§ 36-66-2. Legislative purpose; local government zoning powers

(a) While recognizing and confirming the authority of local governments to exercise zoning power within their respective territorial boundaries, it is the intention of this chapter to establish as state policy minimum procedures governing the exercise of that power. The purpose of these minimum procedures is to assure that due process is afforded to the general public when local governments regulate the uses of property through the exercise of the zoning power. Nothing in this chapter shall be construed to invalidate any zoning decision made by a local government prior to January 1, 1986, or to require a local government to exercise its zoning power.

(b) Consistent with the minimum procedures required by this chapter, local governments may:

(1) Provide by ordinance or resolution for such administrative officers, bodies, or agencies as may be expedient for the efficient exercise of their zoning powers; and

(2) Provide by ordinance or resolution for procedures and requirements in addition to or supplemental to those required by this chapter.

§ 36-66-3. Definitions

As used in this chapter, the term:

(1) "Local government" means any county or municipality which exercises zoning power within its territorial boundaries.

(2) "Territorial boundaries" means, in the case of counties, the unincorporated areas thereof and any area defined in paragraph (5.1) of Code Section 36-70-2, and, in the case of municipalities, the area lying within the corporate limits thereof except any area defined in paragraph (5.1) of Code Section 36-70-2.

(3) "Zoning" means the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the
prohibition of other or different uses within such zones or districts and for the regulation of
development and the improvement of real estate within such zones or districts in
accordance with the uses of property for which such zones or districts were established.

(4) "Zoning decision" means final legislative action by a local government which results in:

(A) The adoption of a zoning ordinance;

(B) The adoption of an amendment to a zoning ordinance which changes the text of the
zoning ordinance;

(C) The adoption of an amendment to a zoning ordinance which rezones property from one
zoning classification to another;

(D) The adoption of an amendment to a zoning ordinance by a municipal local government
which zones property to be annexed into the municipality; or

(E) The grant of a permit relating to a special use of property.

(5) "Zoning ordinance" means an ordinance or resolution of a local government establishing
procedures and zones or districts within its respective territorial boundaries which regulate
the uses and development standards of property within such zones or districts. The term
also includes the zoning map adopted in conjunction with a zoning ordinance which shows
the zones and districts and zoning classifications of property therein.

§ 36-66-4. Hearings on proposed zoning decisions; notice of hearing;
nongovernmental initiated actions; reconsideration of defeated actions; procedure
on zoning for property annexed into municipality

(a) A local government taking action resulting in a zoning decision shall provide for a
hearing on the proposed action. At least 15 but not more than 45 days prior to the date of
the hearing, the local government shall cause to be published within a newspaper of general
circulation within the territorial boundaries of the local government a notice of the hearing.
The notice shall state the time, place, and purpose of the hearing.

(b) If a zoning decision of a local government is for the rezoning of property and the
rezoning is initiated by a party other than the local government, then:

(1) The notice, in addition to the requirements of subsection (a) of this Code section, shall
include the location of the property, the present zoning classification of the property, and
the proposed zoning classification of the property; and

(2) A sign containing information required by local ordinance or resolution shall be placed in
a conspicuous location on the property not less than 15 days prior to the date of the
hearing.
(c) If the zoning decision of a local government is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated by the local government, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning by the local government.

(d) If the zoning is for property to be annexed into a municipality, then:

(1) Such municipal local government shall complete the procedures required by this chapter for such zoning, except for the final vote of the municipal governing authority, prior to adoption of the annexation ordinance or resolution or the effective date of any local Act but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under Code Section 36-36-6;

(2) The hearing required by subsection (a) of this Code section shall be conducted prior to the annexation of the subject property into the municipality;

(3) In addition to the other notice requirements of this Code section, the municipality shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county wherein the property to be annexed is located, a notice of the hearing as required under the provisions of subsection (a) or (b), as applicable, of this Code section and shall place a sign on the property when required by subsection (b) of this Code section; and

(4) The zoning classification approved by the municipality following the hearing required by this Code section shall become effective on the later of:

(A) The date the zoning is approved by the municipality;

(B) The date that the annexation becomes effective pursuant to Code Section 36-36-2; or

(C) Where a county has interposed an objection pursuant to Code Section 36-36-11, the date provided for in paragraph (8) of subsection (c) of said Code section.

(e) A qualified municipality into which property has been annexed may provide, by the adoption of a zoning ordinance, that all annexed property shall be zoned by the municipality, without further action, for the same use for which that property was zoned immediately prior to such annexation. A qualified county which includes property which has been deannexed by a municipality may provide, by the adoption of a zoning ordinance, that all deannexed property shall be zoned by the county, without further action, for the same use for which that property was zoned immediately prior to such deannexation. A municipality shall be a qualified municipality only if the municipality and the county in which is located the property annexed into such municipality have a common zoning ordinance with respect to zoning classifications. A county shall be a qualified county only if that county and the municipality in which was located the property deannexed have a common zoning
ordinance with respect to zoning classifications. A zoning ordinance authorized by this subsection shall be adopted in compliance with the other provisions of this chapter. The operation of such ordinance to zone property which is annexed or deannexed shall not require any further action by the adopting municipality, adopting county, or owner of the property annexed or deannexed. Property which is zoned pursuant to this subsection may have such zoning classification changed upon compliance with the other provisions of this chapter.

(f) When a proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, a public hearing shall be held on the proposed action. Such public hearing shall be held at least six months and not more than nine months prior to the date of final action on the zoning decision. The hearing required by this subsection shall be in addition to any hearing required under subsection (a) of this Code section. The local government shall give notice of such hearing by:

1. Posting notice on the affected premises in the manner prescribed by subsection (b) of this Code section; and

2. Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper.

§ 36-66-5. Adoption of hearing policies and procedures and standards for exercise of zoning power

(a) Local governments shall adopt policies and procedures which govern calling and conducting hearings required by Code Section 36-66-4, and printed copies of such policies and procedures shall be available for distribution to the general public. Such policies and procedures shall specify a minimum time period at hearings on proposed zoning decisions for presentation of data, evidence, and opinion by proponents of each zoning decision and an equal minimum time period for presentation by opponents of each proposed zoning decision, such minimum time period to be no less than ten minutes per side.

(b) In addition to policies and procedures required by subsection (a) of this Code section, each local government shall adopt standards governing the exercise of the zoning power, and such standards may include any factors which the local government finds relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property. Such standards shall be printed and copies thereof shall be available for distribution to the general public.
(c) The policies and procedures required by subsection (a) of this Code section and the adoption of standards required by subsection (b) of this Code section may be included in and adopted as part of the zoning ordinance. Prior to the adoption of any zoning ordinance enacted on or after January 1, 1986, a local government shall conduct a public hearing on a proposed action which may be advertised and held concurrent with the hearing required by subsection (a) of Code Section 36-66-4 for the adoption of a zoning ordinance. The provisions of subsection (a) of Code Section 36-66-4 relating to notices of public hearings for the purposes of that subsection shall also apply to public hearings required by this subsection.

§ 36-66-6. Investigations and recommendations of planning department regarding land near military installation

(a) In any local government which has established a planning department or other similar agency charged with the duty of reviewing zoning proposals, such planning department or other agency shall with respect to each proposed zoning decision involving land that is adjacent to or within 3,000 feet of any military base or military installation or within the 3,000 foot Clear Zone and Accident Prevention Zones Numbers I and II as prescribed in the definition of an Air Installation Compatible Use Zone of a military airport investigate and make a recommendation with respect to each of the matters enumerated in subsection (b) of this Code section, in addition to any other duties with which the planning department or agency is charged by the local government. The planning department or other agency shall request from the commander of such military base, military installation, or military airport a written recommendation and supporting facts relating to the use of the land being considered in the proposed zoning decision at least 30 days prior to the hearing required by subsection (a) of Code Section 36-66-4. If the base commander does not submit a response to such request by the date of the public hearing, there shall be a presumption that the proposed zoning decision will not have any adverse effect relative to the matters specified in subsection (b) of this Code section. Any such information provided shall become a part of the public record.

(b) The matters with which the planning department or agency shall be required to make such investigation and recommendation shall be:

(1) Whether the zoning proposal will permit a use that is suitable in view of the use of adjacent or nearby property within 3,000 feet of a military base, military installation, or military airport;

(2) Whether the zoning proposal will adversely affect the existing use or usability of nearby property within 3,000 feet of a military base, military installation, or military airport;

(3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

(4) Whether the zoning proposal will result in a use which will or could cause a safety concern with respect to excessive or burdensome use of existing streets, transportation
facilities, utilities, or schools due to the use of nearby property as a military base, military installation, or military airport;

(5) If the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan; and

(6) Whether there are other existing or changing conditions affecting the use of the nearby property as a military base, military installation, or military airport which give supporting grounds for either approval or disapproval of the zoning proposal.