

ARTICLE IX. DEVELOPMENT APPROVAL PROCESS**Section 900. Purpose.**

This Article sets forth the procedures required for obtaining development approval within the Town of Elmore. Site plans, subdivisions, conditional uses, zoning certificates, and certificates of occupancy are addressed herein. However, the approval of a development under the provisions of this Article does not imply any variation or waiver of any provisions of the building code, housing code, fire code, or any other applicable code, standard, or regulation adopted by the Town of Elmore, the State of Alabama, or the United States Government.

Section 901. Subdivisions.

Any subdivision or resubdivision of land, or combining of lots within the Town of Elmore, and within unincorporated areas lying within five (5) miles of the Town limits, shall be carried out in accordance with the Elmore County Subdivision Regulations which are hereby incorporated by reference into this Ordinance. All development within subdivisions shall be consistent with applicable sections of this Ordinance.

Section 902. Site Plans.

902.01. Intent and Purpose. This Section shall apply to all site plans as defined in Article II. The site plan procedures shall be required in order to ensure that site-specific development projects meet the requirements of this Ordinance prior to the issuance of a zoning certificate authorizing a building permit. It is the intent of this Section that the site plan review process be a part of the building permit application process, and that the site plan shall be the instrument by which improvements to the site will be constructed and inspected prior to occupancy of the development.

902.02. Development Requiring Site Plan Approval. Prior to issuance of a zoning certificate, all proposed non-residential construction, as well as all residential development types, other than single family detached structures, shall be subject to site plan review by the Planning Commission. This shall include clubhouses or other ancillary facilities within a residential subdivision. Site plan approval shall also be required for the subdivision of an existing development site of a type subject to site plan requirements, and/or an expansion, reduction or reconfiguration of any such development type. For any proposal in which these requirements are unclear, the Planning Commission shall determine whether site plan approval is necessary.

902.03. Site Plan Review Follows Other Reviews. Any development proposal requiring a review by another board, commission or department, such as request for variance from the Board of Zoning Adjustment, shall be reviewed by the other entity and the findings made available to the Planning Commission prior to conducting the site plan review.

902.04. Review of Site Plans.

Site plans submitted for review shall be approved or disapproved by the Planning Commission. When a site plan is disapproved, the reason(s) for the disapproval shall be provided in writing to the applicant within ten (10) days of the hearing at which the decision to disapprove was made.

The following criteria shall be used in determining whether to approve a site plan:

- A. Completeness of application information as required under this Section;
- B. Uses permitted on the development site under the provisions of this Ordinance;
- C. Whether the site plan meets applicable design standards established by this Ordinance;
- D. Availability and adequate capacity of public facilities to serve the development, such as roads, sewer, water, schools, solid waste disposal, and fire protection (including access to the site for emergency vehicles); and
- E. Compatibility with surrounding land uses (this criterion shall apply only where a site plan proposes a conditional use pursuant to Section 903).

Upon receipt of an application for Site Plan Review, the Planning Commission shall undertake a study of the proposed development. The development plan review process may, at the discretion of the Planning Commission, include review and comment by other departments or agencies. The Planning Commission may approve, approve with conditions or disapprove the development plan. The Planning Commission shall provide written notification to the applicant of the Planning Commission's review determination.

- A. If the development plan is disapproved, the applicant shall be notified of any changes or modifications that are required to the proposed development plan to achieve conformity with the requirements of this Ordinance. The Building Official shall not issue a building permit until the development plan is modified, resubmitted and approved.
- B. If the development plan is approved with conditions, the applicant shall be notified of the conditions. The owner / developer shall have the option to revise the development plan to eliminate the cause of the conditions or to amend the plan to comply with the mitigation conditions required by the Planning Commission. If the development plan is modified in either manner, it shall be resubmitted to the Building Official for review to determine that the plan is in compliance with the required conditions prior to issuing a building permit.
- C. If the Planning Commission approves the development plan, then the Building Official shall issue a building permit for the approved development plan.

902.05. Uses Allowed Under Development Plan Review Are Not Precedents. Each development plan review conducted by the Planning Commission shall be considered on its own merits. A similar use allowed in a district as a result of a previous development plan review shall not be considered as a precedent for allowing future development. The Planning Commission shall consider the cumulative influences of existing developments when evaluating new development proposals.

902.06. Review Procedures.

Five (5) full size (24" x 36") prints and ten (10) 11" x 17" copies of the site plan, a completed application form and all other necessary attachments and the requisite application fee shall be submitted to the Town Clerk to initiate processing of the site plan. Additional plans shall be provided for review by appropriate state, regional and county agencies upon staff request.

- A. Site Plan Preparation Requirements.** Where the proposed development site is three (3) acres in size or larger, the site plan shall be prepared and sealed by an architect, professional engineer or surveyor. At the Planning Commission's discretion, the same requirement may be applied to sites of less than three (3) acres where the plan proposes high-intensity uses or activities that may have a substantial impact on surrounding properties.

Sketch plans and drawings submitted with variance or other zoning-related applications shall not be accepted for review as a site plan unless they are prepared in accordance with the guidelines of this Section and contain all required information. In all cases, engineering plans addressing drainage, road construction and other technical aspects of development design shall be sealed by a civil engineer registered in the State of Alabama.

- B. Development Site Requirements.** For development sites of one (1) acre or more, full engineering drawings or a Project Engineer's Statement must be submitted by an engineer registered in the State of Alabama. The City Engineer, or other duly authorized official, may choose to require additional information as necessary.
- C. Completeness of Plans.** Site plans submitted without complete information in accordance with Section 902.13 shall not be reviewed by, or placed on the Planning Commission Agenda.
- D. Staff Review.** The Planning Commission or other duly authorized official shall review the site plan with specific regard to this Ordinance and other regulations of the Town of Elmore. The staff review shall identify matters of development policy concern to which the applicant shall address particular attention.

E. Revised Plans. Following submission of a complete application package for site plan review, and at such time as the Planning Commission determines that all staff comments have been adequately addressed, and that the requirements of all applicable City, State and Federal regulations have been met, it shall approve the site plan.

902.07. Approval of Site Plans. No site plan shall be approved which is inconsistent with any term contained in this Ordinance unless a variance has been authorized in accordance with Section 1007 of this Ordinance.

Upon approval of a site plan, a minimum of five (5) copies, and any additional copies as may be required by the Town, of the approved site plan shall be submitted to the Town Clerk prior to issuance of a zoning certificate. The Town Clerk shall stamp approved, date and have signed, by the Chairman of the Planning Commission, the site plan copies, then forward copies of the site plan to the appropriate officials as determined by the Planning Commission. A minimum of two (2) copies of the site plan shall be reserved for the use of the Planning Commission or other duly authorized officials.

902.08. Effect of Site Plan Approval. Upon final approval of a site plan, no structures, uses, or development of any kind shall be permitted on a development site except in accordance with the site plan and related approved plans for development phasing, building construction, grading drainage, and other site design elements.

902.09. Expiration of Development Plan Certificate of Approval. Approved site plans shall remain valid for 12 months after final approval, and a zoning certificate and building permit for the development may be obtained at any time during that period. The Planning Commission may make an extension of site plan approval for a single period up to six (6) months from the date when a site plan would otherwise expire. An extension may be granted only if the Planning Commission concludes that the applicant or developer has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application. All such requests for extensions must be submitted in writing not less than 30 days before the expiration of the approved site plan stating the reason for the time extension request.

Requests for extensions in excess of six (6) months shall not be granted. Instead, the applicant shall submit a new application for review according to the requirements of this Section.

Upon approval of the site plan, the applicant may proceed to submit detailed construction drawings to the Building Official or other duly authorized official for permitting. These shall include, but are not limited to, detailed building plans, grading plans, drainage and stormwater management facilities, erosion control plans, road and driveway construction specifications, and tree removal plans.

Nothing contained herein shall preclude the Building Official from accepting for review and processing building construction plans related to the structural, mechanical, electrical, and plumbing systems prior to final approval of a site plan, subject to such conditions as may be established by that department relative to processing of site plans prior to final approval.

In such instances, no building permit will be issued until the Planning Commission has issued a zoning certificate and the site plan has been stamped approved and is on file in the office of the Building Official. All building and construction permits issued for any project requiring site plan review shall be consistent with the stamped approved site plan. The approval of a site plan shall not under any circumstances be construed to waive or otherwise diminish the applicable Town requirements for construction or installation of structures or materials. Whenever a conflict between the site plan and such construction details occurs, the more restrictive or that requiring the higher standard shall prevail.

902.10. Amendment or Withdrawal of Development Plan. A development plan may be amended upon the request of the applicant. A revised development plan may be submitted to the Building Official for review by the Planning Commission in the same manner as the original application. The amendment shall be reviewed using the same process and subject to disapproval, approval with conditions, or approval the same as the original development plan submission. The Planning Commission will review the revised plan in the same manner as the original submission and render a written decision to the owner / developer. All structures and uses under an amended development plan, or remaining under a partially withdrawn development plan, shall be subject to regulations of the appropriate zone and other conditions as the Planning Commission may require at the time the plan is amended or partially withdrawn. A development plan, under which no work has occurred, may be withdrawn upon request of the applicant by written notice to the Building Official.

902.11. Non-Compliance. Failure to comply with a stamped approved site plan or any of the conditions upon which such approval was contingent, including time limits for performance, shall be cause to deny issuance of a zoning certificate or, where a zoning certificate has been issued pursuant to a stamped approved site plan, to render such zoning certificate invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Section for a site plan shall constitute a violation of this Ordinance and may be subject to a stop-work order.

902.12. Development Site To Be Unified. The development site shall be designed to provide all required amenities and facilities, no such required features shall be located off-site or on adjacent properties which are leased, rented, or otherwise proposed for use on an informal basis. The entire site shall have the zoning designation required to accommodate the principal use.

No development site, once granted site plan approval, shall be divided except through the site plan amendment process established in Section 902.10 and any applicable subdivision regulations.

902.13. Applications for Development Plan Review. Applications for development plan review shall include a location map, administrative data and a development plan as required below. All of the information and data required for applications for building permits and, when applicable, data for projects located in flood hazard areas, shall be incorporated in the following items as appropriate, and shown directly on the site plan where possible.

- A. Administrative Data.** The administrative data section of an application shall provide the following:
- 1. Identification.** Names, addresses, and methods to contact the owners, developer, engineer, architect and land surveyor. Entries for engineers, architects and land surveyors shall include their Alabama license numbers and signatures.
 - 2. Ownership.** Proof of ownership of the controlling interest in the property.
 - 3. Adjacent Owners.** Names and addresses of adjacent land owners. If the proposed development abuts a street, then the names and addresses of land owners on the opposite side of the street shall be included.
 - 4. Zoning.** The application shall include information to indicate:
 - a) Existing zoning district(s) applicable to proposed development and adjacent property.
 - b) Proposed zoning, if rezoning is requested.
 - c) Existing on-site uses, if any, that would not conform to proposed zoning.
 - d) When requesting either a conditional use or a development plan review, the section of the Zoning Ordinance under which the use is requested shall be cited.
 - 5. Restrictive Covenants.** The application shall include:
 - a) Existing restrictive covenants, if any, applicable to a part or all of the land.
 - b) Proposed restrictive covenants or other restriction, such as architectural review requirements that regulate the use of the property.
 - 6. Phasing Plan.** A phasing plan shall be submitted with any development plan when the initial use of land or proposed construction will only occur on a portion of the land. The phasing plan shall cover the entire area included in the development plan and clearly indicate the first phase of development.
 - 7. Dedications and Reservations.** The application shall show any property that is to be either dedicated or reserved. Administrative data shall be submitted that:
 - a) Indicates the entity receiving any property proposed for dedication; and
 - b) An adequate legal description of the property to be dedicated; or a
 - c) Description of the property to be reserved and the controls, such as deed restrictions, to be applied and identification of the entity responsible for the maintenance of any land that is to be reserved and not controlled by a public entity.
- B. Location Map.** The Location Map submitted as a part of an application shall be a map of the Town, or a sufficient portion of Town, to locate the proposed development within the Town. The Location Map shall be presented at a sufficient size and clarity to be used in the publication of any required legal notices. The location map shall show the:

1. **Project Location.** Location of the proposed development in the Town, approximate property boundaries and, if applicable, the proposed name of the development.
2. **Major Streets.** Major streets in the vicinity of the proposed development shall be shown and named.
3. **Community Facilities.** Community facilities, such as schools and parks, and other landmarks that are in proximity of the proposed development shall be marked with symbols and labeled.
4. **Graphic Legend.** A north arrow, scale and the date of preparation.

902.14. Site Plan Preparation Requirements. A site plan must accurately show all relevant information about a proposed development to permit it to be reviewed against the requirements of this Ordinance, and to provide a permanent record as to the type and characteristics of development approved on the site. Site plans shall be drawn, on an overall sheet size not to exceed 24 by 36 inches, to one of the following scales:

1:10, 1:20, 1:30, 1:40, 1:50, 1:60, 1:100

When more than one (1) sheet is needed, a series of drawings showing different elements of the site design, such as landscaping, utilities, or topography may be submitted. Where such a series is submitted, the top sheet shall include an index of all other sheets in the series. These shall be bound in a single package, with each sheet labeled as to what it shows and its number in the series (e.g., Landscaping Plan, Sheet 2 of 3)

Unless specifically waived by the Planning Commission, the following information shall be shown on all site plans:

A. Written Information:

1. Site plan name.
2. General statement indicating the character of the use(s) proposed for the site. This shall include information describing the size and/or intensity of the use, such as the number of employees at largest shift, seating capacity, number of students, number of hospital beds or motel rooms, etc. All other relevant information not otherwise specified in this checklist shall be provided in the General Statement, such as variances on the property, nonconforming status, etc.
3. Total size of the tract expressed in square feet and acres (to nearest tenth).
4. Number of units proposed (residential only).
5. Impervious surface area in square feet, impervious surface ratio (ISR), maximum and proposed.

6. Floor area in square feet and floor area ratio (FAR).
7. Details of all bufferyards required, if any.
8. Number of parking spaces required and proposed (must show calculations based on requirements of Article VII).
9. Building height.

B. Graphic Information. The site plan portion of an application shall include the applicable graphic information for the following items.

1. **Surrounding Area.** When an application for a proposed use, building or structure requires site plan review a site plan including land use and development information 400 feet beyond the property line of the proposed project shall be submitted.
2. **Licensed Professionals.** In accordance with the Code of Alabama, an architect, engineer or land surveyor, as appropriate, that is licensed and registered to practice in the State of Alabama shall prepare drawings for the proposed development showing the flowing applicable information.
3. **Property Lines and Data:**
 - a) The boundaries of the owners / developers property if different from the property being developed.
 - b) The actual shape and proportions, including bearings and dimensions, of the exterior boundaries of the proposed development and, when necessary, sufficient bearings and dimensions to relate the proposed development to existing geodetic monuments and survey reference points.
 - c) The acreage of the property to be developed.
 - d) The names of adjacent neighborhoods and subdivisions, when applicable.
 - e) Existing property lines, including the parcels abutting the boundaries of the proposed development. (Coordinate abutting parcels with names and addresses of adjacent owners as required in Administrative Data).
 - f) Proposed property lines within the proposed development including dimensions and bearings, if applicable.
 - g) Required building setback lines.
4. **Topography.** Proposed changes in contours shall be shown.
5. **Trees.** Existing wooded areas shall be outlined and large trees to be preserved shall be located.

- 6. Surface and Storm Drainage.** A map of the watershed area shall be included by use of a copy or appropriately scaled portion of a U. S. Geological survey quadrangle map. The development plan shall show:
- a) All areas of inundation as determined from appropriate Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA) including a notation of the 100-year flood elevation.
 - b) Existing and proposed water courses, bridges, culverts storm sewers and drain pipes including the direction of flow, retention ponds and other drainage improvements.
- 7. Easements.** All existing and proposed easements including the location, dimensions and use.
- 8. Dedicated or Reserved Land:**
- a) Existing public land and facilities such as schools, parks or recreation areas.
 - b) Land dedicated, or to be dedicated, for public purposes including all existing and proposed street right-of-way reservations and easements. (Coordinate with the legal documents for dedications included in the Administrative Data).
 - c) Land to be reserved. (Coordinate with the legal documents for reservations included in the Administrative Data.)
- 9. Buildings and Structures:**
- a) The shape, size and location of buildings, building sites, structures and uses, whether existing or altered, proposed or moved. Structures shall include accessory structures, fences, signs, towers and other on-site construction. All buildings shall comply with the setback requirements set forth in this Ordinance.
 - b) Finished floor elevations of all structures.
 - c) Location and screening of solid waste receptacles.
 - d) Number of floors or stories, height and dimensions of all structures.
- 10. Land Use:**
- a) The existing and intended land use of all buildings, structures, or land within the proposed development and the land use within 400 feet of the property boundaries, when applicable. All on-site land uses shall comply with all applicable requirements of this Ordinance.
 - b) Location of all impervious surfaces.
 - c) Location and dimensions of all parking spaces, loading berths, and driveway aisles. One-way aisles must be labeled as such.
 - d) Location of all curb cuts and their distances from the nearest adjacent curb cuts or street intersections.
 - e) Phase lines, if the development is to be constructed in phases.

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11. **Streets.** (including all public and private streets or alleys):
- a) Existing streets including names, widths of rights-of-way (whether developed or undeveloped), type and width of existing surface (e.g. gravel, asphalt, etc.) of all streets providing access to or existing on-site.
 - b) When streets are proposed as a part of the on-site development, include the street layout, widths of rights-of-way and paving, typical cross sections of streets with differing widths or designs and centerline profiles. A blank *Certificate for Approval of Street Plans* shall be included for signature by an authorized representative from the County Engineering Department.
 - c) Proposed street names and house numbers as coordinated with 911 emergency services;
 - d) Existing and proposed on-site circulation for both vehicular and pedestrian movements shall be shown. Vehicular movements shall demonstrate the convenience and control of traffic flow by showing: proposed points of access, driveways, turn lanes, on-site circulation, stacking lanes, parking areas, service bays, and any related areas for vehicles. Pedestrian movements shall demonstrate the avoidance of conflicts with vehicles and concern for pedestrian safety by showing the system of walk and pedestrian ways. All access points shall comply with the requirements set forth in this Ordinance including but not limited to, Article VII.
12. **Utilities.** Location and size/dimension of all existing and proposed utilities, including water, sewer, fire hydrant(s), gas, electricity, telephone, and cable. Include lines located on or adjacent to proposed development site and details of connections to existing systems where applicable.

Water:

- a) If water lines are located on or adjacent to the site, the location, line sizes and / or delivery capacity of existing water mains and nearest fire hydrant(s) shall be shown.
- b) Proposed water system plans including interconnection(s) to existing system, valves, hydrants and other related improvements shall be shown.
- c) When interconnection to a public water system is not practical, the Elmore County Health Department shall determine the lot size required for approval of an individual water supply. The development of wells shall comply with all applicable requirements of the Alabama Department of Public Health or the Alabama Department of Environmental Management.

Sanitary Sewer:

- a) If sanitary sewer lines are located on or adjacent to the site, the location, line sizes and direction of flow of existing sanitary sewer shall be shown. (Include pump stations or force mains if located on or adjacent to proposed development.).
- b) Proposed sanitary sewer lines including interconnections to existing systems, line sizes, and any necessary related improvements such as pump stations and force mains shall be shown.
- c) When interconnection to the public sanitary sewer system is not practical, the developer shall submit percolation tests to the Elmore County Health Department.

The Health Department shall certify that the site is suitable for septic tanks and determine the lot size and / or improvements required for approval for an individual sewage disposal system.

Electric:

- a) If electric service is located on or adjacent to the site, the location of existing under and above ground electric service shall be shown; and
- b) Proposed underground electrical service and locations of transformers, terminal boxes and other related improvements shall be indicated.
- c) On-site lighting, including security lighting and the methods to shield adjacent properties and rights-of-way from glare, shall be shown.

Natural Gas:

- a) If natural gas service exists on or adjacent to the site, the location of existing natural gas lines and sizes shall be shown; and
- b) The location of proposed gas lines, size of lines and other related natural gas improvements shall be indicated.

Telephone:

- a) If telephone service is located on or adjacent to the site, the location of existing under and above ground telephone service shall be shown; and
- b) The location of proposed underground service lines, switching stations and other related improvements shall be indicated.

Cable:

- a) If cable service is located on or adjacent to the site, the location of existing under or above ground cable service shall be shown; and
- b) The proposed location and type of cable service including location of underground service and location of junction boxes shall be indicated.

- 13. **Screening and Buffering.** The location, dimensions and types of screening and buffering including fencing and landscaping shall be identified and located.
- 14. **Signs.** All signs shall be located on the development plan and shall comply with all applicable provisions of the Ordinance including but not limited to Article V.
- 15. **Supplemental Data.** Any supplemental information that may be deemed necessary for the full and proper consideration of the proposed development plan shall be shown.
- 16. **Certificate of Development Plan Approval.** A blank certificate of development plan approval shall be included on the plan for the Chairman of the Planning Commission to sign after the development plan has been approved and processed by the appropriate authorities.
- 17. **Drawings.** All site plans and related drawings shall include a north arrow, scale and the date of preparation as appropriate.

Section 903. Conditional Uses.

Conditional uses are those uses that have some special impact which differs from the potential impacts of permitted uses or exceeds them in intensity, or have uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed in a particular location.

Upon submission of a request for conditional use approval, a review of the location, design, configuration, and impact shall be conducted to determine whether the proposed use would have a detrimental impact on neighboring properties.

The review considers the proposal in terms of existing zoning and land use in the vicinity of the use; planned and proposed public and private developments that may be adversely affected by the proposed use; whether and to what extent the use at the particular location for which it is proposed is consistent with the intent of the Zoning Ordinance, Land Use Plan, and any other development policies and/or regulations of the Town of Elmore; and whether and to what extent all steps possible have been taken by the developer to minimize any adverse effects of the proposed use on the immediate vicinity and on the public health, safety, and welfare in general.

Section 903.01. Applicability. Any use designated as a conditional use by this Ordinance shall comply with this Section.

In addition, any use that involves filling of a floodplain shall be approved only as a conditional use.

Section 903.02. Procedures. Applications for a conditional use permit shall be submitted and approved prior to application for a building permit. A subdivision plat or a site plan meeting the requirements of Section 902 shall support applications for conditional uses in all districts. Site plan or subdivision approval shall not be granted prior to or contingent upon conditional use approval.

The Town Clerk shall process applications for a conditional use permit as follows:

- A. Applications for a conditional use permit must be submitted to the Planning Commission 21 days prior to the public hearing, as required in Section 903.02 (B). Copies of the application shall be distributed to the appropriate departments.
- B. A public hearing shall be held by the Planning Commission after adjoining property owners have been notified of the public hearing by certified mail and signs announcing the public hearing have been erected on the property in question.
- C. The application shall be denied if the Planning Commission finds that the application and record fail to establish compliance with the standards of this Ordinance. Further, the application shall be denied if the adverse impacts of the development, despite any mitigating conditions that might be imposed by the Planning Commission, outweigh

any public or private benefits of the proposal and require denial in the interest of the overall public health, safety, and welfare.

- D. In order to prevent or minimize adverse effects on other properties in the neighborhood and on the general health, safety, and welfare of the Town of Elmore, the Planning Commission may impose such restrictions and conditions on approval of the proposed use as it determines are required by the general purposes, goals, and objectives of this Ordinance. All conditions imposed upon any conditional use permit approval, except those which are otherwise stated in this Ordinance, shall be expressly set forth in the resolution granting such conditional use permits.
- E. Within 35 days of the public hearing on the application, unless an extension of this time is agreed to by the applicant, the Planning Commission shall render to the Town Council its recommendation either to grant the application for a conditional use permit, grant it subject to conditions, or deny it. The failure of the Planning Commission to act within this time period shall constitute a recommendation by it that the application be approved.

Following a public hearing the Town Council shall either approve, or disapprove, the application and shall establish the specific conditions under which the application is approved.

- F. In the event a permit for a conditional use is approved or approved subject to conditions, the applicant shall submit a site plan meeting all conditions of approval. The Planning Commission shall then take action to process the application on the zoning certificate for the development to which the conditional use permit applies. In the event such permit is not approved or is approved subject to conditions that are not acceptable to the applicant, the applicant may, either appeal such decision in accordance with procedures for appeal set out elsewhere in this Ordinance, or abandon the application.

Section 903.03. Conditions on Conditional Use Approvals. Every conditional use permit shall be contingent upon the proposed development fully complying with all requirements of this Ordinance and, where applicable, with the Subdivision Regulations. The violation of any condition contained in a conditional use permit shall be a violation of this Ordinance.

Section 903.04. General Use Standards. No application for a conditional use permit shall be approved unless the Town Council shall specifically find the proposed conditional use appropriate in the location for which it is proposed. This finding shall be based on the following criteria:

- A. The proposed use shall be in harmony with the general purpose, goals, objectives, and standards of this Ordinance, the Town of Elmore Land Use Plan, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the Town.

- B. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety, and general welfare; either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Ordinance, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the Town or other governmental agency having jurisdiction to guide growth and development.
- C. The proposed use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this subsection. Where any such improvements, facilities, utilities, or services are not available or adequate to service the proposed use in the proposed location, the applicant shall, as part of the application and as a condition to approval of the proposed conditional use permit, be responsible for establishing ability, willingness, and bind commitment to provide such improvements, facilities, utilities, and services in sufficient time and in a manner consistent with this Ordinance, and other plans, programs, maps, and ordinances adopted by the Town to guide its growth and development. The approval of the conditional use permit shall be conditioned upon such improvements, facilities, utilities, and services being provided and guaranteed by the applicant.
- D. The Planning Commission may attach to any recommendation for conditional use approval, additional criteria dealing with bufferyards, parking, lighting, building materials, or any other aspect of site plan approval they deem necessary to mitigate the impact of the proposed conditional use on the surrounding property.

Section 904. Building Permits.

No development permitted by this Ordinance, including accessory and temporary uses, may be established and no existing building may be altered with respect to its use after the effective date of this Ordinance until a building permit has been secured from the Planning Commission or other duly authorized official.

Nothing herein shall relieve any applicant of the additional responsibility of seeking any permit required by any applicable statute, ordinance, or regulations in compliance with all of the terms of this Ordinance.

The violation of any condition contained in a conditional use permit shall be a violation of this Ordinance.

904.01. Application Requirements for Building Permit. All applications for building permits shall be made in writing by the owner or developer of the property for which it is sought. The application shall be filed with the Planning Commission and include two (2) copies of the following:

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- A. Legal description of the parcel(s) for which the certificate is sought.
- B. Conditional Use Permit, if required (Section 903).
- C. Request for site plan review if required (Section 902).

When a building permits is sought for a development that is a part of a plat or subdivision, which has received final plat approval or which has been issued a conditional use permit, the plat or conditional use permit, together with any covenants, conditions, or other restrictions related thereto, shall be submitted as a part of the application for the building permits.

Application for a conditional use permit, where required, shall be made and approval granted by the Town Council prior to application for a building permits.

In the case of any development located within a subdivision, the subdivision shall have final plat approval and have been recorded before the Town Clerk will accept an application for a building permits. If the development for which a building permits is sought is required by this Ordinance to undergo site plan review, the approved site plan shall be made a part of the application for a building permits and shall suffice as the statement of proposed use required by this Section.

A temporary use and an accessory use shall require a building permits as a precondition to their lawful establishment. The Planning Commission may establish regulations governing the application requirements for a building permits in the case of either a temporary or accessory use that is established at any time other than simultaneously with a principal use, in which case all information specified in this Section shall be submitted. The purpose of the required information is to provide the Planning Commission with a sufficient factual basis to determine whether all requirements of this Ordinance applicable to temporary and accessory uses have been met.

904.02. Procedures. All developments for which a building permits is required shall be reviewed for compliance with this Ordinance; within 30 calendar days after the application for a building permits has been accepted, the Town Clerk shall inform the applicant whether the application has been granted.

- A. In any case where the application is granted, the Planning Commission shall issue a building permits which shall state: "This permit does not signify building codes review or approval nor subdivision review or approval and is not authorization to undertake any work without such review and approval where either is required. Before any structure to which this permit is applicable may be occupied or used for any purpose, a certificate of occupancy must be obtained."
- B. In any case where an application is denied, the Planning Commission shall state the specific reasons and shall cite the specific chapters, articles, and sections of this Ordinance upon which denial is based. If relief of such denial would be available by special permit or variance, the Planning Commission shall so state and shall refer the applicant to the appropriate sections of this Ordinance.

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Following site plan and/or conditional use approval, an applicant shall have 18 months from the date of approval to begin construction. In addition, an applicant shall have 90 days from the date of issuance of a building permits to begin construction. For the purposes of this Section, beginning of construction is defined as the date on which a building permit is issued by the Town of Elmore for the construction, renovation, modification, or other work required.

Section 905. Certificate of Occupancy.

No land or building for which a building permits has been issued shall be occupied or used in whole or in part for any use whatsoever after the effective date of this Ordinance until the owner, tenants, contract purchaser, or authorized agent thereof has been issued a certificate of occupancy by the Building Official or other duly authorized official, indicating that the building or use complies with all zoning requirements of this Ordinance, the building code, and other applicable codes and regulations.

No certificate of occupancy shall be issued until the premises in question have been inspected and found by the Building Official or other duly authorized official to comply with the requirements of this Ordinance.

No permit for any new use or construction that will involve the on-site disposal of sewage or waste, and no permit for a change in use or an alteration that will result in an increased volume of sewage or waste to be disposed of on the site, or which requires the County Health Department's approval shall be issued until said approval has been issued by said Health Department.

The issuance of a certificate of occupancy in no way relieves any recipient thereof from compliance with all of the terms of this Ordinance and all other applicable regulations.

No certificate of occupancy shall be issued unless required landscaping and bufferyards have been installed or appropriately bonded.

Section 906. Access.

As a precondition to approval of any site plan, subdivision plat, building permit, or any other type of development permit, any development site shall have legal access to a publicly owned and maintained road.

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Section 907. Fees.

A schedule of application fees for site plan and subdivision approval, building permits, and other permits and public hearings required under this Ordinance shall be established by separate resolution or ordinance. This fee schedule shall be computed so as to recover all costs incurred by the Town in reviewing and processing zoning-related requests, and shall be revised as necessary by the Town Council.

ARTICLE X. ADMINISTRATION AND ENFORCEMENT**Section 1000. Purpose.**

The powers and duties of the following officers and boards are specified herein insofar as administration of this Ordinance is concerned: the Planning Commission; the Board of Zoning Adjustment; the Town Clerk; and the Building Official. This Article also specifies the requirements for amendments, variances, administrative appeals, and interpretations of this Ordinance.

Section 1001. Town Clerk: Duties and Powers.

The Town Clerk, or other duly authorized official shall, under the guidance of the Planning Commission, administer all staff activities regarding planning, zoning, and development review. He/she shall perform duties prescribed by this Ordinance, as well as any other assigned by the Planning Commission or the Town Council. The Town Clerk shall have a thorough knowledge of the provisions of this Ordinance.

The Town Clerk shall be appointed by the Mayor and shall have the following additional powers and responsibilities:

- A. Advise and cooperate with the Planning Commission in the implementation, amendment and enforcement of this Ordinance.
- B. Attend all public hearings at which zoning matters are discussed, including meetings of the Planning Commission, Board of Zoning Adjustment and Town Council.
- C. Collect and account for all application fees required for zoning actions and subdivision approvals.
- D. Evaluate each proposed site plan and subdivision plat for consistency with this Ordinance.
- E. Ensure that all time limits prescribed by this Ordinance are met.
- F. Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons.
- G. Receive and review all applications for zoning certificates required herein.
- H. Process zoning certificate and conditional use permit applications.
- I. Record and file all applications for zoning certificates with accompanying plans and documents. All applications, plans, and documents shall be a public record.

- J. Receive applications for variances and forward them to the Board of Zoning Adjustment for action.
- K. Following refusal of a permit, receive applications for interpretation and appeals and forward them to the Board of Zoning Adjustment for action.
- L. Receive and review all site plans whose submission are required by Section 902 and review all proposed zoning amendments and prepare a report on said zoning amendments for the Planning Commission and the Town Council.
- M. Promptly indicate any zone boundary or other change to the Official Zoning Map, and make available for public inspection an up-to-date copy of the Official Zoning Map, as amended.
- N. Issue a monthly report on all site plan approvals to the Planning Commission.
- O. Other duties assigned by the Mayor.

Section 1002. Building Official: Duties and Powers.

The Building Official shall have the following powers and responsibilities:

- A. Receive and examine all applications for building permits and certificates of occupancy.
- B. Process all building permit applications and applications for certificates of occupancy.
- C. Issue permits only where there is compliance with the provisions of this Ordinance. Permits for construction of uses requiring a variance shall be issued only upon order of the Board of Zoning Adjustment. Permits shall be issued only after receipt of a zoning certificate.
- D. Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- E. Revoke, by writing, a permit or approval issued contrary to this Ordinance or based on a false statement or misrepresentation in the application.
- F. Stop, by written order, work being done contrary to the building permit or to this Ordinance. Such written order, posted on the premises involved, shall not be removed except by order of the Building Inspector. Removal without such order shall constitute a violation of this Ordinance.

- G. Institute any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate such violation, so as to prevent the occupancy or use of any building, structure, or land; or prevent any illegal act, conduct, business, or use in or about such premises.
- H. Record and file all applications for permits with accompanying plans and documents.

Section 1003. Duties of the Planning Commission.

The Planning Commission shall have the authority to interpret the intent and meaning of this Ordinance in situations where its applicability is not clear. Appeals of administrative decisions of the Planning Commission may be made to the Board of Zoning Adjustment.

The Planning Commission may also revoke any zoning certificate issued under a mistake of fact or contrary to the law or provision of this Ordinance.

A. General Duties:

1. The Planning Commission, in cooperation with the Town Clerk or other duly authorized officials shall study land use and development trends, collect data and analyze such information with regard to future development of the Town of Elmore.
2. The Planning Commission shall study and report on all proposed amendments to the text of this Ordinance. When reviewing any such proposed amendments, the Planning Commission shall, within 45 days of receipt of same from the Town Clerk, submit its recommendations and findings to the Town Council.
3. The Planning Commission shall study and report on all proposed amendments to the Official Zoning Map, the procedure for which is contained in Section 1006 of this Article.
4. The Planning Commission shall review and approve, approve with conditions or deny, all site plans submitted to it by the Town Clerk in accordance with Section 902.
5. The Planning Commission shall hear all applications for conditional use permits and shall make a report and recommendation to the Town Council in accordance with Section 903.
6. The Planning Commission shall cause the posting of notice in the form of a sign on property that is subject to a public hearing for conditional use permit or rezoning.

7. The Planning Commission shall review the character, location, and extent of any street, square, park or other public way, ground or open space or public building or structure or major utility project whether publicly or privately owned, in accordance with Section 11-52-11 of the Code of Alabama of 1975, as amended.

B. Triennial Review Duties:

The Planning Commission shall review this Ordinance and report on it to the Town Council at least once every three (3) years, commencing three (3) years from the date of adoption of each triennial review amendment. Specifically, the Planning Commission shall:

1. Analyze the extent to which development has occurred in Elmore as compared to the projected growth at the time of the last mapping of the districts created by this Ordinance.
2. Recommend any changes in the mapping of Elmore which would be required in order to accommodate the expected 20-year growth of Elmore for residential, industrial, commercial, and other land uses.
3. Analyze the continued validity of any other regulations imposed by this Ordinance in terms of changed conditions since the last review.

Section 1004. Board of Zoning Adjustment: Duties and Powers.

The Board of Zoning Adjustment heretofore established is continued, and shall be appointed as provided by State law. No member of the Board shall vote upon any matter in which he or she, a spouse or a dependent has a direct interest. No member of the Board shall vote upon any matter involving a business with which he or she, a spouse or dependent has any interest or ownership. The Board shall have the following powers and duties:

- A. The Board of Zoning Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman, or any three (3) members, at such times and places as the Board may determine. The chairman, or in his/her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- B. The Board of Zoning Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

- C. The Board of Zoning Adjustment shall hear and decide appeals from a decision of the Planning Commission, or their duly authorized official, made in the performance of their duties.
- D. The Board of Zoning Adjustment shall hear and decide all petitions for variances, as provided for in Section 1007.
- E. The Board of Zoning Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning Commission or the Building Official in the enforcement of this Ordinance.
- F. The Board of Zoning Adjustment shall cause the posting of notice in the form of a sign on the property that is subject to a public hearing on matters coming before it.

Section 1005. Interpretations.

1005.01. Purpose. The provisions of this section are intended to provide a simple and expeditious method for clarifying ambiguities in the text of this Ordinance, the zoning map which it incorporates, and the rules and regulations adopted pursuant to it. It is also intended to provide a simple procedure for overcoming rigidities and limitations of finite use lists.

1005.02. Authority. The Planning Commission may, subject to the procedures, standards, and limitations set forth in this Section, render interpretations of any provision of this Ordinance or any rule or regulation issued pursuant to it, including interpretations of the various uses in any district not expressly mentioned in this Ordinance.

1005.03. Procedure.

- A. **Written Request for Non-Use Interpretation.** Except as provided below, a request for interpretation of any provision of this Ordinance, the zoning map, or any rule or regulation adopted pursuant to this Ordinance shall be submitted in writing to the Town Clerk. No fee shall be required in connection with any such request. Each such request shall set forth the specific provision or provisions to be interpreted, the facts of the specific situation giving rise to the request for an interpretation, and the precise interpretation claimed by the applicant to be correct. Before rendering any interpretation, the Planning Commission shall receive such further facts and information as are in their judgment necessary to a meaningful interpretation of the provision in question.
- B. **Application for Use Interpretation.** Applications for a use interpretation shall be submitted to the Town Clerk and shall, in all instances, contain at least the following information and documentation:
 - 1. The applicant's names, address, and interest in the subject property.

2. The owner's name and address, if different from the applicant's, and the owner's signed consent to the filing of the application.
3. The names and addresses of all professional consultants advising the applicant with respect to the interpretation.
4. The street address and legal description of the subject property.
5. The zoning classification and present use of the subject property.
6. A complete description of the proposed use.
7. The uses permitted by the present zoning classification, which are most similar to the proposed use.
8. Documents, statements, and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.
9. Such other and further information or documentation as the Planning Commission may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

C. Town Clerk/Planning Commission. Within 45 days following the receipt of a completed request or application for interpretation, the Town Clerk shall mail a written copy of the interpretation to the applicant. The Planning Commission shall state the specific precedent, reasons, and analysis on which such interpretation is based. The failure of the Planning Commission to render an interpretation within such time, or such longer period of time as may be agreed to by the applicant, shall be deemed to be a rejection of the applicant's proposed interpretation. The Town Clerk shall keep a copy of each such interpretation on file and shall make a copy of each such file interpretation available for public inspection during normal business hours.

D. Appeal. Appeals on interpretations rendered by the Planning Commission pursuant to this Section may be taken to the Board of Zoning Adjustment as provided in this Article.

1005.04. Conditions on Use Interpretations. The following conditions shall govern the Planning Commission, and the Board of Zoning Adjustment on appeals from the Planning Commission, in issuing use interpretations:

- A. No use interpretation shall allow the establishment of any use that was previously considered and rejected by the Board of Zoning Adjustment on an application for amendment.

- B. No use interpretation shall permit any use in any district unless evidence shall be presented which demonstrates that it will comply with each use limitation established for the particular district.
- C. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to such other uses than to uses permitted or conditionally permitted in a less restrictive district.
- D. If the proposed use is more similar to a conditional use than a permitted use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the approval of a conditional use by the Planning Commission.
- E. Any use permitted pursuant to this Section shall fully comply with all requirements and standards imposed by this Ordinance.

1005.05. Effect of Favorable Use Interpretation. No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes and ordinances of the Town of Elmore, or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates, conditional use permits, building permits, and certificates of occupancy.

1005.06. Limitations on Favorable Use Interpretations. No use interpretation finding a particular use to be permitted or conditionally permitted in a specified district shall supercede subsequent amendment to this Ordinance.

Section 1006. Amendments.

This Ordinance may be amended from time to time as conditions warrant in the following manner. As used herein, the term "application" includes Town Council resolution.

- A. **Initiation Procedures.** A proposed change to the zoning district boundaries or of the regulations may be initiated by the Town Council, the Elmore Planning Commission, or by petition of one or more owners, or authorized agents of such owners, of property within the area proposed to be changed.
- B. **Text Amendments.** The application for an amendment to the text of this Ordinance shall state in particular the article, section, subsection, and paragraph sought to be amended. The application shall contain the language of the proposed amendment and shall recite the reasons for such proposed change in the text.

C. Map Amendments.

1. Applications to rezone any property, or any application which seeks to change or modify the standards and requirements imposed on a particular piece of property by the text and maps of this Ordinance, including applications for variances and conditional use permits, may be instituted by the Town of Elmore or all the owners of the property sought to be affected, or their assigns.
2. In the case where the applicant is not the owner of the subject property, said applicant shall secure a notarized authorization to act as applicant from the property owner, along with the regularly required copy of the deed for the property.
3. When a development proposal involves approval of a site plan or subdivision plat in addition to a zoning map amendment, no site plan or subdivision plat approval shall be granted prior to approval of the map amendment. If a development plan and the corresponding request for zoning change are to be addressed at the same public hearing, the Planning Commission shall render a decision on the zoning application before considering any related site plan or subdivision plat. Such decision shall be based on the requirements of this Ordinance and the full range of uses permitted in the requested district, and not on the specific development concept proposed by the applicant.
4. All properties annexed into the Town of Elmore shall receive the FAR District designation. If another zoning designation is desired, the owner or authorized representative shall make application for rezoning in accordance with these regulations.

D. Public Hearing. Upon application, the Planning Commission shall, after giving 15 days notice, conduct a public hearing on the proposed amendment. The Planning Commission shall consider and make recommendations on all proposed amendments, taking into account: (1) the testimony at the hearing; (2) a site inspection of the property in question; (3) the recommendations from interested official bodies; and (4) the standards provided below.

1006.01. Report of the Planning Commission.

- A. The Planning Commission shall make a report to the Town Council. No amendment shall be passed except by a majority vote of the members of the Town Council present.
- B. The Planning Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.

- C. For each disapproved map amendment, the Planning Commission shall make findings on each of the following matters based on the evidence presented to it:
1. The suitability of the property in question for the uses permitted under the proposed zoning.
 2. The adequacy of public facilities, such as sewer and water, and other required public services.

Section 1007. Variances.

1007.01. Purpose. The purpose of this Section is to empower the Board of Zoning Adjustment to vary or adapt the strict application of any of the requirements of this Ordinance. It is expected that the granting of variances will be rare; however, a variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary and exceptional situations or conditions on a piece of property, the strict application of any regulation enacted under this Ordinance would result in peculiar, exceptional, and undue hardship on the owner of such property.

Those developments requiring a variance from any regulation of this Ordinance in conjunction with site plan review shall have the appropriate request acted upon by the Board of Zoning Adjustment. This shall include existing development sites, proposed for expansion or reconfiguration, which are nonconforming to any requirement of this Ordinance. The site plan may be reviewed concurrently with review and action on the variance request, but the site plan shall not be approved until the variance has been approved.

1007.02. Application. Any property owner may apply to the Board of Zoning Adjustment for a variance using forms to be obtained from the Town Clerk Department at least 15 days prior to the next regularly scheduled meeting of the Board.

1007.03. Standards for Variances. The Board of Zoning Adjustment shall grant no variance in the strict application of the provision of this Ordinance unless it finds that the following requirements and standards are satisfied. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised. It is the intent of this Ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty to its development and prevents its owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.

The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. In particular, the applicant shall establish and substantiate in writing that the appeal for the variance conforms to all of the requirements and standards listed below:

- A. The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- B. The granting of the variance will not permit the establishment of any use, which is not permitted in the district.
- C. There must be proof of unique circumstances: there must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
- D. There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.
- E. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.
- F. That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
- G. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

The Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

1007.04. Public Hearing. Upon application, the Board of Zoning Adjustment shall schedule a public hearing on the proposed variance to be held ten (10) days after a public notice has been published in the local newspaper, after signs announcing the public hearing have been erected on the property in question, and after the adjacent property owners most affected by the variance request have been notified by certified mail. The Board of Zoning Adjustment shall consider and

decide all proposed variances taking into account the standards enumerated above. After the close of a public hearing and within ten (10) days the Board of Zoning Adjustment shall render a written decision, setting forth the reasons for such decision, which shall be accompanied by finding of fact(s) specifying the reason(s) for such decision. All such decisions are final and binding on all parties.

Section 1008. Appeals.

Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved or affected by any provision of this Ordinance or by any decision, or any order to stop, cease, and desist, issued by the Planning Commission in enforcing the provisions of this Ordinance.

1008.01. General Rules and Procedures for Appeals.

- A. Any appeals from the ruling of the Planning Commission concerning the enforcement and interpretation of any provision of this Ordinance shall be filed with the Town Clerk within 15 days after the date of the Planning Commission's decision thereon.
- B. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board and accompanied by fees prescribed by resolution of the Town Council.
- C. All appeals and applications shall refer to the specific provisions of this Ordinance involved.
- D. The Board shall select a reasonable time and place for hearing the appeal and give due notice thereof to the parties and shall render a written decision on the appeal without unreasonable delay. The Board may affirm, reverse, wholly or in part, or modify the order, requirement, decision, or determination, as in its opinion it determines ought to be done, and to that end shall have all the powers of the officer from whom the appeal is taken. The Town Clerk shall maintain complete records of all appeal actions of the Board.
- E. Within ten (10) days after the close of a public hearing the Board shall render a written decision giving the reason(s) for its decision.
- F. In rendering a decision with respect to an appeal from any order, decision, or determination the Board shall strictly interpret the language of the Ordinance and shall find that the Planning Commission was correct in their decision or in error. However, the Board shall not render any decision which shall modify an order, decision, or determination which confers rights or privileges on the appellant that are not otherwise permissible under the strict interpretation of the language of this Ordinance.
- G. Such decision shall be submitted to the appellant and the Planning Commission.

1008.02. All decisions rendered by the Board shall be final and binding on all parties. No request for a variance or appeal of an administrative decision shall be reheard, and no further application shall be accepted, once a decision has been given, except under one or more of the following conditions:

- A. New evidence or information pertinent to the request has been discovered which was not available to the applicant at the time of the original hearing.
- B. The decision resulted from an error in procedures required by the Ordinance or State law made by the Board, the Planning Commission, or any other Town official.
- C. The decision resulted from an error in substantive law under the provisions of this Ordinance or the Code of Alabama.

Where no error is alleged and no new evidence is available a new or more effective presentation by the applicant shall not constitute grounds for rehearing a decision of the Board of Zoning Adjustment. Any applicant wishing a rehearing shall appear before the Board to present one or more of the qualifying conditions listed in this Section.

If the Board finds that one or more of these conditions exists, the applicant shall be permitted to submit a new application, together with the required fees. The new application shall be heard at a subsequent meeting, and shall be subject to all regular advertising and procedural requirements. Allowing a new application does not obligate the Board to grant the request.

Any person aggrieved by any decision of the Board may within 15 days after such decision appeal to the Circuit Court having jurisdiction.