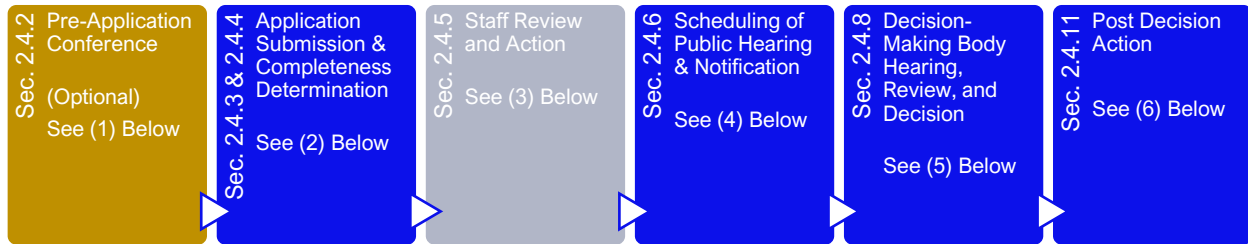
**(B) Procedure for Subdivision Variance**

An application for a subdivision variance shall be submitted, processed, reviewed, and decided on in accordance with Section 2.4, Standard Application Requirements and Procedures, as modified in this section. Figure 2-8: Summary of Subdivision Variance Procedure, identifies the standard procedures that apply to subdivision variance applications and those that do not apply.

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<sup>43</sup> This section carries forward and builds on Section VIII of the current Subdivision Regulations. It closely resembles the variance procedure in the updated Zoning Ordinance, but replaces the Board of Adjustment with the Planning Commission as the decision-making body.

Figure 2-8: Summary of Subdivision Variance Procedure



**(1) Pre-Application Conference**

A pre-application conference is optional at the discretion of the applicant, in accordance with Section 2.4.2, Pre-Application Conference. It is recommended that a pre-application conference be used to identify alternatives to address an applicant’s concerns without requiring a variance.

**(2) Application Submission and Completeness Determination**

Applications shall be submitted in accordance with Section 2.4.3, Application Submission. Upon a determination of completeness, the Administrator shall transmit the application and all documents and written materials relating to the variance to the Planning Commission.

**(3) Staff Review and Action**

Not applicable.

**(4) Scheduling of Public Hearing and Notification<sup>44</sup>**

A public hearing shall be scheduled and notification of the hearing provided in accordance with Section 2.4.6, Scheduling of Public Hearing and Notification.

**(5) Decision-Making Body Review and Decision**

The Planning Commission shall conduct a public hearing on the application and make a decision on the application in accordance with Section 2.4.7, Decision-Making Body Hearing, Review, and Decision and subsection (C) below. The Planning Commission’s decision shall be one of the following:

- (a) Approve the variance as proposed;
- (b) Approve the variance subject to conditions of approval or;
- (c) Deny the variance.

**(6) Post-Decision Actions and Limitations**

Post-decision actions and limitations shall be in accordance with Section 2.4.9, Post-Decision Actions and Limitations. In addition, unless it expires, a variance, including any conditions of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.

**(C) Decision-Making Standards for Subdivision Variance<sup>45</sup>**

**(1)** The Planning Commission shall approve a variance only on finding the applicant demonstrates all of the following:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property;

<sup>44</sup> This section is new.

<sup>45</sup> This section carries forward Section VIII of the current Subdivision Regulations and adds additional basic criteria for what constitutes a “hardship.” It is based on the revised standards for a zoning variance in the updated Zoning Ordinance.

- (b) Those conditions are peculiar to the property and do not generally apply to other property in the vicinity;
  - (c) Those conditions are not the result of the landowner's or applicant's own actions;
  - (d) Because of those conditions, the application of the standards in these Regulations to the particular piece of property would result in unnecessary hardship to the applicant, not mere inconvenience;
  - (e) The variance is the minimum necessary to alleviate that hardship and is consistent with the public interest and with the spirit, purpose, and intent of these Regulations that public safety is secured, and substantial justice is achieved; and
  - (f) The variance will not in any manner vary the provisions of the Zoning Ordinance.
- (2)** In addition to the criteria in subsection (1) above, the standards in Section 3.3, Street Standards, may not be varied unless the applicant demonstrates all of the following:<sup>46</sup>
- (a) All lots to be developed are in excess of three acres in area;
  - (b) All streets involved in the variance are minor; and
  - (c) None of the streets proposed to receive variances will connect through to streets in other subdivisions.

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<sup>46</sup> This section carries forward the first half of Section V-(B)(3) of the current Subdivision Regulations.

# Article 3: Design Standards and Required Improvements

## Commentary on Draft:

**Article 3: Design Standards and Required Improvements**, consolidates all standards that govern the design and construction of subdivisions, including streets, blocks lots, water and sewer standards, easements, and the location of utilities, among other standards.

**Section 3.1, General Provisions**, requires that subdivisions conform with other applicable regulations in addition to those in Article 3, and includes standards governing technical aspects of subdivision development.

**Section 3.2, Lot and Block Standards**, establishes requirements for the development and arrangement of lots and blocks within subdivisions.

**Section 3.3, Street Standards**, establishes requirements for the arrangement of streets, sets standards for complying with County and other regulations, and governs street design standards, in addition to other standards.

**Section 3.4, Sidewalk Standards**, establishes requirements for the inclusion of sidewalks in subdivisions.

**Section 3.5, Water and Sewer Standards**, establishes requirements for water and sanitary sewer service to new subdivisions.

**Section 3.6, Drainage Standards**, establishes requirements around proper drainage for subdivisions.

*This commentary is provided for reference purposes. It will be deleted in the adopted Subdivision Regulations.*

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## Section 3.1 General Provisions<sup>47</sup>

### 3.1.1. General Standards

#### (A) Compliance Required

In addition to the requirements established in this Article and these Regulations, all improvements under these Regulations shall comply and be constructed in accordance with all applicable laws, ordinances, resolutions, rules, or regulations, including, but not limited to:

- (1) The Zoning Ordinance;
- (2) All other City ordinances and regulations, including the City of Montgomery Specifications of Construction, or the specifications of specific City departments, including but not limited to: Traffic Engineering and Engineering & Environmental Services;
- (3) All specifications and regulations of the Montgomery Water Works & Sanitary Sewer Board;
- (4) Applicable provisions of the Code of Alabama and other state regulations;

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<sup>47</sup> This section carries forward and updates general standards from Sections IV-B-1, V-A, V-H, V-I, IV-F.2 of the current Subdivision Regulations. It also adds new standards to ensure that subdivisions conform with all other applicable laws, ordinances, and regulations.

- (5) Applicable rules of the Federal Highway Administration or Alabama Department of Transportation, if the subdivision or any lot it contains or abuts a State or Federal Highway; and
- (6) Any terms and conditions of approval to which the property is subject.

**(B) Construction Sequence Requirements for Infrastructure Installation<sup>48</sup>**

All sewers, drains, water lines, gas mains, streetlights, cable television, internet, and telephone and electrical conduits shall be installed and earth backfill compacted before streets, sidewalks, or alleys are paved, with water and sewer connections provided for each lot. For utilities that the City Engineer determines are optional, all underground work within the paving limits consisting of, for example, ducts, conduit and street intersections shall be installed and earth backfill compacted before paving. For subdivisions where gas is an optional utility, gas mains shall be installed at street intersections.

**(C) General Site Suitability Requirements<sup>49</sup>**

All land shall be suitable for the development proposed. Land subject to flooding, or land deemed to be topographically unsuitable, shall not be used for residential occupancy or for other users where the use may result in increased danger to health, life, or property, or create additional flood hazards.

**(D) Street Signs and Markers<sup>50</sup>**

The subdivider shall be responsible for the installation of all street identification signs and/or markers in compliance with the design standards established by the City's Traffic Engineering Department. No sign shall be installed without first receiving approval from the City's Traffic Engineer.

**(E) Easements**

Easements shall be provided as required to accommodate utility and infrastructure needs.

**3.1.2. Monuments<sup>51</sup>**

Iron pins at least 30 inches long and three-fourths of an inch in diameter shall be set flush with the ground at every lot corner.

**3.1.3. Naming<sup>52</sup>**

The proposed names of any new subdivision or street shall not duplicate or too closely approximate phonetically the name of any other subdivision or street within the City. The applicant shall submit written documentation that all proposed subdivision and road names were submitted to the City's E911 office and received approval. The Planning Commission shall approve all street and subdivision names.

**3.1.4. Public Site Reservations and Open Spaces<sup>53</sup>**

If a proposed subdivision includes land identified in the Comprehensive Plan as a school site, or the Planning Commission and a local school authority determine the subdivision includes land suitable for a school, the following applies:

- (A) The site shall be reserved for the school use for 45 days.

<sup>48</sup> This carries forward Section V-G-2 of the current Subdivision Regulations.

<sup>49</sup> This updates Section IV-F of the current Subdivision Regulations.

<sup>50</sup> This carries forward Section V-I of the current Subdivision Regulations.

<sup>51</sup> This carries forward and updates Section V-H of the current Subdivision Regulations.

<sup>52</sup> This carries forward Section V-A-12 of the current Subdivision Regulations and extends the rules around naming to subdivisions and adds a new requirement that the names be cleared with the City's 911 management office.

<sup>53</sup> This updates Section IV-E-1 of the current Subdivision Regulations to clarify the procedure for reservation of a school site and its acquisition by the local school authority.

- (B) Within 45 days, the local school authority shall notify the Planning Commission whether it desires to acquire the proposed school site. If the local school authority does not desire to reserve the proposed school site, the applicant may proceed without a reservation of the proposed school site.
- (C) If the local school authority does desire to reserve the proposed school site, following consultation with the local school authority and the applicant, the Planning Commission shall set a period of time for the local school authority and applicant to negotiate the sale of the proposed school site or for the local school authority to initiate condemnation proceedings, If no agreement has been reached or condemnation proceedings have not been initiated by the end of the period of time established by the Planning Commission, the applicant may proceed without a reservation of the proposed school site.

### 3.1.5. Reserve Strips<sup>54</sup>

Reserve strips are prohibited.

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## Section 3.2 Lot and Block Standards<sup>55</sup>

### 3.2.1. Block Standards<sup>56</sup>

All blocks shall comply with applicable standards in the Zoning Ordinance, including Section 5.1, General Access and Connectivity Standards.

### 3.2.2. Lot Design Standards

#### (A) Purpose<sup>57</sup>

The intent of the lot standards is to ensure and enhance consistency within developments and promote convenient and harmonious land development.

#### (B) Standards

- (1) The size, width, depth, shape and orientation of lots, and the minimum building setback lines shall be appropriate for the type of development use contemplated and shall meet all applicable minimum standards in these Regulations and the Zoning Ordinance. Each lot that uses a septic system, in accordance with Sec. 3.4.3, Septic Systems, shall comply with minimum standards established by the County Health Department.<sup>58</sup>
- (2) Each lot shall front upon a street.<sup>59</sup>
- (3) Corner lots shall have sufficient width to permit compliance with applicable street setback requirements.<sup>60</sup>
- (4) Except for subdivisions used for mobile homes, side lot lines shall be substantially at right angles or radial to street lines.<sup>61</sup>

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<sup>54</sup> This carries forward Section V-E.2 of the current Subdivision Regulations. A definition for “reserve strip” has been added to the definitions section.

<sup>55</sup> This generally carries forward the standards relating to blocks and lots in Sections IV-C and IV-D of the current Subdivision Regulations.

<sup>56</sup> The standards in Section IV-C of the current Subdivision Regulations have been relocated to the updated Zoning Ordinance.

<sup>57</sup> This purpose statement is new.

<sup>58</sup> This carries forward Section IV-D-1 and the first sentence of Section IV-D-2 of the current Subdivision Regulations.

<sup>59</sup> This revises Section IV-D-4 of the current Subdivision Regulations to allow lots to front private streets, in accordance with the new private street standards in Section 5.1.6 of the updated Zoning Ordinance.

<sup>60</sup> This makes minor revisions to Section IV-D-3 of the current Subdivision Regulations.

<sup>61</sup> This carries forward Section IV-D-6 of the current Subdivision Regulations.

- (5) Double frontage and reverse frontage lots are discouraged and should only be used where needed to separate development from arterial streets, or because of specific topography or orientation challenges. A strip of land at least ten feet in width shall be provided along the line of lots abutting traffic arterials or other disadvantageous uses, shall be planted with vegetation in accordance with Section 5.3.5, Perimeter Buffers, of the Zoning Ordinance, and shall not contain any right-of-way or other right of access.<sup>62</sup>

### 3.2.3. Subdivision Proximity to Arterial Streets and Limited or No-Access Rights-of-Way<sup>63</sup>

- (A) Where a subdivision abuts or contains existing or proposed arterial streets, the Planning Commission may require that development include marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or other treatments as need to protect residential properties and separate through and local traffic.
- (B) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require that development include a street approximately parallel to the railroad right-of-way.

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## Section 3.3 Street Standards<sup>64</sup>

### 3.3.1. General Standards<sup>65</sup>

The arrangement, character, extent, width, grade, and location of all public and private streets in all subdivisions shall comply with all applicable standards in these Regulations, the Zoning Ordinance (including but not limited to Sec. 5.1, Access and Connectivity Standards), and all other applicable City laws or policies. Public and private streets shall be considered in relation to existing and planned streets, topographic conditions, public convenience and safety, and in relation to the proposed uses of land to be served by the new streets.

### 3.3.2. Street Design Standards<sup>66</sup>

#### (A) General Standards

- (1) Street jogs with centerline offsets of less than 125 feet shall be avoided.
- (2) Street intersections shall be as nearly at right angles as practicable.
- (3) Streets shall contain suitable shoulders and side ditches, as applicable. The shoulder width shall include a sidewalk in accordance with the standards in the Zoning Ordinance, with an additional grassed area at least two feet in width before the slope section. Side slopes may vary based on cut and fill heights and shall adhere to current AASHTO Guidelines based on the roadway design criteria.

#### (B) Street Right-of-Way and Pavement Width

Street rights-of-way, the number and type of lanes, and pavement width from curb-to-curb, shall comply with the following:

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<sup>62</sup> This updates Section IV-D-5 of the current Subdivision Regulations and adds a reference to the perimeter buffer standards in the updated Zoning Ordinance.

<sup>63</sup> This carries forward and updates Sections IV-A-4 and 5 of the current Subdivision Regulations.

<sup>64</sup> This section carries forward and updates the regulations from Section IV of the current Subdivision Regulations.

<sup>65</sup> This section carries forward and updates the regulations from Section IV-A-1. It also adds new standards to ensure that subdivisions conform with all other applicable regulations related to streets.

<sup>66</sup> This section carries forward and updates Section IV-A-6, 7 and 8 in the current Subdivision Regulations.

- (1) With the standards in the Master Street Plan, if the streets are shown on the master street plan; or
- (2) With the standards in Table 3-1: Street Right-of-Way, Lane, and Width Requirements, if the streets are not shown on the master street plan.

Table 3-1: Street Right-of-Way, Lane, and Width Requirements <sup>67</sup>				
Street Type	Right-of-Way, Min. (ft.)	Number of Lanes   Width of Lanes		Street Width, Back of Curb to Back of Curb
		Parking Lanes	Travel Lanes	
Arterial	80	No Parking	4 lanes   12 ft.	49 ft.
Collector	60	2 sides   8 ft.	2 lanes   12 ft.	41 ft.
Minor Collector	54	2 sides   8 ft.	2 lanes   9 ft.	35 ft.
Minor	40	2 sides   7.6 ft.	1 lane   12 ft.	28 ft.

**(C) Street Grades**

- (1) Street grades shall not be less than 0.5 percent.
- (2) Where feasible, street grades shall not exceed the following grades with the allowance for reasonable vertical curves:

Table 3-2: Street Grades by Street Type	
Street Type	Maximum Grade
Arterial	6%
Collector	8%
Minor	10%

**3.3.3. Curbs and Gutters**

- (A) All streets shall be paved and include curb and gutters, and constructed in accordance with the City of Montgomery, Alabama, Standard Drawings and Specifications of Construction.<sup>68</sup>
- (B) Where street segments change from curb and gutter to ditch, or vice versa, storm water shall be drained through the use of inlets, storm drains, side drains, and concrete flumes, in accordance with City of Montgomery standard construction procedures.<sup>69</sup>

**3.3.4. Limits of Allowable Variances<sup>70</sup>**

The Planning Commission may grant a variance to these standards, in accordance with Sec. 2.5.7, Subdivision Variance, except that the Planning Commission shall not allow variances that:

- (A) Allow street right-of-way width to be less than 24 feet;
- (B) Exempt development from the requirement that streets have suitable shoulders and side ditches;
- (C) Approve surfacing materials or thickness that have not been approved by the City Engineer.

<sup>67</sup> This carries forward the table following Section IV-A-8 of the current Subdivision Regulations.

<sup>68</sup> This simplifies the standards in Section V-B-2 of the current Subdivision Regulations.

<sup>69</sup> This carries forward and rewrites Section V-B-4 of the current Subdivision Regulations.

<sup>70</sup> This carries forward Section V.B.3 of the current Subdivision Regulations but replaces reference to “(b) a gravel surface; (c) a thickness as recommended and approved by the city engineer and city traffic engineer” with the reference in subsection C.

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## Section 3.4 Water and Sewer Standards<sup>71</sup>

### 3.4.1. General Standards<sup>72</sup>

All sanitary sewers and storm sewers shall be of adequate size to accommodate future extension as deemed appropriate by the Planning Commission.

### 3.4.2. Sanitary Sewer<sup>73</sup>

#### (A) General Standards

Except as provided in Sec. 3.4.3, Septic Systems, sanitary sewers shall be laid in all streets, service connections installed to property lines, and connections made to trunk line sewers in accordance with the standards in this Section.

#### (B) Installation of Infrastructure

Sanitary sewer improvements shall be provided and installed in accordance with the following:

- (1) Before any work is commenced, two copies of the sewer plan shall be submitted to the Engineer of the Water Works and Sanitary Sewer Board for their approval. The plan shall be prepared by an engineer registered in the state, shall include the proposed sewer plan and profile, shall be prepared from an engineering survey, and shall include at least the following information and data:
  - (a) Station at each manhole;
  - (b) Property or lot lines, and identity of present owners if sewer is on private property;
  - (c) Lot and block number;
  - (d) Invert elevation at each manhole;
  - (e) Grade of sewer between manholes expressed in percent; and
  - (f) Benchmark elevation and description at least once at each 1,000 linear feet interval along the sewer line. Whenever possible, U.S.C. and G.S. data shall be used.
- (2) Following approval of the sewer plan but prior to the beginning of installation, the applicant's registered engineer shall set construction stakes and provide the applicant's construction foreman with a cut sheet showing the cut to flow line of the pipe. The construction stakes shall be set in accordance with the following:
  - (a) An offset tack line with hubs not over 50 feet apart. Under wet conditions, the hubs shall be set not over 25 feet apart;
  - (b) Each hub shall have a guard stake showing the station on one side and the cut to flow line of pipe on the other;
  - (c) Cuts shall be calculated and marked to the nearest one-one hundredth (1/100) of a foot; and
  - (d) Stakes shall be set at each point where a wye is required or indicated on the cut sheet by station number.
- (3) A qualified sewer contractor shall be employed by the developer to install the sewer. The installation shall be done under the direction and according to specifications of the Water Works and Sanitary Sewer Board, and shall conform exactly to the approved plan with no exception unless approved by the Engineer of the Water Works and Sanitary Sewer Board. The applicant shall hold the sewer contractor responsible for their obligations until the Water Works and Sanitary Sewer Board has approved and accepted the improvements.

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<sup>71</sup> This carries forward and updates the standards from the existing Subdivision Ordinance (Section V, D, E, and F) related to sanitary sewer standards, septic tanks, and water mains.

<sup>72</sup> This carries forward the last sentence of Section V-A of the current Subdivision Regulations.

<sup>73</sup> This carries forward and updates the standards from the existing Subdivision Ordinance (Section V, D, (1)) related to sanitary sewer standards.

- (4) Following street paving, manhole castings shall be adjusted to the finished surface of paving and all manholes shall be left free of dirt, asphalt, and other debris.
- (5) Upon completion of the project, the developer shall supply the Engineer of the Water Works and Sanitary Sewer Board with two copies of the plan and profile drawing certified by the applicant's registered engineer showing the sewer as built with exact location of each service connection (lateral) indicated. Each service (lateral) indicated on the plans shall be located and marked with detectable markers approved by the water works and sanitary sewer board engineer.

**(C) Compliance Required**

The City will not accept sanitary sewer improvements until the developer has complied with all requirements of the Water Works and Sanitary Sewer Board.

**3.4.3. Septic Systems<sup>74</sup>**

In areas subject to the City's jurisdiction outside the City boundaries, the Planning Commission may authorize septic systems if:

- (A) The County Health Department has determined that connection to the public sanitary sewer system is not feasible;
- (B) The County Health Department approves the use and installation of a septic system, subject to any conditions imposed by the County Health Department such as minimum lot size requirements.

**3.4.4. Water Mains<sup>75</sup>**

Water mains shall be installed in accordance with the following:

- (A) All water plans shall be reviewed and approved by the Water Works and Sanitary Sewer Board and the Montgomery Fire/Rescue Department.
- (B) Following installation, the developer shall:
  - (1) Grade all streets to an approved line acceptable to the private project engineer and to the City Engineer;
  - (2) Ensure construction of all sanitary sewers and storm sewers, including but not limited to catch basins, has been completed; and
  - (3) Ensure the private project engineer has established a definite curb line and grade on the street.

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**Section 3.5 Drainage Standards<sup>76</sup>**

**3.5.1. Purpose**

- (A) The primary purpose of drainage systems is to ensure the safety of the public through the development of drainage facilities designed to protect City and private property, consistent with good engineering practices as determined by the City.
- (B) All subdivisions, as well as commercial and industrial developments, shall be designed with adequate storm drainage facilities. Any areas with infrastructure subject to periodic flooding that

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<sup>74</sup> This carries forward and updates the standards from the existing Subdivision Ordinance (Section V, D, (2)) related to sanitary sewer standards, septic tanks, and water mains.

<sup>75</sup> This carries forward and updates the standards from the existing Subdivision Ordinance (Section V, E) related to water mains.

<sup>76</sup> This carries forward standards from the current Subdivision Regulations related to drainage easements and storm drainage.

is caused by poor drainage facilities will not be accepted by the City unless the developer or subdivider makes necessary provision to eliminate such flooding.

### 3.5.2. Drainage Easements<sup>77</sup>

Where a water course, drainage way, channel, or stream crosses a subdivision, there shall be a drainage easement conforming substantially to the limits of such water course. The width of the easement shall accommodate the water course as well as any additional width that the City Engineer determines is needed to accommodate future construction and maintenance.

### 3.5.3. Storm Drainage<sup>78</sup>

#### (A) General Requirements

The City shall not recommend for approval any subdivision plat which does not appear to make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed in accordance with the Montgomery Stormwater Management Manual.

#### (B) Stormwater Facility Standards

##### (1) Accommodation of Upstream Drainage Areas

Drainage facilities shall be designed to accommodate upstream drainage areas, whether inside or outside the subdivision.

##### (2) Effect on Downstream Drainage Areas

Drainage facilities shall evaluate the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. These drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements

### 3.5.4. Storm Water Detention

#### (A) General Requirements

(1) Developments which produce an increase in the amount of stormwater runoff may be required to construct stormwater detention ponds, retention ponds, underground detention systems, or other approved types of detention devices.

(2) All stormwater detention ponds, retention ponds, underground detention systems, or other approved types of detention devices shall be designed in accordance with the latest version of the City's Post-Construction Stormwater Management Technical Memorandum.

#### (B) Water Quality Requirements

A Water Quality Volume (WQv) shall be accounted for on each development and Best Management Practices (BMPs) shall be utilized to store and/or treat the WQv. BMPs shall be designed in accordance with the latest version of the City's Post-Construction Stormwater Management Technical Memorandum

#### (C) As-Built Certification Requirements

To ensure stormwater detention ponds, retention ponds, underground detention systems, or other approved types of detention devices are constructed in accordance with the approved design, an as-built certification shall be provided in accordance with the latest version of the City's Post-Construction Stormwater Management Technical Memorandum.

<sup>77</sup> This carries forward and updates Section IV-B.2 of the current Subdivision Regulations.

<sup>78</sup> This carries forward and updates the standards from the existing Subdivision Ordinance (Section V, E) related to storm drainage.

**(D) Annual Inspection Requirements**

To ensure stormwater detention ponds, retention ponds, underground detention systems, or other approved types of detention devices continue to function in accordance with the approved design, an annual inspection shall be provided in accordance with the latest version of the City's Post-Construction Stormwater Management Technical Memorandum.

**(E) Maintenance**

To ensure stormwater detention ponds, retention ponds, underground detention systems, or other approved types of detention devices continue to function in accordance with the approved design, routine maintenance shall be provided in accordance with the latest version of the City's Post-Construction Stormwater Management Technical Memorandum.



# Article 4: Acceptance and Surety Requirements

## Commentary on Draft:

**Article 4: Acceptance and Surety Requirements**, establishes the requirement that all public improvements be completed before a final plat may be approved or that, in the alternative, the subdivider provide a financial guarantee to secure the installation of all improvements, and establishes requirements for maintenance agreements.

**Section 4.1, Inspection and Acceptance of Improvements**, sets forth the general rules about the inspection and acceptance of improvements by the City.

**Section 4.2, Guarantee in Lieu of Improvements**, establishes the requirements for a financial agreement by an applicant who seeks approval of a final plat before completing all required improvements.

**Section 4.3, Maintenance of Certain Improvements**, establishes the requirement for a financial guarantee for the maintenance of improvements within one year after acceptance by the City.

*This commentary is provided for reference purposes. It will be deleted in the adopted Subdivision Regulations.*

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## Section 4.1 Inspection and Acceptance of Improvements<sup>79</sup>

Prior to approval of the final plat, the Planning Commission shall either:

- 4.1.1. Receive certification from the City Engineer that all of the improvements identified in the final plat have been completed in accordance with the preliminary plat, these Regulations, and applicable City standards; or
- 4.1.2. Require the applicant to post a guarantee that is adequate to ensure the satisfactory construction, installation, and dedication of the unfinished improvements in accordance with the preliminary plat, these Regulations, and applicable City standards, with a specified period of time, in accordance with Section 4.2, Guarantee in Lieu of Improvements.

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<sup>79</sup> This establishes the general requirement that all improvements included in a final plat will be completed before the acceptance of the final plat, or that a must be provided to assure the completion of the improvements following approval and recordation of the final plat. It builds on Section II-D.2 of the current Subdivision Regulations.

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## Section 4.2 Guarantee in Lieu of Improvements<sup>80</sup>

### 4.2.1. Amount of Financial Guarantee<sup>81</sup>

The financial guarantee shall equal at least 120 percent of the actual estimated cost to construct the improvements, as calculated by the applicant and approved by the City Engineer, and also approved by the County Engineer if the improvements extend into the County's jurisdiction.

### 4.2.2. Form of Financial Guarantee<sup>82</sup>

The financial guarantee shall be in one of the following forms and is subject to approval by the City Attorney:

- (A) Cash which the City will deposit into an escrow account which may not bear interest;
- (B) A cashiers check or certified check from a financial institution approved by the City which is made payable to the City, and which the City will deposit into an escrow account which may not bear interest;
- (C) A surety bond issued by an insurance company doing business by an agent in the State of Alabama through an attorney-in-fact. The surety companies on bonds shall be rated A- or better by A. M. BEST and listed in United States Treasury Department Circular 570.

### 4.2.3. Failure to Complete Improvements<sup>83</sup>

If the improvements secured by a financial guarantee are not completed within the time period established by the Planning Commission, including any approved extensions, the Planning Commission may declare the financial guarantee to be in default and require that all the improvements be installed regardless of the extent of the development at the time the agreement is declared to be in default, and the City may take all necessary steps to liquidate the financial guarantee.

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## Section 4.3 Maintenance of Certain Improvements<sup>84</sup>

### 4.3.1. General

The applicant shall be responsible for the maintenance of pavement, curb and gutter, sidewalks, and the drainage system installed in connection with a final plat, and shall provide a financial guarantee in accordance with the standards of this Section.

### 4.3.2. Maintenance Guarantee<sup>85</sup>

The maintenance of the improvements identified in Sec. 4.3.1 above shall be secured with a financial guarantee that shall:

- (A) Guarantee the maintenance of all improvements identified in Sec. 4.3.1 above;

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<sup>80</sup> This establishes basic standards for the financial guarantee required in lieu of completion of all improvements prior to approval and recordation of a final plat, building on the standards in Section II-D.2 of the current Subdivision Regulations.

<sup>81</sup> This is a new section that establishes the general amount of the required guarantee. Many communities required a bond between 110% and 120% of the estimated cost.

<sup>82</sup> This builds on Section II-D.2 of the current Subdivision Regulation and provides more detail about the required type of financial guarantee.

<sup>83</sup> This makes clear that the Planning Commission may liquidate the financial guarantee to pay for the improvements, if the applicant does not complete them.

<sup>84</sup> This builds on the requirements for a maintenance guarantee in Sec. III-VI.G of the current Subdivision Regulations.

<sup>85</sup> This adds additional specificity for the contents of the required maintenance agreement.

- (B)** Be established in an amount determined by the City Engineer, and the County Engineer if the improvements extend into the County's jurisdiction, to be adequate to guarantee maintenance of the improvements from faulty material, unskilled workmanship, faulty plans, and other faults;
- (C)** Include any other conditions that the Planning Commission deems necessary to ensure the identified improvements are maintained;
- (D)** Be in one of the forms listed in Sec. 4.2.2, Form of Financial Guarantee;
- (E)** Be in a form and manner approved by the City Attorney; and
- (F)** Be in effect until one year after final acceptance of improvements by the City or other applicable entity.



# Article 5: Enforcement<sup>86</sup>

## Commentary on Draft:

**Article 5: Enforcement**, includes the rules pertaining to enforcement. It is new and is similar to the new enforcement provisions included in the updated Zoning Ordinance.

**Section 7.1, General Provisions**, states the purpose of the article, establishes the compliance with all provisions of the Regulations is required, identifies what actions result in a violation of these Regulations, identifies what persons may be held responsible for violations, and sets out who is responsible for enforcement actions.

**Section 5.2, Remedies and Penalties**, identifies remedies and penalties that can be used against violators.

*This commentary is provided for reference purposes. It will be deleted in the adopted Subdivision Regulations.*

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## Section 5.1 General Provisions

### 5.1.1. Purpose

This article establishes procedures and standards to ensure compliance with the provisions of these Regulations and obtain corrections for violations of these Regulations. It also sets forth the remedies and penalties that apply to violations of these Regulations. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

### 5.1.2. Compliance Required

#### (A) General

Compliance with all the procedures, standards, and other provisions of these Regulations is required by all persons owning, developing, managing, using, or occupying land or structures in the City.

#### (B) Development Approval and Permits

All persons shall obtain all development approvals and permits required by these Regulations prior to development. A development approval or permit issued by a decision-making body or person authorizes only the use, arrangement, location, design, density or intensity, and development set forth in such development approval or permit.

### 5.1.3. Violations

#### (A) General Violations

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by these Regulations, or the terms or conditions of any development order or authorization granted in accordance with these Regulations, constitutes a violation of these Regulations punishable as provided in this Article.

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<sup>86</sup> These are new rules pertaining to enforcement; the current Subdivision Regulations does not include enforcement provisions. They are modeled on and closely follow the new enforcement regulations in Article 7: Enforcement of the updated Zoning Ordinance.

**(B) Specific Violations**

It shall be a violation of these Regulations to undertake any activity contrary to the provisions of these Regulations, including but not limited to any of the following:

- (1)** Develop land or a structure without first obtaining all appropriate approvals;
- (2)** Fail to provide any notice that the applicant is required to provide under these Regulations;
- (3)** Develop land or a structure without complying with the terms or conditions of all applicable approvals;
- (4)** Sell, convey, occupy, or use land or a structure without first obtaining all applicable approvals;
- (5)** Through any act or omission, fail to comply with any other provisions, procedures, or standards required by these Regulations;
- (6)** Through any act or omission, violate any term, condition of approval, or qualification placed by a decision-making body or person on an approval;
- (7)** Violate any lawful order issued by any decision-making body or person in accordance with these Regulations;
- (8)** Obtain an approval through false or misleading information; or
- (9)** Remove, deface, obscure, or obstruct a notice required to be posted or otherwise given in accordance with these Regulations.

**5.1.4. Responsible Persons**

Any person who violates these Regulations shall be subject to the remedies and penalties set forth in this article. For purposes of this section, a “person” subject to the remedies and penalties established in this article may include the owner, tenant, or occupant of the land or structure that is in violation of these Regulations, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation.

**5.1.5. Enforcement Generally**

**(A) Responsibility for Enforcement**

The Administrator shall be responsible for enforcing the provisions of these Regulations in accordance with state law.

**(B) Inspections**

The Administrator is authorized to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out enforcement of these Regulations. Such inspections may occur at any reasonable time prior to the issuance of certificate of occupancy. After a certificate of occupancy is issued, the Administrator may conduct such inspections only after presenting proper credentials and only during normal business hours, unless the Administrator determines there is an emergency necessitating inspection outside of normal business hours.

**(C) Complaints Regarding Violations**

Whenever a violation of these Regulations occurs, or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the cause and basis therefore, shall be filed with the Administrator, who shall properly record such complaint, investigate, and take appropriate action as provided by these Regulations.

**(D) Enforcement Procedure**

Upon becoming aware of any violation of the provisions of these Regulations, the Administrator shall serve written notice of such violation upon the person(s) responsible for compliance.

**(1) Investigation of Complaint**

On receiving a written complaint, the Administrator shall investigate the complaint and determine whether a violation of these Regulations exists.

**(2) Notice of Violation**

(a) On finding that a violation of these Regulations exists, whether from an investigation of a written complaint or otherwise, the Administrator shall provide written notification of the violation to the owner of the property on which the violation exists and the person causing or maintaining the violation, if different from the owner, by personal service or by certified or registered mail. Such notification shall at a minimum:

- 1.** Describe the location of the violation;
- 2.** Describe the nature of the violation;
- 3.** State the actions necessary to abate the violation;
- 4.** Order that the violation be corrected within a specified reasonable time period stated in the notice of violation; and
- 5.** Advise the violator(s) of their right to appeal the notice of violation to the Planning Commission.

(b) If the owner of the property cannot be located or determined, or if service of the notice is refused, the Administrator shall post a copy of the notice on the building, structure, sign, or site that is the subject of the violation.

(c) On receiving a written request for extension of the time limit for correction specified in the notice of violation, and upon determining the request includes sufficient information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Administrator may grant a single extension of the time period for correction stated on the notice of violation.

**(3) Application of Remedies and Penalties**

On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation, the Director shall ensure that appropriate action is taken, as provided in Section 5.2, Remedies and Penalties, to correct and abate the violation and to ensure compliance with these Regulations.

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## **Section 5.2 Remedies and Penalties**

### **5.2.1. Available Remedies**

The Administrator may use any combination of the following enforcement actions or remedies to correct, stop, abate, and enjoin a violation of these Regulations:

- (A)** Suspend inspections at the site of construction;
- (B)** Issue and serve upon a person pursuing the activity or activities in violation of these Regulations a stop-work order requiring that the person stop all activities in violation of these Regulations.
- (C)** Revoke any development approval or permit required under these Regulations if it is determined that:
  - (1)** There is a failure to comply with the approval, plans, specifications, or terms or conditions required under the approval;
  - (2)** The approval was procured by false representation; or
  - (3)** The approval was issued in error.

- (D) Deny or withhold authorization to use or develop any land, structure, or improvements until an alleged violation related to such land, structure, or improvements is corrected and any associated civil penalty is paid.
- (E) If a violation is one that presents a serious threat to the public health, safety, or welfare, or is irreparable or irreversible, ensure that all reasonable repairs necessary to bring the land into compliance are made and charge the violator with the reasonable cost of the repairs, in accordance with state law.
- (F) Bring an action for injunction or mandamus to abate a violation; or
- (G) Take any other action at law or in equity to prevent or remedy any violation, or otherwise enforce the provisions of these Regulations.

**5.2.2. Available Penalties<sup>87</sup>**

Any person who violates these Regulations shall be subject to the civil and criminal penalties set forth in Section 1-6 of the City Code.

**5.2.3. Remedies Are Cumulative<sup>88</sup>**

- (A) The remedies and penalties provided for violations of these Regulations, whether civil, equitable, or criminal, shall be cumulative and may be exercised in any order.
- (B) Each day of continued violation of these Regulations shall be considered a separate violation for purposes of computing cumulative penalties.

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<sup>87</sup> This section carries forward the first sentence of Article II, Section 5 of the current Zoning Ordinance.

<sup>88</sup> This builds on the second sentence of Article II, Section 5 of the current Zoning Ordinance.

# Article 6: Definitions and Rules of Construction and Measurement

## Commentary on Draft:

**Article 6: Definitions and Rules of Construction and Measurement**, contains the rules governing construction, rules of measurement, and the definitions used in the updated Subdivision Regulations. They are similar to the similar rules in the Zoning Ordinance.

**Section 6.1, Rules of Construction and Interpretation**, provides basic rules of construction which supplement the regulations in the City Code.

**Section 6.2 Rules of Measurement**, establishes rules for measuring bulk and dimensional requirements like height, width, setbacks, lot area, and other measurements that are required to interpret standards.

**Section 6.3, Definitions**, includes the definitions used in the updated Subdivision Regulations.

*This commentary is provided for reference purposes. It will be deleted in the adopted Subdivision Regulations.*

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## Section 6.1 Rules of Construction<sup>89</sup>

### 6.1.1. Mandatory and Discretionary Terms

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

### 6.1.2. Used or Occupied

When used in reference to land, the terms “used” or “occupied” shall be interpreted to mean “intended, arranged, or designed to be used or occupied.”

### 6.1.3. Word Tense<sup>90</sup>

Words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural number include the singular.

### 6.1.4. Property<sup>91</sup>

Unless the context clearly indicates otherwise, the term “property” shall be interpreted to mean real property.

### 6.1.5. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of these Regulations and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are generally provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

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<sup>89</sup> This section is new. Some are based on rules in the current and updated Zoning Ordinance, and others are new.

<sup>90</sup> This construction is carried forward and updated from Article IX of the current Subdivision Regulations.

<sup>91</sup> Section 1-2 of the City Code defines the term “property” to include real property, personal property, and mixed property. For purposes of these Regulations, property refers only to real property.

### 6.1.6. Time<sup>92</sup>

A year shall mean a calendar year, a month shall mean a calendar month, and a day shall mean a calendar day.

### 6.1.7. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like “for example,” “including,” and “such as,” or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

### 6.1.8. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall mean a reference to the most recent edition of such resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

### 6.1.9. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Montgomery, Alabama, unless otherwise indicated.

### 6.1.10. Term Not Defined

If a term used in these Regulations is not defined in this Article 8 or elsewhere in these Regulations, the Administrator shall have the authority to provide a definition based on the definitions use in accepted sources including, but not limited to, *A Planners Dictionary*, *A Glossary of Zoning, Development, and Planning Terms*, and *A Survey of Zoning Definitions* (all published by the American Planning Association), as well as general dictionaries such as *Merriam-Webster*, *American Heritage*, *Webster’s New World*, and *New Oxford American* dictionaries.

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## Section 6.2 Rules of Measurement<sup>93</sup>

### 6.2.1. Lots

#### (A) Lot

A piece, parcel, or tract of land occupied or intended to be occupied by one or more main buildings, accessory buildings, uses customarily incidental to such main buildings, and other areas required in these Regulations such as open space and parking, or that are intended to be used with such piece, parcel, or tract of land.

#### (B) Lot Types<sup>94</sup>

##### (1) Corner Lot

A lot that is bounded on two or more sides by streets; where the angle of intersection of the streets does not exceed 135 degrees.

##### (2) Interior Lot

A lot other than a corner lot or a double frontage lot.

##### (3) Double Frontage Lot

A lot with frontage on two generally parallel streets.

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<sup>92</sup> This is based on and carries forward the definitions of “month” and “year” in Section 1-2, which are defined to refer to a calendar month and calendar year.

<sup>93</sup> These are consistent with the definitions in the updated Zoning Ordinance

<sup>94</sup> New definition of lot types included in the current Subdivision Regulations and this ordinance, but not defined.

**(4) Reverse Frontage Lot**

A through or corner lot designed so the front lot line faces a local street rather than the street with a higher classification.

**(C) Lot Line**

The boundary that legally and geometrically demarcates a lot.

**(1) Front Lot Line**

The lot line separating a lot from a street right-of-way. For a corner lot, the front lot line shall be the lot line with a narrower width of street frontage or, if both frontages are of equal width, the front lot line shall be the side on which the majority of lots front along the block.

**(2) Rear Lot Line**

A lot line that is opposite a front lot line, but which does not abut a street. A triangular lot has 2 side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.

**(3) Side Lot Line**

Any lot line other than a front or rear lot line.

**(4) Street Side Lot Line**

A lot line adjoining a street and which is not a front lot line.

**(D) Setback**

The minimum distance between a lot line and a building or structure that is required to remain open, unoccupied, and unobstructed by structures from the ground to the sky except as otherwise provided in the Zoning Ordinance.

**(1) Front Setback**

The setback between the front lot line adjacent to street right-of-way, or if an official future street right-of-way has been established, from that future street right-of-way line, and the closest part of a lot where a building may be placed. The front setback extends the full width of the lot and is parallel to or concentric with the street right-of-way.

**(2) Rear Setback**

The setback between the rear lot line and the closest part of a lot where a building may be placed. The rear setback extends the full width of the lot.

**(3) Side Setback**

The setback between the side lot line and the closest part of a lot where a building may be placed. The side setback extends from the front setback to the rear setback.

**(4) Street Side Setback<sup>95</sup>**

The setback between the side setback lot line adjacent to a street right-of-way, or if an official future street right-of-way has been established, from that future street right-of-way line, and the closest part of a lot where a building may be placed. The street side setback extends from the front setback to the rear setback.

## 6.2.2. Lot-Related Measurements

**(A) Building Area**

The portion of the lot occupied by the main building (including porches) and other structures such as carports and accessory buildings.

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<sup>95</sup> New definition for the side street setback (the current Zoning Ordinance references side street yards but does not define a side street yard).

**(B) Lot Area**

The total area within the lot lines of the lot.

**(C) Lot Width**

The width of a lot measured at the front setback.<sup>96</sup>

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<sup>96</sup> This replaces the definition in the current Subdivision Regulations which references the “Building Line.”

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## **Section 6.3 Definitions**

### **A**

#### **Abutting<sup>97</sup>**

The condition of two or more adjoining lots having a common property line or boundary, including cases where two or more lots join at a corner. Lots that are separated by a street or alley are not abutting.

#### **Adjacent<sup>98</sup>**

The condition where two or more lots share common property lines, including cases where two or more lots join at a corner, or where two lots are separated only by an alley, easement, or street.

### **B**

#### **Block<sup>99</sup>**

A piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the subdivider may determine the outline of the block.

#### **Building<sup>100</sup>**

Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, goods, or materials of any kind or nature.

### **C**

#### **Crosswalk<sup>101</sup>**

A right-of-way within a block dedicated to public use, seven feet or more in width, with concrete paved walk intended primarily for pedestrians and from which motor propelled vehicles are excluded, and which is designed to improve or provide access to adjacent roads or lots.

### **D**

#### **Dwelling unit<sup>102</sup>**

A building or a portion of a building, arranged, designed, and intended for occupancy occupied by one family for living and sleeping purposes, with kitchen facilities for the exclusive use of one family.

### **L**

#### **Lot**

A portion of a subdivision intended as a unit for transfer of ownership, or for development, or both. In determining the area and dimensions of a lot no part of the right-of-way of a road or crosswalk may be included.<sup>103</sup>

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<sup>97</sup> New definition.

<sup>98</sup> New definition.

<sup>99</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>100</sup> This is a new, more modern definition that replaces the current definition in Article VI, Section 11 of the current Zoning Ordinance.

<sup>101</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>102</sup> Carries forward the current definition in Article VI, Section 11 of the current Zoning Ordinance.

<sup>103</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

## Article 6: Definitions and Rules of Construction and Measurement

### Section 6.3. Definitions

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## M

### Master plan

A comprehensive plan, which may consist of several maps, data, and other descriptive matter for the physical development of the county, or any portion thereof, including any amendments, extensions, or addition thereto recommended by the planning commission; indicating the general location of major roads, parks, or other public open spaces, public building sites, routes for public utilities, zoning districts, or other similar information.<sup>104</sup>

## P

### Planning Commission<sup>105</sup>

The body established in accordance with Sec. 21-31 of the City Code and state law, and further described in Sec. 2.3.1, Planning Commission.

## R

### Reserve strip<sup>106</sup>

A strip of land designed to prevent or control access to or extension of a street.

### Riparian buffer<sup>107</sup>

The area of natural or planted vegetation adjacent to a natural watercourse as measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams, rivers, lakes, ponds, or wetlands which is intended to remain undisturbed.

## S

### Street<sup>108</sup>

Any public right-of-way used or intended to be used for motor vehicles, non-motorized vehicles, and pedestrians. If the public right-of-way existed before the adoption of the City's Zoning Ordinance on September 17, 1963, it is a street if it is at least 21 feet in width. If dedicated after September 1, 1963, the public-right-of-way is a street if it is at least 40 feet in width.

### Street, Alley<sup>109</sup>

A local street used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

### Street, Arterial<sup>110</sup>

A street used primarily for fast or heavy traffic.

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<sup>104</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>105</sup> This replaces in the definition in Section IX of the current Subdivision Ordinance.

<sup>106</sup> New definition.

<sup>107</sup> New definition.

<sup>108</sup> Revises and modernizes the definition in Section IX of the current Subdivision Ordinance for consistency with the definition in the updated Zoning Ordinance, which is based on the definition in Article VI, Section 11 of the current Zoning Ordinance.

<sup>109</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>110</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

## **Article 6: Definitions and Rules of Construction and Measurement**

### Section 6.3. Definitions

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#### **Street, Collector<sup>111</sup>**

A street used to carry traffic from minor or neighborhood streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

#### **Street, Local<sup>112</sup>**

A street used primarily for access to abutting properties.

#### **Street, Marginal Access<sup>113</sup>**

A local street which is parallel to, and adjacent to, arterial streets and highways, and which provides access to abutting properties and protection from through traffic.

#### **Stream<sup>114</sup>**

A body of water running or flowing on the earth's surface, or channel in which such flow occurs. A stream may be perennial or intermittent.

#### **Subdivider**

Any person or corporation or duly authorized agent who undertakes the subdivision of lands in accordance with these Regulations.<sup>115</sup>

#### **Subdivision<sup>116</sup>**

The division, development, or redivision of a lot, tract, or parcel of land, regardless of how it is to be used, into two or more lots either by plat or by meets and bounds description; or the division or redivision of land involving the dedication of a new park, playground, street, or other public right-of-way or facility; or the vacation, realignment or any other change in existing streets, alleys, easements, recreational areas, water areas, or other public improvements or facilities; and when appropriate to the context, shall relate to the act or process of subdividing or to the land subdivided, but not including the following:

- a) The division of land for agricultural purposes, provided the division does not result in lots smaller than ten acres or an average width of less than 400 square feet; and where no new streets, roads, or other rights-of-way are involved;
- b) The sale or exchange of land between owners of adjoining properties, provided that additional lots are not thereby created and that the lots created are not reduced below the minimum sizes required by this regulation or the zoning ordinance. This includes the splitting of a lot into two parts, provided both parts are used to increase the size of the adjoining lots; or
- c) The division or sale of land by judicial decree.

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<sup>111</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>112</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance for "minor street."

<sup>113</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>114</sup> New definition.

<sup>115</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.

<sup>116</sup> Carries forward and updates the definition in Section IX of the current Subdivision Ordinance.