

ARTICLE 5 – APPROVAL PROCEDURES

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5.1 GENERALLY

5.1.1 General Procedural Requirements

5.1.1.1 Common Elements –

5.1.1.1.1 This section describes the basic procedural elements common to all development applications. Generally, the procedure for all applications includes five (5) common elements:

- a. Submittal of a complete application, including required fee payments and appropriate information;
- b. Review of the submittal by appropriate staff, agencies and boards;
- c. Action to approve, approve with conditions, or deny the application;
- d. Appeals; and
- e. Notification of approval or denial including a description of the actions authorized by the permit and the time period for exercising rights under the order or permit.

5.1.1.1.2 This section describes procedural steps common to all development applications. Sections 5.2 through 5.9 describe the unique procedural steps for processing certain types of applications. Each section relating to procedure provides the following information:

- a. Initiation: This section describes how the application for the permit is filed.
- b. Completeness Review: This section describes the process for determining whether sufficient information has been submitted in order to process an application. This includes the required fee payment and appropriate information. A determination that an application is complete does not constitute a determination as to whether the application complies with the standards for approval of the application.
- c. Decision: This section describes the procedures for review of the submittal by appropriate staff, board, commission, council, agency or body (hereinafter referred to as agency), and for reaching a decision as to whether the permit is approved, denied, or approved with conditions.
- d. Approval Criteria: This section lists any criteria for approval of the particular application. These criteria supplement any other criteria required by this Chapter for approval of the application.
- e. Subsequent Applications: This section provides a waiting period for some applications in order to avoid consuming resources on the processing of repetitive applications.
- f. Scope of Approval: This section indicates the rights that an applicant obtains from approval or conditional approval of an application, and what actions the permit authorizes and the time period for exercising rights under the order or permit.
- g. Recording Procedures: This section describes how the decision on the application is recorded in the public records.

5.1.1.2 Categories of Permits – There are three (3) basic categories of permits and/or development orders pursuant to this Chapter. These categories are defined as follows:

- a. Legislative Development Orders: Legislative development orders involve a change in land use policy by the City Council. A public hearing is required, but the procedural requirements of a quasi-judicial hearing do not apply. Examples include text amendments and rezonings.

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- b. Quasi-Judicial Decisions: A quasi-judicial decision involves the application of a standard required by this Chapter to an application. Some of the applications require a public hearing. Procedural due process requirements apply as established in §5.1.4. Examples include variances, special exception permits, appeals, adjustments and waivers.
- c. Ministerial Permits: Ministerial permits involve the application of the standards of this Chapter to an application by an administrative agency. A public hearing is not required. A ministerial permit typically occurs late in the development approval process. Examples include certificates of zoning compliance, site plans, major subdivision plans, major and minor final plats, conditional use permits, building permits and certificates of occupancy.

5.1.1.3 Building Permits Required – No building or structure shall be erected, added to, or structurally altered within the city limits until a permit therefore has been issued by the Superintendent of Building Standards. All applications for building permits shall comply with the requirements of this Chapter. No building permit, certificate of zoning compliance or certificate of occupancy shall be issued for any building where the construction, addition, or alteration or use thereof violates any provision of this Chapter, except upon written order specifying the approval of a variance, waiver or adjustment by the Board of Zoning Appeals, Planning Commission or Director as the case may warrant and as authorized in this Chapter.

5.1.1.4 Certificates of Occupancy – All uses, including nonconforming uses, shall obtain a certificate of occupancy as required by the International Building Code. The Superintendent of Building Standards shall maintain a record of all certificates of occupancy and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the property affected.

5.1.2 Completeness Review

The procedures for completeness review apply to every application, unless otherwise provided in the provisions pertaining to the regulations for the specific application or permit.

5.1.2.1 Pre-Application Conference –

- a. For the purpose of expediting applications and reducing development costs, the developer may request a pre-application conference for a subdivision plat, site plan, rezoning or general development plan. The pre-application conference shall allow the applicant to meet with appropriate city representatives. The individuals, or their designees, who should participate include:
 1. Director of Economic and Community Development;
 2. City Engineer;
 3. City Administrator
 4. Superintendent of Building Standards;
 5. Fire Marshal;
 6. Director of Public Safety;
 7. Director of Public Works and Utilities;
 8. Other city staff invited to participate may include the Director of Parks, Recreation and Leisure Services; members of the planning staff; Stormwater Manager; Superintendent of Property Maintenance; and others as may be necessary; and

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9. Representatives of private utilities that may be interested in or affected by an application.
- b. Applicants seeking a pre-application conference shall submit the information in Appendix B, Application Documents, ten (10) days prior to the pre-application conference.
 1. If requested and paid for by the applicant, a brief written summary of the pre-application conference shall be provided within ten (10) working days of the final pre-application conference.
 2. The applicant may be charged reasonable fees for a pre-application conference.
 3. The applicant shall not be bound by the determination of the pre-application conference, nor shall the Planning Commission or Board of Zoning Appeals be bound by any such review.

5.1.2.2 Sketch Plan –

- a. In addition to the pre-application conference, at the request of the applicant subsequent to the pre-application conference, the Planning Commission may grant an informal review of a sketch or concept plan for a development for which the applicant intends to prepare and submit an application for development. The purpose of the sketch plan review process is to provide the Planning Commission input in the formative stages of a development plan.
- b. Applicants seeking sketch plan review shall submit the items stipulated in Appendix B, Application Documents, ten (10) days before the Planning Commission meeting at which the sketch plan will be reviewed. These items provide the applicant and Planning Commission with an opportunity to discuss the development proposal in its formative stages.
- c. A brief written summary of the sketch plan review shall be provided within ten (10) working days of the sketch plan review meeting.
- d. The applicant may be charged reasonable fees for the sketch plan review.
- e. The Planning Commission may make specific recommendations regarding the proposed development including the implementation of a citizen participation process (§5.1.7) prior to submitting the development application.
- f. The applicant shall not be bound by any sketch plan for which review is requested, nor shall the Planning Commission be bound by any such review.

5.1.2.3 Application Materials –

- a. No application shall be deemed complete unless all of the information required by Appendix B, Application Documents, is included, and all required filing fees have been paid. An application which includes all such information shall be deemed complete.
- b. Current application forms and information shall be made available in the Department offices and on the city's website. Such applications shall be filed in advance of any public hearing or public meeting required pursuant to this Chapter or statute. The Director may establish a schedule for filing any application requiring action by the Planning Commission, Board of Zoning Appeals, or the City Council, which schedule shall provide adequate time for notice and/or publication consistent with the applicable state statutes and this Chapter.

5.1.2.4 Review Procedures – The following procedures shall be used to review any application for completeness unless a different procedure is established elsewhere in this Chapter. For the purposes of this section, the term "Department" shall mean the Department of Economic and Community Development. The term "Director" shall include

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any administrative official with original jurisdiction to review an application for completeness, and the phrase “Appellate Agency” shall include any agency, board or commission with jurisdiction to review any decision of the administrative official for completeness.

- a. Jurisdiction: Unless the provisions pertaining to a particular application or development order or permit prescribe otherwise:
 1. All applications for approval of a development order or a permit shall be reviewed by the Director for completeness.
 2. All decisions of the Director or other administrative official pertaining to completeness may be appealed to the Board of Zoning Appeals in the case of a rezoning, conditional zoning, variance, special exception, adjustment to an architectural design standard or appeal from an administrative decision (general or building design) application, or the Planning Commission for all other applications.
- b. Time Limits Triggered by Complete Application: Whenever this Chapter establishes a time period for the processing of an application by the city, such time period shall not commence until the Director or his designee has reviewed such application for completeness in order to determine whether the application has been properly submitted and the applicant has corrected all deficiencies in such application. The review for completeness of application forms and information is solely for the purpose of determining whether preliminary information required for submission with the application is sufficient to allow further processing, and shall not constitute a decision as to whether application complies with this Chapter.
- c. Review by Director and Appeal – Default Procedure
 1. Unless a different procedure is described in this Chapter, this section shall apply to the review of an application for completeness.
 2. Not later than fifteen (15) working days after the Director has received an application, the Director shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant. If the written determination is not made within fifteen (15) days after receipt of the application, the application shall be deemed complete for purposes of this Chapter. If the application is determined not to be complete, the Director's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the Director in response to the list and description. Upon receipt of any resubmittal of the application, a new five (5) day period shall begin, during which period the Director shall determine the completeness of the application.
 3. If the application together with the submitted information and related materials are determined not to be complete, the applicant may appeal the decision in writing to the Appellate Agency. The Appellate Agency shall hear the appeal not later than the next available meeting after receipt of the applicant's written appeal. The Appellate Agency shall render a written determination on the appeal within five (5) days following the hearing. If the written determination is not made within ten (10) days after the hearing the appeal, the application shall be deemed complete for purposes of this Chapter.
 4. Nothing in this section precludes an applicant and the Director from mutually agreeing to an extension of any time limit provided by this section.
- d. Time Limits: If a time limit other than that prescribed above is prescribed for a determination of completeness for a specific application for development approval

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and the Department of the reviewing agency fails to act within the specified time period, the application shall be deemed complete.

- e. Limitation on Further Information Requests: After the Director accepts an application as complete or following a determination by the Appellate Agency that the application is complete, the Director or the reviewing agency shall not subsequently request of an applicant any new or additional information which was not specified in Appendix B, Application Documents. The Director or the reviewing agency may, in the course of processing the application, request the applicant to clarify, amplify, correct or otherwise supplement the information required for the application.

This section shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which the Director or the reviewing agency may require in order to take final action on the application. Prior to accepting an application, the Director shall inform the applicant of any information included in Appendix B, Application Documents, which will subsequently be required from the applicant in order to complete final action on the application.

5.1.3 Notice Provisions

5.1.3.1 Generally – The notice requirements for each type of application for development approval are prescribed in the individual subsections of this Chapter applicable thereto or the South Carolina statutes or both. The notice requirements for certain types of public hearings are established in the Notes to Table 5-1, Notice Requirements, provided, however, that to the extent of any inconsistency between this section and any state statute, the state statute shall govern.

5.1.3.2 Contents of Notice – The notice shall state the time, date and place of hearing, a description of the application and a description of the property subject to the application which includes, at a minimum, the following:

- a. The street address or, if the street address is unassigned or unavailable, the legal description by subdivision, lot and block, if available, and the tax parcel number;
- b. The current zoning classification, if any; and
- c. The category of permit or application requested, the specific sections of this Chapter applicable to the application, and a brief description of the proposed development including density or building intensity, revised zoning classification, if any, and uses requested.

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TABLE 5-1 NOTICE REQUIREMENTS (Rev. 12-1-08; Ord. 2008-18)
(Rev. 12-1-14; Ord. 2014-16)

	A	B	C	D	E	F	G
	Application	Reviewing Agency	Publication	Mail	Internet	Sign	Public Hearing
1.	Rezoning and Conditional Rezoning (§§5.3 and 5.4)	PC and CC	Yes	Yes	Yes	Yes	Yes
2.	Text Amendment (§5.3)	PC and CC	Yes	No	Yes	No	Yes
3.	PD General Development Plan (§5.7)	PC and CC	Yes	Yes	Yes	Yes	Yes
4.	Use Pattern (§2.2)	PC	No	Yes	Yes	Yes	No
5.	Appeal from an Administrative Decision (§18.4.5)	BZA	Yes	Yes	Yes	Yes	Yes
.	Variance (§18.4.5)	BZA	Yes	Yes	Yes	Yes	Yes
7.	Special Exception (§18.4.5)	BZA	Yes	Yes	Yes	Yes	Yes
8.	Waiver of Setback Requirement – Major Error (§19.4.2)	BZA	Yes	Yes	Yes	Yes	Yes
9.	Waiver of Setback Requirement – Minor Error (§19.4.1)	Admin	No	No	Yes	No	No
10.	Major Subdivision (Preliminary Plat) (§5.8)	PC	No	No	Yes	No	No
11.	Final Subdivision Plat (Major and Minor) (§5.8)	Admin	No	No	No	No	No
12.	Major Site Plan (§5.6)	PC	No	No	Yes	No	No
13.	Minor Site Plan (§5.6)	Admin	No	No	No	No	No
14.	Planning Commission Waiver of Development Standard (§5.9.1)	PC	No	No	No	No	No
15.	Minor Waiver of Development Standard (§5.9.2)	Admin	No	No	No	No	No
16.	Conditional Use (§5.5)	Admin	No	No	Yes	No	No
17.	Annexation (§18.3.7.3)	PC and CC	No	No	No	No	No
18.	Street Abandonment (§18.3.7.2)	PC and CC	Yes	Yes	Yes	Yes	Yes
19.	Certificate of Zoning Compliance (§5.2.3)	Admin	No	No	No	No	No
20.	Building Permit (§5.2.5)	Admin	No	No	No	No	No
21.	Certificate of Occupancy (§5.2.4)	Admin	No	No	No	No	No

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Notes to Table 5-1:

The types of applications are listed in Column A, the reviewing agency, board or commission is specified in Column B, and the types of notice required are set forth in Columns C through F.

- a. "PC" means Planning Commission.
- b. "CC" means City Council.
- c. "BZA" means Board of Zoning Appeals.
- d. "Admin" means the Director or his designee and any other reviewing agency.
- e. "Publication" means publication in a newspaper of general circulation in North Augusta or Aiken County at least 15 days before the hearing.
- f. "Mail" means by regular mail to the owners of record of all property within two hundred (200) feet of the subject property at least fifteen (15) days before the hearing. Provided, however, that a mail notice is not required for any rezoning that encompasses more than five (5) percent of the land area of the city or would require mailing of notices to more than five hundred (500) property owners of record.
- g. "Internet" means posting on the city's official website at least fifteen (15) days before the hearing.
- h. "Sign" means a sign posted on the property, with at least one (1) sign visible from each public thoroughfare abutting the property at least fifteen (15) days before the hearing.
- i. "Public Hearing" means a formal public hearing as specified in §5.1.4.

5.1.3.3 Action to be Consistent with Notice – The reviewing agency may take any action on the application that is consistent with the notice given, including approval of the application, approval of the application with conditions, or denial of the application.

5.1.3.4 Minor Amendments Not Requiring Re-notification – This subsection shall govern to the extent not inconsistent with provisions relating to minor amendments for a specific category of development permits or development orders. The reviewing agency may approve minor amendments to the application without re-notification of the application or re-submittal of the entire application or both.

For the purposes of this section, "minor amendments" are amendments which:

- a. Permit equal or fewer dwelling units, floor area or impervious surface than that requested on the original application;
- b. Reduce the impact of the development; or
- c. Reduce the amount of land involved from that indicated in the notices of the hearing.

The reviewing agency shall not, in any case, permit as a minor amendment:

- a. An increase in the number of dwelling units, floor area or impervious surface proposed for the development;
- b. A different land use than that requested in the application;
- c. A larger land area than indicated in the original application; or
- d. A greater variance than that requested in the application.

In addition, the reviewing agency shall not reduce or eliminate conditions recommended for approval of an application or conditional zoning district unless a new notice is provided prior to the final decision thereto.

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5.1.4 Public Hearing Procedures

5.1.4.1 Applicability – This section applies to any application involving quasi-judicial or legislative review by the Planning Commission or the Board of Zoning Appeals. This section does not apply to any application for a ministerial permit or administrative approval.

5.1.4.2 Regular Meetings and Recommendation – The Planning Commission shall hold regularly scheduled public hearings to receive and review public input on those items required by this Chapter. On those items where it has review authority and recommending responsibility, the Planning Commission shall recommend that the City Council approve, approve with conditions or deny applications. If a comprehensive plan, rezoning or other land use regulation requiring final approval of the City Council, or amendment thereto, or other development application, has been duly submitted to the Planning Commission, and the Planning Commission has failed to convene a quorum or to make a recommendation approving or denying such action at two (2) consecutive meetings, such action, at the option of the applicant, shall be deemed to be a negative recommendation. The Director shall thereupon submit the proposed comprehensive plan, rezoning, land use regulation or amendment thereto or other development application to the City Council for its consideration.

5.1.4.3 Records – The Director shall provide for minutes to be written and retained, shall record the evidence submitted within the hearing time allotted for the item being considered, and shall include a summary of the considerations and the action of the Planning Commission.

5.1.4.4 City Council – The City Council shall hold scheduled public hearings to act upon all items required by this Chapter to be considered by the City Council. When a public hearing is held by the Planning Commission on an application considered pursuant to the provisions of this Chapter, no public hearing by the City Council is required. The City Council shall decide whether or not to approve, approve with conditions, if applicable, or deny applications referred or recommended to it by the Planning Commission.

5.1.4.5 Quasi-Judicial Public Hearing Procedures –

- a. Generally: This section applies to any application for a variance, appeal, special exception or any other action pursuant to this Chapter which is considered quasi-judicial under South Carolina law. In making quasi-judicial decisions, the decision makers must ascertain the existence of facts, investigate the facts, hold hearings, weigh evidence and draw conclusions from them, as a basis for official action, and exercise discretion of a judicial nature. In the land use context, quasi-judicial decisions involve the application of land use policies to individual situations, such as variances, and appeals of administrative determinations. These decisions involve three key elements: the finding of facts regarding the specific proposal, the exercise of some discretion in applying the standards of the ordinance and reaching conclusions of the applicable law in the case. Due process requirements for quasi-judicial decisions mandate that all fair trial standards be observed when these decisions are made. This includes an evidentiary hearing with the right of the parties to offer evidence; cross-examine adverse witnesses; inspect documents; have sworn testimony; and have written findings of fact and conclusions supported by competent, substantial, and material evidence.

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- b. **Conduct of Hearing:** Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing shall state, for the record, his or her name, address and, if appearing on behalf of an organization or group, the name and mailing address of the organization or group. The hearing shall be conducted in accordance with the procedures set forth in this subsection. At any point, members of the agency conducting the hearing may ask questions of the applicant, staff or public. The order of proceedings shall be as follows:
1. The Director or appropriate staff member shall present a description of the application, appeal or proposed development and a written or oral recommendation. The recommendation shall address each factor required by this section to be considered prior to action or approval on the application, appeal or proposed development permit;
 2. The applicant shall present any information or evidence that the applicant deems appropriate;
 3. Public testimony shall be heard;
 4. The Director or other staff member may respond to any statement made by the applicant or any public comment;
 5. The applicant may respond to any testimony or evidence presented by the staff or public; and
 6. The agency conducting the hearing shall close the public portion of the hearing and conduct deliberations.

5.1.4.6 Legislative and Advisory Hearings – The purpose of a legislative public hearing is to provide the public an opportunity to be heard consistent with the adoption procedures provided by statute. Unlike quasi-judicial hearings, a legislative proceeding does not require due process protections such as the right of the parties to offer evidence, cross-examination, sworn testimony; or written findings of fact. Like quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Public hearings are required for legislative review hearings such as amendments to a comprehensive plan, amendments to this Chapter including the zoning provisions of this Chapter and the Official Zoning Map, and applications for a Planned Development. The order of the proceedings for a legislative hearing shall be as set forth in §5.1.4.5.b. Testimony may be presented by any member of the public, but need not be submitted under oath or affirmation. The Planning Commission and Board of Zoning Appeals may establish a time limit for testimony.

5.1.4.7 Record of Proceedings – The agency conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with state law. Such record shall be provided at the request of any person upon application to the Director and payment of a fee set by the City Council to cover the cost of duplication of the transcribed record.

5.1.5 Post-Decision Proceedings
See §18.4.5, Appeals to the Board of Zoning Appeals.

5.1.6 Revocation of Permit or Approval (Rev. 12-1-14; Ord. 2014-16)

5.1.6.1 Initiation – The Director shall investigate alleged violations of development regulations or other provisions of this Chapter and conditions on the approval of a development order. The Director shall provide notice to the applicant and,

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if necessary, utilize the provisions of Section 5.11 to achieve compliance. If the remedies provided in Section 5.11 are ineffectual and the Director determines that the revocation of a development approval or permit is appropriate, a recommendation, including the reason(s) for the determination, shall be made to the Board of Zoning Appeals who shall conduct a public hearing on the matter at the next regular meeting scheduled after all public notice requirements have been met.

5.1.6.2 Grounds for Revocation – The following shall be considered grounds for revocation of a permit:

- a. The intentional provision of materially misleading information by the applicant. The provision of information is considered “intentional” where the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence; or
- b. The failure to comply with the development regulations or other provisions of this Chapter or any condition of a development order or development permit.

5.1.6.3 Notice and Public Hearing – See S.C. Code §6-29-790 and Article 18 of the Chapter. Said notice shall be in writing and delivered by personal service or certified mail to the permit holder and shall inform the permit holder of the Director’s recommendation as well as the date and location of the hearing before the Board.

5.1.6.4 Decision and Notice – See S.C. Code §§6-29-790 and 6-29-800, and Article 18 of this Chapter. Said order shall contain findings that address the basis for the decision by, at a minimum, stating the condition(s) that the Board of Zoning Appeals found have been violated, the harm such violation has caused, and the reason such violation cannot be cured.

5.1.6.5 Effect and Appeals – A petition complaining of the Board of Zoning Appeals’ decision may be presented to a court of competent jurisdiction within the time provided by S.C. Code §6-29-820.

5.1.6.6 Right Cumulative – The right to revoke a development permit, as provided in this section, shall be cumulative to any other remedy allowed by law.

5.1.7 Citizen Participation Process

It is the policy of the city to encourage applicants to meet with surrounding neighborhoods prior to filing an application for a permit approval requiring review and a public hearing. Citizen participation will not produce complete consensus on all applications but will permit applicants to be good neighbors and allows for informed decision making. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the proposed development site. The purposes of the citizen participation process are to:

- a. Encourage applicants to pursue early and effective communications with the affected public in conjunction with applications, giving the applicant an opportunity to educate and inform the public of the planned project;
- b. Understand and attempt to mitigate any documentable and measurable adverse impact of the proposed project on the adjoining properties;
- c. Provide citizens and property owners of affected areas with an opportunity to learn about proposed development applications that may affect them and to work with applicants to resolve concerns at an early stage of the process; and

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- d. Facilitate ongoing communication between the applicants, interested citizens and property owners, city staff and elected officials throughout the application review process.

5.1.7.1 Applicability – The process described in this section is encouraged but not required for any application for approval of a rezoning or Planned Development General Development Plan that affects an area of land equal to or greater than five (5) acres.

5.1.7.2 Meetings – The applicant should facilitate at least one (1) citizen participation meeting with surrounding neighborhoods before formally filing an application.

5.1.7.3 Target Area and Invitation List – The recommended target area and invitation list for the citizen participation meeting includes the following:

- a. Property owners within the public hearing notice area;
- b. Neighborhood associations which include the subject property and/or are within two hundred (200) feet of the subject property;
- c. Other interested parties as determined by the applicant; and
- d. Planning Commission and appropriate city staff.

5.1.7.4 Report on Citizen Participation Process – The applicant is encouraged to provide a written report on the results of its citizen participation effort prior to filing the application. The report will be included in the staff report on the application. At a minimum, the citizen participation report should include the following information:

- a. Details of techniques the applicant used to involve the public, including:
 - 1. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
 - 2. Content, dates mailed and numbers of mailings, including letters, meeting notices, newsletters and other publications;
 - 3. The general location of the residents, property owners, and interested parties who were on the invitation list and received notices, newsletters or other written materials; and
 - 4. The number of people that participated in the process;
- b. A summary of concerns, issues, and problems expressed during the process; and
- c. How the applicant has addressed or intends to address the concerns, issues and problems expressed during the process.

5.1.8 Fees

5.1.8.1 Reasonable fees to recover all or a substantial portion of incurred costs shall be charged for each of the various applications for development approval, appeals, reviews, copies of plans, documents and maps, data, photocopies and other products or services available to applicants and the public.

5.1.8.2 Before any action shall be taken on any application, the party or parties submitting the application shall deposit the required fee with the Department. Under no condition shall said fee or any part thereof be refunded for failure of the application to be approved. The fee may be waived for public agencies.

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5.1.8.3 Said fees shall be recommended by the Director based on the costs associated with the administration of this Chapter, including publishing, printing, copying, man hours, materials and similar items. The fee schedule shall be included and updated as needed in the annual budget adopted by the City Council.

5.2 ADMINISTRATIVE PERMITS

5.2.1 Purpose

The purpose of this section is to prescribe procedures for permits which do not require quasi-judicial or legislative notice or a public hearing.

A public hearing is not required for permits set forth in this section for one or more of the following reasons:

- a. If required, public hearings have already been conducted relating to the permit application.
- b. The permit application procedure was designed to ensure that the proposed use complies with a previously approved subdivision plat, comprehensive plan amendment or conditional rezoning (e.g., site plan).
- c. The proposed use is permitted by right in the applicable zoning district (e.g., building permit).
- d. The permit is subject to unique provisions of state or federal law which restrict the city's discretion and which require expedited review.

5.2.2 Applicability

5.2.2.1 This section shall apply subsequent to approval of any major site plan or major subdivision as set forth in §§5.6 and 5.8. Administrative permits include:

- a. Final subdivision plat (§5.8.4)
- b. Minor site plan (§5.6.5)
- c. Conditional use approval (§5.5.3)
- d. Certificate of zoning compliance (§5.2.3)
- e. Sign permit (§13.2.3)
- f. Building permit (§5.2.6)
- g. Certificate of occupancy (§5.2.4)

5.2.2.2 All development permits applicable to a proposed development must be issued in accordance with this Chapter, prior to any development activity. Permits are required for all development, unless otherwise excepted, to ensure compliance with the various adopted codes, standards, and laws and to ensure consistency with the Comprehensive Plan and policies of the City of North Augusta.

5.2.3 Certificates of Zoning Compliance for New, Altered and Reinstated Uses

5.2.3.1 No new use, altered use or reinstated use after a period of non use of one hundred eighty (180) days, of land, building or structure may be initiated until an application has been made for a certification of zoning compliance and the certification has been issued in conformity with this Chapter.

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5.2.3.2 No business license may be issued by the city for any business activity until a certificate of zoning compliance for the proposed business activity and location has been issued in conformity with this Chapter.

5.2.3.3 A certificate of zoning compliance may be issued by the Director upon request for an existing use provided the use conforms with the provisions of this Chapter or is a legally nonconforming use and no changes to the use are proposed.

5.2.3.4 Unless elsewhere exempted by this Chapter, no building, sign, parking lot or other structure shall be erected, moved, added to or structurally altered without a certificate of zoning compliance issued by the Director. No certificate of zoning compliance shall be issued by the Director except in conformity with this Chapter, unless he receives a written order from the Planning Commission or the Board of Zoning Appeals in the form of an administrative review, variance or special exception.

5.2.4 Certificate of Occupancy

5.2.4.1 It shall be unlawful to use, or occupy, or permit the use or occupancy of any building, or premises, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy is issued stating that the proposed use of the building or land conforms to the requirements of this Chapter.

5.2.4.2 No certificate of occupancy shall be issued unless it is signed by the Director, Building Official, City Engineer and Fire Marshal or their designees. The signatures shall be affixed to the document issuing the certificate of occupancy. In the case of one (1) and two (2) family dwellings, the Building Official may sign the certificate of occupancy for the Director, City Engineer and Fire Marshal and thereby certify that the residence complies with all applicable regulations.

5.2.4.3 If the certificate of occupancy is denied, the applicant may appeal the action of the official refusing to sign the permit to the Board of Zoning Appeals. (See §18.4)

5.2.5 Building Permits and Certificates of Occupancy

Uses permitted by right and uses permitted under prescribed conditions, and uses and structures accessory thereto, shall require a building permit and a certificate of occupancy. Changes in the use of property shall require a certificate of occupancy. A building permit or a certificate of occupancy shall be issued in accordance with the International Building Code.

5.2.6 Application for Building Permit

5.2.6.1 All applications for building permits as required by the city's building codes shall be accompanied by site plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed buildings or alterations. The application shall include such other information as lawfully may be required by the Director including existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions

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existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Chapter.

5.2.6.2 One copy of the plans shall be returned to the applicant by the Director after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original copy of the plan, similarly marked, shall be retained by the Director.

5.2.7 Construction and Use to be as Shown in Applications, Plans, Permits and Certificates of Zoning Compliance

Certificates of zoning compliance and building permits issued on the basis of plans and applications approved by the Director authorize only the use, arrangement, and construction set forth in such approved plans and applications. No other use, arrangement or construction shall be allowed.

5.3 REZONINGS AND TEXT AMENDMENTS

5.3.1 Purpose

The purpose of this section is to establish uniform procedures for processing changes to the Official Zoning Map ("rezoning") and for amendments to the text of this Chapter (text amendment).

5.3.2 Applicability

This section applies to any application for an amendment to the text of this Chapter or for an amendment to the Official Zoning Map. An amendment to the Official Zoning Map which reclassifies property from one zoning district to another is known as a "rezoning." A change to the text of this Chapter is referred to as a "text amendment".

5.3.3 Initiation

This Chapter, including the Official Zoning Map and any supporting map(s), may be amended from time to time by the City Council, but no amendment shall become effective unless it shall have been proposed by or shall have first been submitted to the Planning Commission for review and recommendation. Any communication purporting to be an application for a change shall be regarded as mere notice to seek relief until it is made in the form required. Upon receipt of any communication, the interested parties shall be supplied with the proper application form(s) by the Director.

5.3.3.1 Rezoning – Any property owner, city board, commission, department or the City Council may apply for a change in zoning district boundaries (rezoning), excluding applications for conditional use districts as set forth in §5.4. An amendment to the Official Zoning Map may be initiated by filing an application that conforms to Appendix B, Application Documents, with the Department. The application shall be signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent of property included within the boundaries of a proposed rezoning. Before any application is accepted by the Department, it is recommended that the applicant meet with a representative of the Department. The purpose of the pre-application meeting is to discuss the procedures and requirements for a rezoning request. During the conference, the Department will identify the submittal requirements.

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5.3.3.2 Text Amendment – Any person, property owner, board, commission, department or the City Council may apply for a change in zoning ordinance text. A proceeding for approval of a text amendment may be initiated by filing an application with the Department. The application shall be signed by the applicant and shall include the language of the proposed amendment to the text of this Chapter and the justification for the proposed change. Before any application is accepted by the Department, it is recommended that the applicant meet with a representative of the Department. The purpose of the pre-application meeting is to discuss the procedures and requirements for a text amendment request. During the conference, the Department will identify the submittal requirements.

5.3.4 Completeness Review

Within fifteen (15) working days after receipt of an application, the Department shall complete a review of the application, determine if the application is complete pursuant to this section, and inform the applicant of the status of the completeness of the application. If the Department determines the application is not complete, the applicant shall be advised of the reasons for the incomplete application, the additional information required and the schedule to complete the application process.

5.3.5 Decision

5.3.5.1 The Director shall transmit the application to the Planning Commission for consideration at the next regularly scheduled monthly meeting following receipt of a complete application, provided that the complete application is submitted at least thirty (30) calendar days prior to said meeting. Notice of the public hearing shall be provided as set forth in §5.1.3. The Planning Commission shall approve or deny the zoning amendment in accordance with the procedures for a legislative hearing as set forth in §5.1.4.6.

5.3.5.2 At least ten (10) days notice and opportunity to comment must be given to the public if the applicant is allowed to present oral or written comments pursuant to S.C. Code §6-29-760.

5.3.5.3 The Planning Commission shall submit its recommendation to the City Council within thirty (30) calendar days, or other period required by law, after the initial hearing date (see S.C. Code §6-29-760(A)). A majority vote is required for the Planning Commission to approve, approve with conditions, if applicable, or deny a rezoning or text amendment application. A recommendation of approval with conditions of a rezoning may be submitted only if a conditional use permit is requested pursuant to §5.5.

5.3.5.4 The City Council shall consider the recommendation of the Planning Commission on each proposed rezoning and text amendment within thirty (30) days of receipt of the Planning Commission report. The City Council is not bound by the recommendation in making a final decision and may call for additional information and/or public hearing(s).

5.3.5.5 No challenge to the adequacy of notice or challenge to the validity of a rezoning or text amendment, whether enacted before or after the effective date of this section, may be made sixty (60) days after the decision of the City Council if there has been substantial compliance with the notice requirements of this section, with

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established procedures of the City Council and the Planning Commission and with S.C. Code §6-29.

5.3.6 Approval Criteria

Whenever the public necessity, safety or general welfare justifies such action, the Planning Commission may recommend amendments to the text of this Chapter or changes to zoning district boundaries. The Planning Commission shall consider all of the factors specified in this section, at a minimum, in reviewing an application for a rezoning. The Planning Commission shall consider the factors specified in §5.3.3.2 in reviewing an application for a text amendment.

5.3.6.1 The size of the tract in question.

5.3.6.2 Whether the proposal conforms with and furthers the goals of the Comprehensive Plan, other adopted plans, and the goals, objectives, and policies of this Chapter. Specifically, the Planning Commission shall consider the goals stated in §1.2.

5.3.6.3 The relationship of the uses envisioned under the new zoning and the uses currently present in adjacent tracts. In particular, the Planning Commission shall consider whether:

- a. The proposed rezoning is compatible with the surrounding area;
- b. There will be any adverse effects on the capacity or safety of the portion of street network influenced by the rezoning;
- c. There will be any adverse effects on existing or planned public utility services in the area;
- d. Parking problems; or
- e. Environmental impacts that the new use will generate such as excessive storm water runoff, water, air, or noise pollution, excessive nighttime lighting or other nuisances.

5.3.6.4 Any recent change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration and development.

5.3.6.5 The zoning districts and existing land uses of the surrounding properties.

5.3.6.6 Whether the subject property is suitable for the uses to which it has been restricted under the existing zoning classification.

5.3.6.7 Whether the rezoning is compatible with the adjacent neighborhood, especially residential neighborhood stability and character.

5.3.6.8 The length of time the subject property has remained vacant as zoned, if applicable.

5.3.6.9 Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs including, but not limited to, affordable housing and economic development.

5.3.6.10 Whether the existing zoning was in error at the time of adoption.

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5.3.7 Subsequent Applications

In the event that an application for a rezoning is denied or the application is withdrawn after the Planning Commission hearing, the Department shall refuse to accept another application for the same amendment on the same property or any portion of the same property within one (1) year of the original hearing. However, the Planning Commission may consider such an application within that time period if it finds there is new and different evidence that was not reasonably available at the time of the original hearing. The Planning Commission or City Council may initiate a rezoning at any time without regard to the one (1) year limitation.

5.3.8 Scope of Approval

The approval of a zoning map or text amendment does not authorize any development activity. If the desired use is permitted as of right, the applicant may file a preliminary subdivision plat application or a site plan application, if required by §§5.6 or 5.8. If no site plan approval is required, an application for a certificate of zoning compliance, building permit and any other administrative permits required by §5.2 or §13.2.3 may be submitted.

5.3.9 Recordation

The city clerk shall maintain the legal description and accompanying map exhibit, required by Appendix B, Application Documents, of all approved rezoning applications. The city clerk shall maintain the record of all amendments to the text of this Chapter in the same manner as all ordinances approved by the City Council.

5.4 CONDITIONAL ZONING

5.4.1 Purpose

The conditional zoning procedure is essentially a combination of a rezoning map amendment and text amendment. It is designed to provide for a land use within an area that is not permitted by the established zoning district but due to individual site considerations or unique development requirements would be compatible with adjacent land uses under given conditions. The granting of a conditional zoning classification shall not be for all of the uses permitted in a district but shall be only for the specific conditional use or uses named in the ordinance approving the conditional zoning district.

5.4.2 Applicability

This section applies to any application for reclassification of a tract, parcel or land area to a conditional zoning district. Conditional zoning districts may be applied as parallel districts to any of the base zoning districts. Conditional zoning districts may not be applied to any of the special districts of Article 3, Zoning Districts.

5.4.3 Initiation

A proceeding for approval of a conditional zoning district shall be initiated by filing an application with the Department. The application shall be signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent of a property included within the boundaries of a proposed conditional rezoning. The applicant may submit an application for a conditional use permit concurrent with the application for a conditional zoning district. No separate conditional use permit application shall be required for a conditional rezoning. The application for a conditional zoning district shall be the same as that for a rezoning.

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A conditional zoning district may be granted as an amendment to an ongoing rezoning case. Before granting this amendment, the city shall issue a notice to all affected parties of the proposed conditional zoning district but will not require the applicant to submit a new application or pay additional fees other than for additional notice requirements. Such amendment shall then be considered at the next regularly scheduled Planning Commission meeting after complying with the notice requirements or, in the case of the City Council, at the next regularly scheduled meeting at which zoning cases will be considered. All costs associated with issuance of the additional notice shall be borne by the applicant.

5.4.4 Completeness Review

The Director shall conduct a completeness review as set forth in §5.1. The Appellate Agency for purposes of completeness review shall be the Board of Zoning Appeals.

5.4.5 Decision

The procedure for approving a conditional zoning classification shall be the same as required for a rezoning, and as further provided herein. In approving the conditional zoning classification for recommendation to the City Council, the Planning Commission may impose such requirements and safeguards as indicated by §5.4.6 as are necessary to protect adjoining property, and may specifically authorize the location of uses, subject to the requirements set forth in §5.4.6.2.

5.4.6 Criteria

5.4.6.1 Permitted Uses – Notwithstanding any provisions of this Chapter to the contrary, a conditional zoning district may be permitted as provided in this section so long as the criteria for approval of a rezoning are met.

5.4.6.2 Development Constraints – In considering a request for a conditional zoning classification, the Planning Commission shall determine the use and development conditions which ensure compatibility with surrounding properties. Development constraints that may be specified as a requirement for a conditional zoning classification shall be limited to the following:

- a. Range of allowable uses.
- b. Protective screening and/or buffering of property perimeter.
- c. Protective screening/location of dumpsters, mechanical systems and loading docks.
- d. Landscaping relative to screening, buffering and ingress/egress control and not solely for beautification purposes.
- e. Lighting.
- f. Height limitations.
- g. Setbacks.
- h. Parking. The location of parking and in some instances reduction in the amount of parking to be allowed.
- i. Access, circulation, ingress and egress.
- j. Hours of operation for special conditional uses permitted in, or adjacent to, residential zoning districts.
- k. Signage.
- l. Performance standards relative to: air pollution, noise, glare and heat, vibration, noxious odors, toxic and liquid wastes, fire and explosion, radioactivity and electromagnetic radiation.
- m. Building design.

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5.4.6.3 Variances Prohibited – A variance shall not be granted to any development constraint specified in this section or to any condition imposed by the Planning Commission and included in the rezoning ordinance.

5.4.7 Subsequent Applications

The provisions of §5.4.6 shall apply to this section provided, however, that they shall apply only to an application requesting the same conditional use or uses as the original application.

5.4.8 Amendments

5.4.8.1 New or Different Uses – An amendment to a conditional zoning district to authorize a new or different use shall require a new application for a rezoning to a conditional zoning district and shall be processed as set forth in §§5.4.1 through 5.4.8.

5.4.8.2 Expansion – Expansion of the building area, land area, or intensity of the conditional zoning classification for a property granted a conditional zoning classification shall require an application for a new conditional zoning classification and payment of appropriate fees. An expansion of a conditional zoning district shall be processed as a new conditional zoning application.

5.5 CONDITIONAL USE PERMITS

5.5.1 Purpose

The purpose of this section is to establish procedures and standards for the processing and approval of conditional use permits. Conditional use permits provide a form of limited discretionary approval for certain uses which are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration. Conditional uses ensure the appropriateness of the use at a particular location within a given zoning district.

5.5.2 Applicability

Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the Use Matrix, Table 3-2, shall be authorized by the Director.

5.5.3 Approval Procedure

5.5.3.1 No conditional use permit shall be authorized, developed, or otherwise carried out until the applicant has secured approval of the conditional use and approval of a final site plan by the Planning Commission or Director, as applicable.

5.5.3.2 A proceeding for approval of a conditional use shall be initiated by filing an application with the Department. A pre-application meeting with the Department prior to filing is required.

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5.5.3.3 Major Site Plans –

5.5.3.3.1 Major Site Plan applications shall be filed concurrently with conditional use permit applications. The conditional use application information shall be provided to the Planning Commission during its review of the major site plan.

5.5.3.3.2 The Planning Commission shall conduct a quasi-judicial hearing in accordance with the requirements of §5.1.4.5 and shall approve the request, approve the request with conditions, or deny the request.

5.5.3.3.3 The Planning Commission may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use. The conditions shall become a part of the conditional use permit approval and shall be included in the final site plan approval.

5.5.3.4 Minor Site Plans –

5.5.3.4.1 Minor site plan applications shall be filed concurrently with conditional use permit applications. The information shall be reviewed concurrently with the review of the minor site plan.

5.5.3.4.2 The Director shall conduct a quasi-judicial administrative hearing and shall deny the request, approve the request, or approve the request with conditions.

5.5.3.4.3 The Director may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use. The conditions shall become a part of the conditional use permit approval and shall be included in the final site plan approval.

5.5.3.4.4 An applicant may appeal a denial of a conditional use permit or any condition applied to the use by the Director to the Planning Commission. The Planning Commission shall conduct a quasi-judicial hearing in accordance with the requirements of §5.1.4.5 prior to making a decision on a conditional use appeal.

5.5.3.5 An application for a conditional use permit that has been denied may be resubmitted only if there has been a substantial change in circumstances, as determined by the Director, or if substantial revisions have been made to the application for development approval. A determination by the Director may be appealed to the Board of Zoning Appeals.

5.5.4 Approval Criteria

The following conditions, restrictions, and limitations shall apply to any conditional use and may be specified in detail as conditions of an approval.

5.5.4.1 The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;

5.5.4.2 The use or development complies with all required regulations and standards of this Chapter, including all applicable provisions of Article 3, Zoning Districts, and with all other applicable regulations;

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5.5.4.3 The use or development is located, designed, and proposed to be operated so as to maintain the value of contiguous property, or that the use or development is a public necessity; and

5.5.4.4 The use or development conforms with the provisions and policies of the Comprehensive Plan.

5.5.4.5 Conditions that may be specified as a requirement for a conditional use permit include:

- a. Relationship of allowable uses.
- b. Protective screening and/or buffering of property perimeter.
- c. Protective screening/location of dumpsters, mechanical systems and loading docks.
- d. Landscaping relative to screening, buffering and ingress/egress control and not solely for beautification purposes.
- e. Lighting.
- f. Height limitations.
- g. Required setbacks.
- h. Parking. The location of parking and in some instances reduction in the amount of parking to be allowed.
- i. Access, circulation, ingress and egress.
- j. Hours of operation for special conditional uses permitted in, or adjacent to, residential zoning districts.
- k. Signage.
- l. Performance standards relative to: air pollution, noise, glare and heat, vibration, noxious odors, toxic and liquid wastes, fire and explosion, radioactivity and electromagnetic radiation.
- m. Building design.

5.5.5 Scope of Approval

5.5.5.1 The approval of a conditional use permit shall authorize the applicant to apply for final site plan approval pursuant to §5.6. All approvals of conditional use permits require approval of the site plan. Any conditional use permit approval shall not be in effect unless a required site plan is approved. No building permit may be issued until the final site plan and conditional use permits are approved. Approval of a conditional use permit does not authorize any development activity.

5.5.5.2 Minor field alterations or minor revisions to approved conditional uses may be approved by the Director if the conditional use still meets the intent of the standards established within the original approval. Minor alteration/revisions shall be limited to changes that do not increase the intensity, density, or character of the use. If the Director determines that the change is not minor, the applicant shall apply for a revised conditional use permit. The applicant may appeal the decision of the Director to the Board of Zoning Appeals.

5.5.5.3 Violations of any of the conditions applied to a conditional use permit shall be treated in the manner as set forth in §§5.1.6 and 5.11.

5.5.6 Recordation

The department shall certify the approved conditional use permit, and shall record it with the associated site plan in the office of the Register of Mesne Conveyance (RMC) of

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Aiken County. The conditional use approval is perpetually binding on the property, unless another conditional use permit request is brought and approved or the underlying zoning is changed that establishes the conditional use by right subject to no conditions.

5.5.7 Subsequent Applications

In the event that an application for a conditional use permit is denied by the Director, or the Planning Commission on appeal, or the application is withdrawn after it is advertised, the Department may not accept another application for the same amendment on the same property or any portion of the same property within one (1) year of the original hearing. However, the Department may consider such application within that time if relevant evidence that was not reasonably available at the time of the original hearing is presented.

5.5.8 Expiration and Extension of Approval

A conditional use approval, a site specific development plan for the purposes of this section, and the associated site plan shall expire two (2) years from the date of approval unless a building permit has been issued and construction has commenced or, if no construction is required, the approved conditional use has been initiated. The applicant may apply for and the Planning Commission or Director, as applicable, may grant extensions on such approval for additional periods up to one (1) year each, but not to exceed five (5) extensions. If an amendment to this Chapter is adopted by the City Council subsequent to the conditional use or associated site plan approval that would preclude the initial approval, a request for an extension may not be granted. (Adopt. 8-16-10; Ord. 2010-12)

5.6 SITE PLANS

5.6.1 Purpose

The site plan review provisions and regulations of this section are intended to promote the safe, functional and aesthetic development of property and to ensure that new structures, utilities, streets, parking, circulation systems, yards and open spaces are developed in conformance with the standards of this Chapter. The site plan review considers the siting of structures and related site improvements to promote harmonious relationships with adjacent development.

5.6.2 Major and Minor Site Plans

The approval of a site plan is hereby required as a condition for the issuance of a building permit. No building permit shall be approved unless a site plan has been approved in accordance with the procedures prescribed in this section.

5.6.2.1 A Minor Site Plan shall have the following characteristics:

- a. Encompasses less than ten (10) acres.
- b. Proposes the development of one (1) building containing less than forty thousand (40,000) square feet or more than one (1) building containing a total of less than sixty thousand (60,000) square feet with no building containing more than forty thousand (40,000) square feet.
- c. Meets all other standards for development as set forth in this Chapter.

5.6.2.2 A Major Site Plan shall have the following characteristics:

- a. Exceeds the thresholds of a minor site plan.

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- b. Any application that would otherwise require minor site plan approval, but for which a waiver is requested pursuant to §5.9.

5.6.2.3 Applications for conditional use district or conditional use permit approval are referred to in this section as the Underlying Zoning Application.

5.6.2.4 An application for a site plan shall include the entirety of the site that is the subject of the application and all such property shall be shown on the plat or survey submitted with the application. Applications for the development of a portion of a site with a balance or remainder of a site planned for future development will include provisions for access, internal vehicular circulation and connections, stormwater management and other staged infrastructure on the portion of the site designated for future development. Nothing in this section shall preclude an owner or applicant from submitting a site plan application for a development that will be implemented in phases over time or for the enlargement of a structure or the development of a new structure on a portion of a site.

5.6.3 Conformity with Approved Plan

Development activities subject to the requirements of this section may be carried out only in substantial conformance with the approved site plan and any attached conditions or restrictions. Any substantial deviation from the approved site plan, unless approved in advance and in writing by the Department, shall be deemed a violation of this Chapter. Violations shall be treated in the manner as set forth in §§5.1.6 and 5.11. No certificate of occupancy shall be issued if the development activities do not conform to the approved site plan.

5.6.4 Completeness Review

An application for approval of a site plan shall be submitted to the Department. Within ten (10) working days after receipt of the application, the Department shall determine whether the application for site plan approval is complete.

5.6.5 Minor Site Plan Approval Procedure

Approval of a minor site plan is a one-step process, however, a pre-application conference is recommended. The applicant shall submit a minor site plan application and required information for approval to the Department. Within thirty (30) days after a complete minor site plan application is filed, the Director shall render an administrative determination as follows:

- a. If the site plan conforms to this Chapter and all required conditions of a conditional use permit, if applicable, the Director shall approve the site plan.
- b. If the site plan is complete, but does not conform to this Chapter or required conditions, if applicable, the Director shall deny the site plan and return it to the applicant for revision and resubmission. If the applicant disagrees with the decision of the Director, an appeal may be filed in accordance with the procedures set forth in §18.4. The applicant may also appeal to the Planning Commission for a waiver from a standard applicable to the site plan in accordance with §5.9.
- c. If the site plan is determined to be incomplete, the Director shall return it to the applicant with a statement of the reasons why the proposed preliminary site plan is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application.

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- d. The Director may refer any minor site plan to the Planning Commission for review if it is determined that the proposed site plan may have a significant impact on the adjacent area, existing development, roads, utilities or drainage patterns.

5.6.6 Major Site Plan Approval Procedure

5.6.6.1 Generally – Approval of a major site plan is a two (2) step process. A pre-application conference is recommended. The first step is the submission of a preliminary site plan application and required information for review by the Department and the Planning Commission. The second step is the submission of a final site plan for review by the Department for compliance with the approval of the Planning Commission and other provisions of this Chapter.

5.6.6.2 Preliminary Site Plan –

- a. An application for approval of a site plan and required information shall be submitted to the Department. The Director shall determine whether the application for a preliminary site plan is complete as prescribed in Appendix B, Application Documents.
- b. If the site plan application is complete and conforms to this Chapter, the Director shall forward the application, along with conditional use permit application if applicable, to the Planning Commission within thirty (30) days of the determination of completeness. The Director's report to the Planning Commission on the application shall address compliance of the site development plan with the provisions of this Chapter, the suitability of plans proposed, and shall include a recommendation for approval or denial and any recommended waivers, conditions of approval or modifications to the site plan as submitted, if any, with reasons therefore.
- c. If the preliminary site plan application is incomplete or does not conform to the provisions of this Chapter, the Director shall return it to the applicant with a statement of the reasons why the proposed preliminary site plan is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application. A subsequent submittal of a corrected plan shall address all of the items specified by the Director or City Engineer as incomplete or nonconforming and shall include a letter listing and describing all changes from the previous submittal. If the applicant disagrees with the decision of the Director or the City Engineer, an appeal may be filed in accordance with the procedures set forth in §18.4. The applicant may also appeal to the Planning Commission for a waiver from a standard applicable to the site plan in accordance with §5.9. (Rev. 12-1-08; Ord. 2008-18)
- d. A majority vote is required for the Planning Commission to approve, approve with conditions or waivers or both, if applicable, or deny a preliminary site plan application.
- e. A preliminary site plan approval by the Planning Commission must be processed and approved as a final site plan by the Director and City Engineer prior to the issuance of any building permit and before the vesting period provided for in §5.6.7.5 shall commence. (Adopt. 12-1-08; Ord. 2008-18)

5.6.6.3 Final Site Plan – After a final decision by the Planning Commission to approve a preliminary site plan and all required conditions of a conditional use permit, if applicable, the application may be processed for final site plan approval. The final site plan shall be prepared and submitted to the Director in the same manner as set forth in §5.6.6.2. If the final site plan conforms to the approval of the Planning Commission, the

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provisions of this Chapter and all required conditions or waivers or both, if applicable, the Director shall approve the site plan. If the final site plan is complete, but does not conform to the approval of the Planning Commission, the provisions of this Chapter and any conditions or waivers or both, if applicable, the Director shall deny the site plan and return to applicant for revision and resubmission. If the applicant disagrees with the decision of the Director, an appeal may be filed in accordance with the procedures set forth in §18.4. (Rev. 12-1-08; Ord. 2008-18)

5.6.7 Scope of Approval

5.6.7.1 The Director will sign and date the site plan to indicate approval. Approval shall become effective immediately.

5.6.7.2 No building permit shall be issued unless an approved site plan has been forwarded to the Department of Building Standards.

5.6.7.3 If ownership of the site plan, or property or structure that is the subject of an approved site plan, changes, the site plan approval shall remain valid.

5.6.7.4 Violations of any of the provisions of this Chapter or the conditions applied to a site plan approval shall be treated in the manner as set forth in §§5.1.6 and 5.11.

5.6.7.5 A site plan, a site specific development plan for the purposes of the section, approval or conditional approval shall expire two (2) years from the date of approval unless a building permit has been issued and construction has commenced. The applicant may apply for and the Planning Commission or Director, as applicable, may grant extensions on such approval for additional periods up to one (1) year each but not to exceed five (5) extensions. If an amendment to this Chapter is adopted by the City Council subsequent to the site plan approval that would preclude the initial approval, a request for an extension may not be granted. (Adopt. 12-1-08; Ord. 2008-18) (Rev. 8-16-10; Ord. 2010-12)

5.6.8 Final Inspection

The Director shall inspect the site for compliance with the approved site plan at appropriate times during construction and before a certificate of occupancy is issued for the project. The Director will notify the applicant in writing stating any deficiencies.

5.7 GENERAL DEVELOPMENT PLANS

5.7.1 Initiation

5.7.1.1 The site that is the subject of a Planned Development (PD) general development plan shall be in single ownership or control, or if in several ownerships, the application shall be filed jointly by all of the owners. The applicant, including all of the owners, shall be responsible for implementing the general development plan and completing the installation of planned and required public improvements.

5.7.1.2 An application for approval of a PD general development plan shall include the general development plan, the general development plan narrative and

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required information specified in Article 3, Zoning Districts, this section and Appendix B, Application Documents. A pre-application conference and sketch plan review (§§5.1.2.1 and 5.1.2.2) and citizen participation process (§5.1.7) are recommended prior to the submission of a formal application. The Director shall determine whether the application is complete as prescribed in Appendix B, Application Documents.

5.7.1.3 An application for a general development plan shall include the entirety of the property that is owned or controlled by the applicant and all such property shall be shown on the plat or survey submitted with the application. Applications for the development of a portion of property owned or controlled by an applicant with a balance or remainder of a site unplanned or planned for future development will not be approved. Nothing in this section shall preclude an owner or applicant from submitting a general development plan application for a development that will be implemented in phases over time or from submitting a modification to a general development plan that provides for more or less development or realigned development on the entirety of the property.

5.7.2 Completeness Review

5.7.2.1 Within twenty (20) working days after receipt of the application, the Department and other agencies, as appropriate, shall determine whether the application for general development plan approval is complete as prescribed in Appendix B, Application Documents.

5.7.2.2 If the general development plan application is complete and conforms to this Chapter, the Director shall initiate the application review process.

5.7.2.3 If the general development plan application is incomplete or does not conform to the provisions of this Chapter, the Director shall return it to the applicant with a statement of the reasons why the proposed general development plan application is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application. If the applicant disagrees with the decision of the Director, an appeal may be filed in accordance with the procedures set forth in §18.4.

5.7.3 Review and Recommendation

Upon a determination of completeness of a general development plan application the Director will initiate the review of the application. The review will be complete and scheduled for consideration by the Planning Commission within sixty (60) days of the determination of completeness unless the applicant agrees to an extension of time to prepare or provide additional information.

5.7.3.1 During the staff review period, the applicant shall be notified of any discrepancies and advised of the willingness of the Department to confer for the purpose of assisting in bringing the material submitted into conformity with requirements of this Chapter or of the Comprehensive Plan.

5.7.3.2 If the applicant does not desire to participate in such conference, the Department shall base its report to the Planning Commission on the application as received.

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5.7.3.3 If the applicant joins in such conference, changes may be made in the original proposal, further conferences may be held, and additional material may be requested to guide in determinations. In the course of such conferences, any recommendation for change shall be recorded in writing, with reasons therefore, and shall become part of the record in the case. Applicants shall indicate, in writing, their disagreements and reasons; and such response by applicants shall be included in the record.

5.7.3.4 At the conclusion of the staff review stage, the Department shall report its findings to the Planning Commission as to:

- a. Type of PD proposed, physical characteristics of the land, relation of the proposed development to surrounding areas and existing and probable future development.
- b. Relation to major roads, utilities and other facilities and services.
- c. Adequacy of evidence of unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed.
- d. Compliance of the general development plan with the provisions of this Chapter, the suitability of plans proposed, and the desirability of conditions on the approval, waivers, or amendments, if any, with reasons therefore.
- e. Desirable specific modifications in regulations or the Comprehensive Plan as applicable in the particular case based on determinations that such modifications are necessary or justified in the particular case. Any recommended modifications shall be supported by demonstration that the public purpose of the Comprehensive Plan, PD District or other regulations would be met to at least an equivalent degree.

5.7.3.5 Based on such findings, the Department shall recommend approval of the PD general development plan as proposed, approval conditioned on specific stated modifications, or denial with reasons therefore.

5.7.3.6 The Planning Commission shall have thirty (30) days from the Planning Commission meeting at which the PD general development plan application is considered to submit its report and recommendation on the application to the City Council.

5.7.3.7 The City Council shall consider the application within thirty (30) days from receipt of the Planning Commission's recommendation. Approval by the City Council shall be in the form of an ordinance approving the PD general development plan.

- a. The City Council may approve the application as recommended by the Planning Commission, may approve the application with specific modifications or other applicable regulations, or may deny the application.
- b. If amendment of the Comprehensive Plan or this Chapter is required, the City Council shall receive the recommendation of the Planning Commission within thirty (30) days but shall not take any action on the ordinance approving the PD general development plan until it has acted on the amendment of the Comprehensive Plan or this Chapter or both as necessary.

5.7.4 Approval Criteria

In making its report, the Planning Commission should consider the following factors:

- a. The relationship of the request to the Comprehensive Plan;
- b. Whether the request violates or supports the Comprehensive Plan;
- c. Whether the permitted uses would be appropriate in the area concerned; and

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- d. Whether adequate public facilities such as roads, water and sewer facilities, drainage facilities, and schools and other public services exist or can be provided to serve the needs of the development.

5.7.5 Subsequent Applications

See §5.3.7

5.7.6 Modifications

A general development plan may be amended as provided in this section.

5.7.6.1 Major modifications to the development plan are changes that affect the content of the general development plan, except as provided in §5.7.6.2. Such modifications shall be reviewed and approved in the same manner as the original general development plan.

5.7.6.2 Minor modifications to the general development plan include changes to the mix of uses, location and sequence of phases and sub phases, and development schedule.

5.7.6.3 The Planning Commission may approve a minor modification to a general development plan at a regular meeting if it is consistent with the criteria for approval in the ordinance approving the PD general development plan.

- a. A minor modification application shall be reviewed in the same manner as the original general development plan. However, no public hearing or public notice shall be required.
- b. An applicant proposing a minor modification involving a shift in density or intensity between phases of a development shall provide a concept plan that shows, at a scale consistent with the general development plan, the street layout, the densities and intensities for each development phase, and compliance with the connectivity ratio in §14.19 for all streets within the proposed development.

5.7.7 Scope of Approval

5.7.7.1 If the application is approved, the development shall comply with the approved PD general development plan, meeting the requirements of these and other regulations, as supplemented or modified by the City Council in the particular case as part of the ordinance approving the general development plan, and shall conform to any time or priority limitations established by the Planning Commission on beginning and completion of the development as a whole or in specified stages.

5.7.7.2 In taking action to recommend the approval of a PD general development plan to establish the approved PD, the Planning Commission shall pass upon the adequacy of the application, in form and substance relative to any agreements, contracts, deed restrictions, sureties, or other instruments involved, and before development may proceed, such instruments shall be approved by appropriate officers and agencies.

5.7.7.3 Once a PD District is established on the Official Zoning Map, no development shall occur and no development application or building permit shall be approved therein unless the city has approved a general development plan and other subordinate plans and reports for the development as adopted by the Planning

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Commission, in whole or in stages that are deemed satisfactory in relation to the total development. Upon approval, building permits shall be issued in such manner as for building permits generally. All plans and reports approved shall be binding on the applicants and any successors in title so long as the PD zoning is applicable.

5.7.7.4 The general development plan may be approved such to an overall gross density or intensity. Dwelling units or floor area allocated to a phase of development may be transferred to another phase as a minor modification provided that the overall gross density or intensity is not exceeded.

5.7.7.5 The general development plan may be approved subject to an overall gross density or intensity per phase of development. In such cases, the Planning Commission may approve a designated number of dwelling units, referred to herein as “flex units,” or floor area, referred to herein as “flex intensity,” that may be added to or distributed between any phase subject to approval of a minor modification, so long as the gross density or gross intensity for the overall project or phase, as designated by the general development plan conditions, is not exceeded.

5.7.7.6 A General Development Plan, a phased development plan for the purposes of this section, approval or conditional approval shall expire five (5) years from the date of approval unless a building or grading permit has been issued and construction has commenced. The applicant may apply for and the Planning Commission may grant extensions on such approval for additional periods up to one (1) year each but not to exceed five (5) extensions. If an amendment to this Chapter is adopted by the City Council subsequent to the General Development Plan approval that would preclude the initial approval, a request for an extension may not be granted. The expiration and extension of major subdivision and site plans approved pursuant to a General Development Plan within a PD District shall be governed by the provisions of §§5.8.3.5.d and 5.6.7.5, respectively. (Adopt. 8-16-10; Ord. 2010-12)

5.7.8 Recording Procedures

See §5.3.9.

5.8 SUBDIVISIONS

5.8.1 Subdivision Approval

5.8.1.1 There are two (2) types of subdivision that may be approved pursuant to this section, minor subdivisions and major subdivisions.

5.8.1.2 An application for a subdivision shall include the entirety of the property owned or controlled by the applicant and all such property shall be shown on the plat or survey submitted with the application. Applications for the development of a portion of property owned or controlled by an applicant with a balance or remainder of a site planned for future development will include provisions for access, internal vehicular connectivity, stormwater management and other staged infrastructure on the portion of the site designated for future development. Such provisions shall be conceived to accommodate the entire site or parcel. Nothing in this section shall preclude an owner or applicant from submitting a subdivision application for a development that will be implemented in phases over time or from submitting a modification to a subdivision plat

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that provides for more or less development or realigned development on the entirety of the property.

5.8.2 Minor Subdivision

5.8.2.1 Applicability –

An application is considered a minor subdivision if meets all of the following:

- a. The proposed subdivision contains no new roads or changes to existing roads that require the dedication of right of way.
- b. All resulting lots front directly on and have legal access to an existing publicly maintained road or street.
- c. Does not require access to any residential lot or group of residential lots from an arterial or collector road.
- d. Involves only the consolidation of parcels, elimination of lot lines or other adjustment to lot lines and does not increase the number of lots, or, the proposed plat encompasses no more than ten (10) acres and results in the creation of not more than five (5) lots.
- e. Complies with the dimensional standards for the zoning district in which the property is located.
- f. Does not include any flag lots.
- g. Meets all other applicable standards for development as set forth in this Chapter.
- h. No municipal taxes, utility fees or assessments are outstanding against the property.

5.8.2.2 Initiation – The applicant shall submit a minor subdivision application and required information for approval to the Department.

5.8.2.3 Completeness Review – Within ten (10) working days after receipt of the application, the Department shall determine whether the application for a minor subdivision is complete. If the minor subdivision application is determined to be incomplete, the Director shall return to it to the applicant with a statement of the reasons why the proposed subdivision plat application is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application.

5.8.2.4 Compliance Review and Decision – Approval of a minor subdivision is a one-step process, however, a pre-application conference is recommended for more complex minor subdivisions. Within thirty (30) days after a complete minor subdivision application is filed, the Director shall render an administrative determination as follows:

- a. If the minor subdivision application conforms to this Chapter and all required conditions of a minor subdivision, the Director shall approve the application. The Director may approve the minor subdivision with specific conditions if necessary to achieve compliance with the purposes and provisions of this Chapter.
- b. If the minor subdivision application is complete, but does not conform to this Chapter, the Director shall deny the minor subdivision and return it to the applicant for revision and resubmission. If the applicant disagrees with the decision of the Director the applicant may appeal the application to the Planning Commission. The Planning Commission may approve the appealed application, may approve the appealed application with specific conditions, or may deny the application. If the application is denied the Planning Commission shall state its reasons in the record.
- c. If the application proposes development in more than one phase, requires a waiver pursuant to §5.9, or the Director determines that the minor subdivision application is

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substantially significant, it shall be referred to the Planning Commission for consideration and action. The Planning Commission may approve the application, may approve the application with specific waivers or conditions, or may deny the application. If the application is denied the Planning Commission shall state its reasons in the record.

- d. Failure of the Director to act within the period prescribed above shall constitute minor subdivision approval.

5.8.2.5 Decision Notification to the Planning Commission – Notification of all minor subdivisions approved by the Director shall be presented to the Planning Commission as information within thirty (30) days of the staff action. A record of all said approvals shall be incorporated into Planning Commission minutes.

5.8.2.6 Approval Criteria – The minor subdivision shall conform to the requirements of §5.8.2.1, and all applicable requirements of Articles 6 through 16 of this Chapter.

5.8.2.7 Approval Process –

5.8.2.7.1 An approved minor subdivision shall be signed by the Director and recorded by the Department in conformity with the provisions of S.C. Code §6-29-1150 with the Aiken County RMC Office or the Edgefield County Clerk of Court within ten (10) days of the approval.

5.8.2.7.2 No subdivision plat shall be accepted for filing by the Aiken County RMC Office or the Edgefield County Clerk of Court until it has been approved by the Director as indicated on the subdivision plat by the signature of the Director.

5.8.3 Major Subdivisions

5.8.3.1 Applicability –

An application is considered a major subdivision (preliminary plat) if:

- a. The application does not meet the tests for a minor subdivision as set forth in §5.8.2.1;
- b. The application is for property located in a PD District;
- c. The application would otherwise require minor subdivision approval, but a waiver is requested pursuant to §5.9; or
- d. The application proposes development in two (2) or more phases.

5.8.3.2 Initiation – The applicant shall submit a major subdivision application and required information for approval to the Department.

5.8.3.3 Completeness Review – Within ten (10) working days after receipt of the application, the Department shall determine whether the application for a major subdivision is complete. If the major subdivision application is determined to be incomplete, the Director shall return to it to the applicant with a statement of the reasons why the proposed subdivision application is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application.

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5.8.3.4 Compliance Review and Decision – Upon a determination of completeness of a major subdivision application, the Director will initiate the review of the application for compliance with the provisions of this Chapter. The review will be complete and scheduled for consideration by the Planning Commission within sixty (60) days of the determination of completeness unless the applicant agrees to an extension of time to prepare or provide additional information.

5.8.3.4.1 During the staff review period, the applicant shall be notified of any discrepancies and advised of the willingness of the Department to confer for the purpose of assisting in bringing the material submitted into conformity with requirements of this Chapter or of the Comprehensive Plan.

5.8.3.4.2 If the major subdivision application is incomplete or does not conform to the provisions of this Chapter, the Director shall return it to the applicant with a statement of the reasons why the proposed major subdivision plan is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application. A subsequent submittal of a corrected plan shall address all of the items specified by the Director or City Engineer as incomplete or nonconforming and shall include a letter listing and describing all changes from the previous submittal. If the applicant disagrees with the decision of the Director, an appeal may be filed in accordance with the procedures set forth in §18.4. The applicant may also appeal to the Planning Commission for a waiver from a standards applicable to the plan in accordance with §5.9. (Rev. 12-1-08; Ord. 2008-18)

5.8.3.4.3 If the applicant participates in the conference referenced in §5.8.3.4.1 or resubmittal referenced in §5.8.3.4.2, changes may be made in the original proposal, further conferences may be held, and additional material may be requested to assist in the review of the application and in determinations of compliance. In the course of such conference(s) and resubmittal(s), any recommendation for change shall be recorded in writing, with reasons therefore, and shall become part of the record. Applicants shall indicate, in writing, any disagreements and the reasons for such disagreements, and such response by applicants shall be included in the record. (Rev. 12-1-08; Ord. 2008-18)

5.8.3.4.4 At the conclusion of the staff review stage, the Department shall report its findings to the Planning Commission as to:

- a. Type of subdivision proposed, physical characteristics of the land, relation of the proposed development to surrounding areas and existing and probable future development;
- b. Relation to major roads, utilities and other facilities and services;
- c. Any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed; and
- d. Compliance of the subdivision application with the provisions of this Chapter, the suitability of plans proposed, and the desirability of conditions on the approval, waivers, or amendments, if any.

5.8.3.4.5 Based on such findings, the Director's report to the Planning Commission on the application shall include a recommendation for approval or denial and any

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recommended waivers, conditions of approval or modifications to the major subdivision application as submitted, if any, with reasons therefore.

5.8.3.4.6 A majority vote is required for the Planning Commission to approve, approve with conditions, if applicable, or deny a major subdivision application. The decision of the Planning Commission provides the final approval of the application.

5.8.3.5 Scope of Major Subdivision Approval – Preliminary approval of a major subdivision development application shall confer upon the applicant the following rights:

- a. The approval of the major subdivision application constitutes approval of the subdivision or land development as to its character, intensity of development, general layout, and the approximate dimensions of streets, lots, and other planned features. Such approval binds the developer to the general scheme of the subdivision or land development and permits the developer to proceed with the installation of site improvements, subject to obtaining other necessary permits.
- b. The approval of the major subdivision application does not constitute approval of a final subdivision plat, and accordingly, does not authorize the sale of lots or the occupancy or use of a parcel of land.
- c. The applicant may request final approval for the whole, or a section, or sections of the major subdivision application upon completion of the subdivision and approval of the development by the city and state agencies with jurisdiction.
- d. A major subdivision application, a site specific development plan for the purposes of this section, approval or conditional approval shall expire two (2) years from said approval unless a grading permit has been issued and construction has commenced. The applicant may apply for and the Planning Commission may grant extensions on such preliminary approval for additional periods up to one (1) year each but not to exceed five (5) extensions. If an amendment to this Chapter is adopted by the City Council subsequent to the major subdivision development approval that would preclude the initial approval, a request for an extension may not be granted. (Rev. 12-1-08; Ord. 2008-18) (Rev. 8-16-10; Ord. 2010-12)

5.8.4 Final Subdivision Plat

5.8.4.1 Initiation – The applicant shall submit a final subdivision plat application and the information for approval to the Department.

5.8.4.2 Completeness Review – Within ten (10) working days after receipt of the application, the Department shall determine whether the application for a final plat is complete. If the final plat application is determined to be incomplete, the Director shall return to it to the applicant with a statement of the reasons why the proposed subdivision application is incomplete or otherwise does not conform to the provisions of this Chapter. The Director's statement will provide the information necessary for the applicant to revise and resubmit the application.

5.8.4.3 Compliance Review and Decision – Upon a determination of completeness of a final subdivision plat application, the Director will initiate the review of the application for compliance with the provisions of this Chapter. The Director and City Engineer shall approve or deny the application within thirty (30) days after submission of a complete application, or within such further time as may be consented to by the applicant. Failure of the Director and City Engineer to act within the period prescribed shall constitute final subdivision plat approval. (Rev. 12-1-08; Ord. 2008-18)

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5.8.4.3.1 The Director and City Engineer shall render an administrative determination as follows:

- a. If the final subdivision plat application conforms to the provisions of this Chapter, the major subdivision application approval and all required conditions, the Director and City Engineer shall approve the application; or
- b. If the final subdivision plat application is complete, but does not conform to the provisions of this Chapter, the major subdivision application approval and all required conditions, the Director and City Engineer shall deny the final plat and return it to the applicant for revision and resubmission. If the applicant disagrees with the decision of the Director or City Engineer, the applicant may appeal the application to the Planning Commission. The Planning Commission may approve the appealed application, may approve the appealed application with specific conditions, or may deny the application. If the application is denied, the Planning Commission shall state its reasons in the record. (Rev. 12-1-08; Ord. 2008-18)

5.8.4.3.2 A final subdivision plat will not be approved for recording or a site development plan, if applicable, approved for a certificate of occupancy until the documents required in §§5.8.4.5, 5.8.5 and 5.8.6, including but not limited to a deed of dedication, maintenance guarantee, performance guarantee and associated letters of credit, as applicable, have been submitted and approved as to form by the City Attorney. (Adopt. 2-21-11; Ord. 2011-02)

5.8.4.4 Recording Procedures –

5.8.4.4.1 An approved final subdivision plat shall be signed by the Director and recorded by the Department in conformity with the provisions of S.C. Code §6-29-1150 with the Aiken County RMC. Office or the Edgefield County Clerk of Court Office within ten (10) days of the approval.

5.8.4.4.2 No subdivision plat shall be accepted for filing by the Aiken County RMC. Office or the Edgefield County Clerk of Court until it has been approved by the Director as indicated on the final plat by the signature of the Director. The signature of the Director shall not be affixed until the developer has posted the guarantees required pursuant to §§5.8.5 and 5.8.6.

5.8.4.5 Scope of Approval – (Rev. 2-21-11; Ord. 2011-02)

- a. The final approval of the site development plan or subdivision plat shall not automatically constitute or effect an acceptance by the City of North Augusta of the dedication of any street, utility easement or other public ground shown upon the final plat or final site plan. Public acceptance of the lands must be by action of the City Council customary to these transactions.
- b. The developer shall submit a deed of dedication for all land including roads, parks, open space and land reserved for public utility purposes, easements, and public improvement and utility infrastructure to the Department for consideration by the City Council to accept with the application for a final plat. In addition to the deed of dedication the developer shall submit a warranty deed of dedication conveying ownership of the infrastructure system to the city, an owner's affidavit to certify the condition of the title of said property, and a title certificate by the examining attorney indicating the contents of the public record concerning the real-estate being conveyed to the city.

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- c. The Department shall forward the deed of dedication documents to the City Clerk for consideration by the City Council within thirty (30) days from the date of final approval of the final plat or site development plan.
- d. The City Clerk shall schedule the deed of dedication for consideration by the City Council within thirty (30) days of receipt.

5.8.5 Maintenance Guarantee

5.8.5.1 In order to assure the satisfactory condition of completed improvements (water, sewer, stormwater, road and pedestrian circulation systems, landscaping, etc.) the developer, at the time of final subdivision plat or site development plan approval, shall submit a maintenance guarantee in a form specified by the city. The maintenance guarantee shall include the developer's representation that the improvements will not fail, for any reason with the exception of force majeure, shall be equal to fifteen percent (15%) of the estimated cost of the improvements as determined by the City Engineer and shall be for a period of twenty-four (24) months from the approval of the final subdivision plat. The maintenance guarantee shall be reviewed by the City Attorney for compliance with this section. (Rev. 2-21-11; Ord. 2011-02)

5.8.5.2 The maintenance guarantee shall be supported by a letter of credit or other security acceptable to the city. The letter of credit or other security shall be dated on the same date as the maintenance guarantee and shall expire no sooner than twenty-four (24) months from the approval of the final subdivision plat or site development plan. (Rev. 2-21-11; Ord. 2011-02)

5.8.5.3 The maintenance guarantee shall be released upon expiration unless the City Engineer determines that there is work to be corrected prior to that time.

5.8.5.4 The City Engineer shall have full and absolute discretion and authority in determining as to whether or not a failure has occurred in regard to infrastructure.

5.8.5.5 In the event that the City Engineer, in his sole discretion, determines that a failure has occurred, he shall provide written notice of such failure to the developer with a request for the immediate correction of the failure. In the event the developer fails to make such repairs as necessary within sixty (60) days of such written notice or within ten (10) days in the event of such notice being received during the last sixty (60) days covered by the maintenance guarantee and letter of credit, the following conditions shall prevail:

- a. The maintenance guarantee shall be considered violated and in default with the city having full right and authority to make claims under the letter of credit;
- b. The city may make claim against the full amount of the letter of credit until such time as the city is able to make the necessary repairs to the infrastructure;
- c. Following the completion of the repairs to the infrastructure to the satisfaction of the City Engineer, any funds remaining from the letter of credit shall be refunded to the developer;
- d. The city is entitled to compensation, at a reasonable rate, for any in-house services provided by the city for the purpose of correcting failures or deficiencies to the infrastructure.
- e. The city shall have full and absolute authority in regard to a determination as to party or parties contracted with for the purpose of making repairs as required.

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5.8.5.6 If the work is not completed, the proceeds from the letter of credit shall be used by the city for such work. The maintenance guarantee shall be released when the City Engineer deems the work satisfactorily completed and the city has been reimbursed for any and all expenses incurred.

5.8.6 Performance Guarantee

5.8.6.1 If all improvements as required by this Chapter or by the Planning Commission at the major subdivision plan or site development plan approval stage are not entirely installed and constructed in accordance with the required standards prior to the submission of a final plat application, or in the case of a site plan, an application for final approval and a certificate of occupancy, and the developer desires to proceed with building construction within a subdivision or occupancy of a site, and the City Engineer certifies that all necessary infrastructure and other installations required for the safe use, continued development and occupancy of a subdivision or a site have been completed satisfactorily, the developer shall submit a performance guarantee in an amount equal to one hundred twenty-five percent (125%) of the cost of the unfinished improvements as certified by City Engineer. The performance guarantee shall be supported by a letter of credit or other security that shall be valid for a minimum of one month beyond the performance guarantee term. (Rev. 2-21-11; Ord. 2011-02) (Rev. 5-21-12; Ord. 2012-08)

5.8.6.2 The performance guarantee and any security acceptable to the city or letter of credit must be approved by the Director, the City Engineer and the City Attorney, and must include a specific, reasonable and satisfactory date for the completion of the necessary improvements. In no case shall the performance guarantee be valid for more than two (2) years. (Rev. 2-21-11; Ord. 2011-02)

5.8.6.3 When the improvements have been completed and approved for conformity with the provisions of this Chapter by the City Engineer, the guarantee shall be released and returned.

5.8.6.4 In the event the developer fails to construct the required improvements in conformity with the provisions of this Chapter during the specific time allotted, the performance guarantee and letter of credit is forfeited to the City of North Augusta to be used for the completion of the improvements.

5.8.6.5 The successful conclusion of the performance guarantee process shall commence the process for initiating the maintenance guarantee.

5.8.6.6 Although building permits may be issued under a performance guarantee, under no circumstances shall a certificate of occupancy be issued until all conditions of the guarantee have been satisfied.

5.8.7 Non-Access Easements

The Planning Commission or the Director may require an easement prohibiting curb cuts or other vehicular access across a designated “non-access line” where it is determined that such restrictions are needed to avoid unsafe conditions, to avoid impeding the flow of traffic, or to provide for the efficient movement of pedestrians across streets or parking areas.

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5.8.8 Street Addressing

The Director shall provide for the designation and assignment of street addresses for all parcels created by the subdivision or re-subdivision of land in accordance with the Aiken County E-911 street naming and addressing standards and procedures. The Director shall also initiate the readdressing of existing parcels when necessary to avoid or reduce conflicts in street addressing or to achieve compliance with the Aiken County E-911 street naming and addressing standards and procedures.

5.8.9 Notification of Public Agencies and Utilities

Upon the approval of a final, minor, or major subdivision plat, that results in the creation of one or more new lots or parcels or rearranges or relocates property lines between existing lots or parcels, the Director shall forward copies of the approved and recorded subdivision plat to public agencies and utilities affected by the subdivision. Such public agencies and utilities include but are not limited to the U.S. Post Office, Aiken County, Edgefield County, Aiken County Public Schools, and providers of the following public utility services: water, sewer, electricity, natural gas, telephone, cable and internet. (Rev. 12-1-08; Ord. 2008-18)

5.8.10 Subdivision Appeals

Pursuant to S.C. Code §6-29-1150(C), any party in interest may appeal a decision by the Director to approve or deny a subdivision plat to the Planning Commission. The Planning Commission shall act on the appeal within sixty (60) days and the action of the Planning Commission is final. An appeal from the decision of the Planning Commission may be taken to circuit court within thirty (30) days after actual notice of the decision.

5.9 WAIVERS

5.9.1 Planning Commission Waivers

The Planning Commission may approve waivers to the development standards contained in this Chapter except where the authority to grant waivers, variances and adjustments is vested in the Board of Zoning Appeals. Such waivers shall be approved as part of the underlying application for development approval upon a written finding, supported by substantial competent evidence. The Planning Commission may waive such standards where:

5.9.1.1 After obtaining the recommendation of the Director, the Planning Commission determines that the proposed waiver does not conflict with the goals and policies of the Comprehensive Plan or the purposes underlying the standard; and

5.9.1.2 The applicant demonstrates, through documentation and/or studies, based on generally accepted engineering principles, that adherence to the standard provided by this Chapter would pose a threat to health and safety or would undermine a policy set forth in the Comprehensive Plan or the purposes underlying the standard; and

5.9.1.3 The applicant consents to an alternative standard, and the Planning Commission finds that such standard is consistent with the Comprehensive Plan, will protect the public health, safety and general welfare, and is consistent with the purposes underlying the standard; and

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5.9.1.4 The economic burden imposed on the applicant to comply with the generally applicable standard outweighs the public purpose for such standard; and

5.9.1.5 Compliance with the generally applicable standard is impracticable due to unique topographical or other site conditions.

5.9.2 Minor Waivers

The Director may approve minor waivers unless a condition of development approval requires referral to the Planning Commission, in which case such referral shall be considered in accordance with §5.9.1. Minor waivers to the development standards include changes to the mix of uses, number and relationship of buildings, parking spaces, and landscaping, within fifty percent (50%) of the applicable standard or standards. The applicant or any aggrieved party as provided by law may appeal the Director's decision to the Planning Commission. (Rev. 12-1-08; Ord. 2008-18)

5.10 INTERPRETATIONS

5.10.1 Purpose

The purpose of this section is to provide uniform and equitable procedures for the interpretation of this Chapter and the Official Zoning Map.

5.10.2 Applicability

This section applies to any request for interpretation of this Chapter or the Official Zoning Map. The Director shall have the authority to make all interpretations of the text of this Chapter and the Official Zoning Map.

5.10.3 Initiation

An interpretation may be requested by any resident, landowner or any person having a contractual interest in land in the City of North Augusta. Before an interpretation shall be provided by the Director, a request for interpretation shall be submitted to the Director in a form established by the Director and made available to the public.

5.10.4 Completeness Review

Within five (5) working days after a request for interpretation has been received, the Director shall determine whether the request is complete. If the Director determines that the request is not complete, a written notice shall be served on the applicant specifying the deficiencies. The Director shall take no further action on the request for interpretation until the deficiencies are remedied.

5.10.5 Decision

Within thirty (30) working days after a request for interpretation has been determined complete, the Director shall review and evaluate the request, consult with appropriate city staff and the City Attorney, if so desired, and then render an interpretation. The interpretation shall be in writing and shall be sent to the applicant via U.S. Mail.

5.10.6 Approval Criteria

In construing any provision of this Code, the Director shall consider the Comprehensive Plan, this Chapter, the Official Zoning Map, and other statutes, codes, ordinances and regulations, whichever are applicable.

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5.10.7 Scope of Approval

An interpretation by the Director may be appealed to the Board of Zoning Appeals pursuant to the procedures of §18.4.

5.10.8 Record

A copy of the interpretation shall be maintained on file with the Director.

5.11 VIOLATIONS, PENALTIES AND ENFORCEMENT (Rev. 2-1-10; Ord. 2010-01) (Rev. 12-1-14; Ord. 2014-16)

5.11.1 Violations

Violations of the provisions of this Chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, or failure to comply with a compliance directive issued by the Director, the City Engineer or any other authorized representative of the City shall constitute a misdemeanor. Each day the violation continues shall be considered a separate offense.

5.11.2 Penalties

Any person found to be in violation of the provisions of this Chapter or who fails to comply with any of its requirements shall be punishable as provided in Section 1-8 of the North Augusta Municipal Code of Ordinances. Each day in violation of the provisions of this Chapter shall constitute a separate and distinct offense. The penalties shall be in addition to any remedial activity needed to safeguard the public, the environment or the City infrastructure.

5.11.3 Enforcement (Adopt. 12-1-14; Ord. 2014-16)

- a. Any violation of a provision of this Chapter or violation of or deviation from an approved application for development approval, site development permit, grading permit or building permit, or site development undertaken in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood will result in the issuance of a stop work order by the City. The stop work order will be in the form of a written notice and will provide for the suspension of the applicable development permit(s).
- b. All development activity covered by the approved application for development approval, site development permit, grading permit or building permit will cease until the permittee under the approved application for development approval has received authorization to resume development activity from the City. Prior to consideration of an authorization to resume development activity, the permittee shall prepare a Correction, Compliance and Mitigation Plan to correct identified deviations from the approved development plan, bring any violations into compliance, and mitigate any damages created by the deviation or violations. Necessary mitigation proposed by the plan shall be designed to restore damaged areas, incomplete or unsafe construction or inadequate development installations to an acceptable condition. In the case of damage to the natural environment, including riparian buffers, designated natural open space, natural terrain or City owned property, the restoration shall be to a condition similar to what existed prior to the damage as determined by the City.

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- c. The City’s authorization to resume development will be based on the Correction, Compliance and Mitigation Plan, the approval by any and all state or federal agencies with jurisdiction, and an agreement by the permittee to implement the plan. The Correction, Compliance and Mitigation Plan shall be implemented prior to the continuation of any other development activity. The Correction, Compliance and Mitigation Plan may provide for concurrent mitigation and continued development activity if the City determines that the continued development activity does not conflict with required mitigation or restoration work.
- d. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy a violation.

5.12 AMENDMENTS TO THIS CHAPTER

See §5.3.