

DEFINITIONS

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SECTION 5 DEFINITIONS

5.01 For the purpose of these Regulations certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, the word "person" includes a firm or corporation, as well as an individual, and the word "lot" includes the words "plot" and "parcel", except where the natural construction of the writing indicates otherwise. The word "shall" is always mandatory and not permissive, the word "may" is permissive. Map The Official Zoning Map of Hattiesburg, Mississippi. Any term not defined within this Code shall be construed to be used in this Code as defined by the latest edition of Webster's Unabridged Dictionary.

5.02 Abandoned Vehicle or Junked Vehicle: Any vehicle which is without current license tag and/or which is (a) wrecked, (b) dismantled, (c) partially dismantled, or (d) inoperative. Storage shall mean being on or occupying the premises for thirty (30) days or more.

5.03 Abandoned Personal Property or Junk: Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

5.04 Accessory Structure: Any structure on the same lot with and customarily incidental and secondary to the main structure or use, including satellite receiving dishes and liquid petroleum gas storage tanks.

5.05 Accessory Use: A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

5.05.1 Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines, for viewing by five or fewer persons are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of "specified sexual activities" or specified anatomical areas". (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.05.2 Adult Bookstore: An establishment which has a substantial portion of its stock-in-trade and offers for sale for any form of consideration, any one or more of the following:

- a. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas," or

- b. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities." (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.05.3 Adult Cabaret: A nightclub, bar, restaurant, theater, or similar establishment which regularly features live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas." (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.05.4 Adult Entertainment Establishment: An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, or similar establishment which regularly features or depicts behavior which is characterized by the exposure of "specified anatomical areas," or where any employee, operator or owner exposes his/her "specified anatomical area" for viewing by patrons. (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.05.5 Adult Motel: A motel or similar establishment which includes the word "adult" in any name it uses or otherwise advertises the presentation of adult material, offering public accommodations for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas." (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.05.6 Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas." (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.06 Agriculture: The raising or growing of crops, fowl, or livestock, in any A-1 or A-2 zone, provided such use does not constitute a nuisance or health hazard. Also, sale of agricultural products grown on the premises.

5.07 Alley: A minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

5.08 Administration, Director of /City Clerk: That person designated by the Mayor and ratified by the City Council who is responsible for the activities and functions of the Department of Administration, or their designated representative.

5.09 Alcoholic Beverage: Any alcoholic liquid capable of being consumed as a beverage by a human being, but shall not include wine containing not more than four percent of alcohol by weight and shall not include beer containing not more than four percent alcohol by weight.

5.09.1 Amusement and recreation facilities: Establishment engaged in providing amusement or entertainment for a fee or admission charge and include such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks, membership sports, and recreation clubs; amusement and bathing beaches; swimming pools, riding academies, carnival operations, expositions, game parlors, circuses, bingo parlors and horse shows. These operations may be of either a permanent or temporary nature. The hours of operations may be determined by the Land Code Administrator.. Such uses are allowed in B-3, B-4 and B-5 zoning districts only. All facilities that have amusement rides will include mandatory ride inspections by a Level II certified ride inspector as recognized by the National Association of Ride Safety Officials and copies of these inspections shall be on file in the recreational facility office and shall be required by the City before a permit to operate is approved. *(Added by Ord. 2647, Sec. 1, 6/16/98)* (see PB notes)

5.10 Apartment House or Multi-Family Dwelling: Any single detached dwelling unit designed for and occupied by three or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels, flats, and townhouses or condominiums, but not including auto or trailer courts or camps, hotels, motels, or resort type hotels.

5.11 Automobile-Junk Area or Automobile Graveyard: An area other than a street or alley used for the dismantling or wrecking of used automobiles or the storage, sale or dumping of dismantled, partially dismantled, inoperative, or wrecked automobiles or their parts.

5.12 Auto Wrecking: The collecting, dismantling or wrecking of used motor vehicles, wheeled or track laying equipment, or trailers; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or inoperative or wrecked motor vehicles, wheeled or track laying equipment or trailers or their parts. The dismantling and rebuilding, other than repair, of more than one motor vehicle, piece of wheeled or track laying equipment, or trailer at a time, even though not for profit or a principal use of a parcel of land, shall be defined as auto wrecking. The storage of a partially dismantled motor vehicle, piece of wheeled or track laying equipment or trailer shall be considered auto wrecking. Auto wrecking involving burning or burning out is not permitted.

5.13 Bed and Breakfast:

1. Bed and Breakfast Facility: residential establishment wherein units are rented to transient guests on an overnight basis, and wherein breakfast is the only

meal served to these guests.

2. **Bed and Breakfast Inn:** a bed and breakfast facility operated by owner or resident manager and containing six (6) or more units for rent.
3. **Bed and Breakfast Residence:** an owner-occupied bed and breakfast facility with a maximum of five (5) units for rent.
4. **Commercial Meeting:** any function, including but not limited to, weddings, banquets, luncheons, meetings, parties, fundraisers or other gatherings for compensation.
5. **Owner-Occupied:** a facility wherein the owner lives and resides on a majority of nights each year.
6. **Resident Manager:** a person designated by the owner to reside at a facility and who is responsible for the daily operations at a bed and breakfast inn.
7. **Unit:** a bedroom for rent, regardless of whether or not it is included in a suite. *(Amended by Ord. 2869, Sec. 1, 4/5/05)*

5.14 Blighted Area: Blighted Area shall mean an area which by reason of the presence of a substantial number of slums; deteriorated or deteriorating structures; predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions; deterioration of site or other improvements; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use. If such blighted area consists of open land the conditions contained in the provision in subsection (d) of Section 43-35-13 of the Mississippi State Code, 1972, as amended, shall apply. Any disaster area referred to in subsection (g) of Section 43-35-13 shall constitute a "blighted area". State Law 43-35-3.

5.15 Block: A parcel of land intended to be used for urban purposes which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or greenstrips, rural land or drainage channels, or a combination thereof.

5.16 Boarding House: Any dwelling unit other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) or more persons.

5.17 Buffer Area/Strip: An area with sufficient planting and/or screening which acts as a separation area between two or more incompatible uses and/or districts.

5.18 Buildable Area: That portion of a lot remaining after required yards have been provided. See district diagram.

5.19 Buildable Width: Width of the building site left after the required yards have been provided.

5.20 Building: Any enclosed structure having a roof and intended for shelter, housing or enclosure of persons, animals or chattel. The main building is that building which contains the principal use of a lot.

5.21 Building, Alteration Of: Any change or rearrangement in the supporting members (such as bearing walls, beams, columns, or girders) of a building, any addition to a building or movement of a building from one location to another.

5.22 Building Code: The current Building Code, Southern Building Code Congress International, as adopted by the Governing Authority.

5.23 Building, Front Line Of: A line intersecting the foremost portion of a building and parallel and/or concentric to the right of way line. See district diagram.

5.24 Building Height: The vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the roof surface.

5.25 Building Official: The official appointed by the administration and charged with the responsibility of enforcing the City Building Codes and issuance of building permits.

5.26 Building, Main: A building in which is conducted the principal use of the lot on which it is situated.

5.27 Building Permit: A permit which a person shall obtain from the Building Official granting permission to said person to construct or build any structure.

5.28 Building Setback Line: The distance required by this Code to be maintained between a given lot line, easement or right-of-way line and any structure foundation: front, rear, or side, as specified.

5.29 Building Site: A single parcel of land occupied or intended to be occupied by a building or structure, and appropriate accessory building or uses.

5.30 Camp/Lodge (Fish, Deer, Hunting): An area of land used for temporary occupancy and owned, rented or leased by the owner including and limited to placement of mobile homes, modular homes, cabins, camper trailers, boats and accessory structures or uses.

5.31 Care Center:

1. **Home Care Center:** A private establishment enrolling up to four persons where tuition, fees, or other forms of compensation for the care of persons is charged for a period of less than twelve and one-half (12½) hours for any part of a twenty-four hour (24) day. A Home Care Center is a home occupation. *(Amended by Ord. 2434, Sec. 1, 11/17/92)*

Day Care Center: A place which provides shelter and personal care for five or more persons regardless of age for any part of the twenty-four hour day, whether such place be organized or operated for profit or not. Care of a person shall not exceed twelve and one-half (12 1/2) hours for any part of the twenty-four (24) hour day. The term "Day Care Center" indicates day care babysitting service, child or adult care centers and any other facility that within the scope of the definition set forth herein, regardless of auspices. Excluded from this definition is any facility operating as a kindergarten, nursery school or Head Start in conjunction with an elementary and/or secondary school system, whether it be public, private or parochial, whose primary purpose is a structured school readiness program. Also excluded is any medical care facility such as a convalescent home or nursing home or rehabilitation center. Space requirements shall be as stipulated by the MS State Board of Health and the Southern Standard Building Code, or other appropriate State or Federal Agency.

5.32 Cemetery, Animal: A tract of private land divided into plots for interment of the animal dead in compliance with applicable State statutes and City ordinances.

5.33 Cemetery, Human: A tract of land, private or public, divided into plots for interment of the human dead in compliance with applicable State statutes and City ordinances.

5.34 Certificate of Zoning Compliance: A permit issued by the Land Development Code Administrator indicating that the use of the building or land in question is in conformity with this Code, is a use permitted by right or a use permitted by review, or is a legal nonconforming use, or that there has been a legal variance granted, as provided by the Code. This is a check and balance system on the zoning procedure. It means that an inspection has indicated that the use is being carried on at the time of occupancy and the condition of the structure or lot at the time of occupation meets all the requirements and legitimately can continue. No structure or lot shall be occupied until a certificate of zoning compliance has been issued when such is required in the Land Development Code.

5.35 Certified Sanitary Sewer: A public sewage disposal system of a type approved by the Mississippi Air and Water Pollution Control Commission, or individual sewage disposal systems of a type approved by State.

5.36 Church: A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

5.37 City: The City of Hattiesburg, Mississippi

5.38 City Clerk: As defined in the Mississippi Code of 1972, as amended.

5.39 City Council: As defined in the MS Code of 1972, as amended.

5.40 City Engineer: The administrative head of the City of Hattiesburg's Engineering staff and the chief technical engineering advisor to the Governing Authority and other City related offices, or his designated representative.

5.41 Clerk of Council: As defined in the Mississippi Code of 1972, as amended.

5.42 Cluster Development: A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features. Permitted under Planned Unit Development.

5.43 Comprehensive Plan and Planning Process: The officially adopted plan and comprehensive planning process that contains the elements that provide long range development policies for the City of Hattiesburg and the area subject to urbanization in and around Hattiesburg, Mississippi

5.44 Conforming Use: Any lawful use of a building or lot which complies with the provisions of this Code.

5.45 Day Care Center: See Section 5.31, Care Center.

5.46 Density: The intensity of the use of land observing all yard, height and lot coverage provisions of this Code.

5.47 Developer: Any person engaging in developing or improving a lot or group of lots or placing structures thereon for use or occupancy.

5.48 Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or a drilling operation.

5.49 District: Any zoning district established by this Code.

5.50 Drainage System, Storm: The facility to carry off large amounts of water produced from rain and which meets or exceeds the requirements to control storm water

runoff for the minimum twenty-five year flood level.

5.51 Dwelling: Any building, or portion thereof, which is designed or used as living quarters for one or more families to be occupied for 30 days or longer.

5.52 Dwelling, Attached: A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

5.53 Dwelling, Detached: A one-family dwelling which is not attached to any other dwelling by any means.

5.54 Dwelling, Manufactured (Mobile) Home: A factory-built single family structure that is manufactured under the authority of 42 U.S.C., Sec. 5401, the National Federal Manufactured Home Construction and Safety Standards Act, is transportable in two or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent non-removable hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have non-removal wheels or hitch-axles, permanently attached to its body or frame. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*

5.55 Dwelling, Modular Home: A structure, transportable in one or more sections, which is at least 8 feet in width and 32 feet in length, which is built on a on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities and was manufactured after June 14, 1976 under the authority of 42 U.S.C., Sec. 5401, the National Federal Manufactured Home Construction and Safety Standards Act that would otherwise be classified as a manufactured home under this ordinance except for the fact that is remains attached to wheels and/or hitch-axles. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*

5.56 Dwelling, Multi-Family: A dwelling designed for occupancy for three or more families living independently of each other.

5.57 Dwelling, Two-Family: A dwelling designed to be occupied by two families living independently of each other.

5.57.1 Dwelling, Condominium: A dwelling designed as a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional basis. *(Added by Ord. 2913, sec. 1, 6/20/06)*

5.58 Dwelling Unit: A room or group of rooms occupied or intended to be occupied as separate living quarters.

5.59 Easement: A grant by the property owner to the public, a corporation, or persons, of the use of a strip of land for specific purposes.

5.60 Electrical Code: The current Electric Code, National Electric Code, as adopted by the Governing Authority.

5.61 Engineer, Registered: Shall mean a registered professional engineer registered with the State of Mississippi.

5.62 Excavate: Means to dig out, scoop out, hollow out, or otherwise make a hole or cavity by removing soil, sand, gravel, or other material from any property so as to change the grade of such property.

5.63 Family: One or more persons who are related by blood, adoption or marriage, living together and occupying a single housekeeping unit with single culinary facilities, or a group of not more than four (4) persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a nonprofit, cost-sharing basis. Any household employees residing on the premises shall not be considered as a separate family for purposes of this Code.

5.64 Fill: The placing, storing or dumping of any materials such as earth, clay, sand, concrete, rubble or non-decomposable waste of any kind upon the surface of the ground which results in increasing the natural surface elevation.

5.65 Fire Code: The current Standard Fire Prevention Code, Southern Building Code Congress International, as adopted by the Governing Authorities.

5.66 Flammable Liquids: Any liquid which gives off flammable vapors, as determined by the flash point from an open cup tester as used for test of burning oils, at or below a temperature of 80 degrees Fahrenheit, is flammable.

5.67 Flood Plain: The land area adjoining a river, stream, watercourse, or lake that has been or may be covered by flood water. (This definition of flood plain may differ from that used in geologic and geomorphic writings.)

5.68 Flood Damage Prevention Code: An overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and land use and control measures, and Flood Damage Prevention Code. NOTE: See current Flood Damage Prevention Code.

5.69 Floodproofing: Structural and/or nonstructural adjustments to a building which make it watertight below the base flood level and which enable the building to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood level. Said adjustments are to be certified by a registered professional engineer or architect.

5.70 Floodway: The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

5.71 Floor Area: The square footage of all floor space within the outside line of walls and including the total of all space on all floors of a building used for dwelling purposes.

5.72 Frontage: All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street. If the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

5.73 Future Land Use Plan: That part of the Comprehensive Plan now and hereafter adopted which includes the adopted Future Land Use Plan, and which sets forth identification, location, area and classifications of proposed land uses.

5.74 Garage Apartment: A dwelling unit above a private garage.

5.75 Garage, Private: An accessory building or part of a main building used for storage purposes for one or more automobiles. Also includes carports.

5.76 Garage, Public: Any building, other than a private garage, available to the public where vehicles are parked or stored for remuneration, hire, or sale.

5.77 Gas Code: The current Standard Gas Code, Southern Building Code Congress International, as adopted by the Governing Authorities.

5.78 Gasoline, Service or Filling Station: Any area of land, including structures thereon, that is used for the retail sale of gasoline or oil fuels, and installation of other minor automobile accessories, and which may or may not include facilities for lubricating, washing or cleaning, but not including storage and rental of vehicular equipment.

5.79 Governing Authorities: Mayor and Council of the City of Hattiesburg, Mississippi.

5.80 Grade or Grade Level: The finished elevation of land either horizontal or sloping, after completion of site preparation for the construction of structures.

5.81 Grading Code: The current Standard Grading Code, Southern Building Code Congress International, as adopted by the Governing Authorities.

5.82 Ground Elevation: The height of the ground above sea level expressed in terms of Mean Sea Level or the City of Hattiesburg Datum.

5.83 Group Care Facility: A facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household. A group care facility may include half-way houses, recovery homes, and homes for orphans, foster children, the elderly, battered children and women. It would include a specific treatment providing less than primary health care.

5.84 Habitable Floor: A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

5.85 Hardship: An unusual situation on the part of an individual property owner that will not permit the full utilization of their property as is allowed others within the community. A hardship exists only when it is not self-created or when it is not economic in nature. In other words, a true hardship exists only when the literal interpretation of the requirements of the Code would place an individual in an unusual circumstance and would deny the right to use property for any purpose, or create an unnecessary burden, unless relief is granted.

5.86 Historic Conservation Code: An overall program of protection, enhancement and perpetuation of landmarks, landmark sites and historic districts which represent distinctive elements of the city's cultural, social, economic, political and architectural history; to safeguard, stabilize, promote the city's historic aesthetic and cultural heritage through the Hattiesburg Historic Conservation Commission. Standards and requirements established by the Hattiesburg Historic Conservation Code. **NOTE:** See current Hattiesburg Historic Conservation Code.

5.87 Home Care Center: See Care Center.

5.88 Home Occupation: Any occupation or profession carried on by a family residing on the premises which is clearly incidental and secondary to the use of the dwelling unit, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings. See Home Occupation regulations, Section 82.

5.89 Hotel or Motel: A building containing sleeping rooms intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged, with or without meals, for compensation.

5.90 Housing Code: The current Standard Housing Code, Southern Building Code Congress International, as adopted by the Governing Authorities.

5.91 Junk: See Abandoned Personal Property or Junk.

5.92 Junk Yard: Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or wrecked, dismantled, partially dismantled or inoperative motor vehicles or other type of junk.

5.93 Kennel: An establishment in which more than three (3) domesticated animals more than six (6) months old are housed, groomed, bred, boarded or trained for compensation or offered for sale.

5.94 Land Development Code: The Code regulating zoning and land subdivision within the corporate limits of Hattiesburg, MS. Also referred to as the Code in the text.

5.95 Land Development Code Administrator: The administrative officer designated to administer the Land Development Code Ordinance and issue Certificates of Zoning Compliance.

5.96 Land Development Code Checklist: Is a Land Development Code Checklist which is required for all new or renovation development or redevelopment projects of land or buildings. Note: See Historic Conservation Code; See Section 38, Land Development Code Checklist.

5.97 Land Use and Related Control Measures: Land Development Code (zoning ordinances), subdivision code and other related ordinances, to provide standards and effective enforcement provisions for the prudent use and occupancy of land

5.98 Legal Nonconforming Use, Building Or Yard: A use, building or yard existing legally at the time of the passage of this Code which does not by reason of design, use, or dimensions conform to the regulations of the district in which it is situated. A use, building or yard established after the passage of this Code which does not conform to regulations of the district in which it is situated shall be considered an illegal nonconforming use. Certificate of Zoning Compliance required.

5.99 Level of the 100-Year Flood: The highest level of flooding that has a one (1.0) percent chance of occurring each year. **NOTE:** See current Flood Damage Prevention Code.

5.100 Livestock: A domestic animal normally raised on a farm such as poultry, swine, cattle, horses, sheep, goats, or similar animals, but not wildlife.

5.101 Lot: For the purpose of this Code, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and open spaces as required. Such lot, existing or after the subdivision is approved, shall have frontage on an improved public street, or on an approved private street, the use of which has been approved by the Site Plan Review Committee. It may consist of a single lot of record, or of a portion of a lot of record, a combination of complete lots of record, or of portions of lots of record, or a parcel of land described by metes and bounds provided that in case of division or combination no lot or parcel shall be created which does not meet the requirements of the Land Development Code.

5.102 Lot Line, Side: The side lot line is the property boundary line between the front and rear lot lines.

5.103 Lot of Record: A lot which is part of a subdivision recorded in the Office of the County Chancery Clerk, or a lot or parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Chancery Clerk and

that at the time of recording was a legal, conforming use.

5.104 Lot, Corner: A lot located at the intersection of and abutting on two (2) or more streets.

5.105 Lot Depth: The average horizontal distance between the front lot line and the rear lot line.

5.106 Lot, Double Frontage: A lot, other than a corner lot which has frontage on more than one street. Also referred to as a through lot.

5.107 Lot Frontage: The front of a lot shall be construed to be the portion nearest the street right of way extending from lot line to lot line. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated in this Land Development Code.

5.108 Lot, Interior: A lot other than a corner lot.

5.109 Lot Area: The total area included within the front, side and rear lot lines.

5.110 Lot Lines: The lines bounding a lot as defined herein.

5.111 Lot Line, Front: In the case of an interior lot, the line separating said lot from the street. In the case of a corner or through lot, the line separating said lot from the street which the house will face, to be determined from the request for a building permit. Front lot line is synonymous with street right-of-way line. See district diagram.

5.112 Lot Width: The width of a lot at the front building setback line. See Building Setback Line, Section 5.29.

5.113 Marina: A boat basin, harbor or dock, with facilities for berthing and servicing boats, including bait and fishing tackle shop and eating establishment.

5.114 Major Thoroughfare Plan: That part of the Comprehensive Plan now or hereafter adopted which includes the adopted Major Thoroughfare Plan, and which sets forth identification, location, dimensions and classifications of existing and proposed public streets, major arterials, minor arterials, collectors, highways and parkways. See Section 84, Open Space.

5.115 Manufactured (Mobile) Home Park: A parcel of land in which spaces are rented or leased for placement of two or more manufactured homes. See Section 57.05, Special Regulations for Manufactured Home Parks. (*Amended by Ord. 2663, Sec. 1, 9/22/98*)

5.116 Mayor: Mayor (Chief Executive) of the City of Hattiesburg.

5.117 Medical and Dental Facilities:

1. **Dental Office or Doctors Office:** A facility for the examination and treatment of patients with no more than three (3) practitioners.
2. **Convalescent, Rest, or Nursing Home:** A health facility where persons are housed and furnished with medical and/or nursing care.
3. **Clinic, Medical:** A building or portion of a building containing the offices and associated facilities of one or more practitioners providing medical, dental, psychiatric, osteopathic, chiropractic, physical therapy or similar services for outpatients only, with or without shared or common spaces and equipment.
4. **Hospital:** An institution where sick or injured persons are given medical care and in the course of same may be housed overnight, fed and provided nursing and related services.
5. **Public Health Center:** A facility primarily utilized by a health unit for the provisions of public health services.

5.118 New Construction: The first placement of permanent construction on a site, such as the pouring of slabs or footings, or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof or its pilings or foundation, or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basements, footings, piers or foundations, erection of temporary forms, installation of sewer, gas and water pipes, or electric or other service lines from the street, or existence on the property of accessory buildings such as garages or sheds, not occupied as dwelling units or not a part of the main structure.

5.119 Nonconforming Lot: A lot, the area, width, or other characteristic of which fails to meet requirements of the zoning district in which it is located and which was conforming ("of record") prior to enactment of the Land Development Code.

5.120 Nonconforming Use: A structure and/or parcel of land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated at the time of the passage of this Code.

5.121 Nursing Home: See Medical and Dental Facilities.

5.122 Open Space: An area of land upon which no structures shall be erected.

5.123 Open Space, Common: A parcel or parcels of land not occupied by dwellings or other buildings, driveways, or parking areas, which is available to, accessible to, and

maintained in a suitable state for the shared use and enjoyment by the owners and/or occupants of individual dwelling units within a particular development.

5.124 Open Storage: A depository or place for storing goods related to the establishment on the same premises and not located within a building. All open storage must conform to Section 87, Open Storage.

5.125 Overlay District: A set of zoning requirements that is described in the Code text, is mapped, and is imposed in addition to those of the underlying district. Developments within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

5.126 Owner: Any person having a sufficient proprietary interest in the land sought to be subdivided or rezoned to commence and maintain proceedings to subdivide or rezone same according to the provisions specified in this Code.

5.127 Parking Lot: The area and/or parking spaces required by this Code in a specific district designed and used for parking automobiles, vehicles, and loading. The parking area shall exclude fire lanes, as defined in the Standard Fire Prevention Code.

5.128 Parking Space: A space located on private or public property sufficient in size to store one (1) automobile and meeting the requirements of this Code and the Disabled Persons Parking Code. For purposes of this Code, a parking space shall be computed at three hundred (300) square feet, which includes the parking stall and circulation area.

5.129 Permit: Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

5.130 Permitted Use: That use of a lot which is among the uses as a matter of right under the zoning classification.

5.131 Planning Commission: The Hattiesburg Planning Commission as established by Ordinance 1490.

5.132 Planning and Community Development, Director of: That person designated by the Mayor and ratified by the City Council who is responsible for the activities and functions of the Department of Planning and Community Development, or their designated representative, and the chief technical planning advisor to the Hattiesburg Planning Commission and to the Governing Authority, or their designated representative.

5.133 Planning Department: The staff of the Hattiesburg Planning and Community Development Department.

5.134 Planned Unit Development: A land tract in which a multiplicity of land uses may be permitted including single-family residential, multi-family residential, public use

and compatible commercial use, and in which land not used by residential or commercial structures and yards but required by basic zoning of the site shall be reserved collectively in contiguous units accessible to all the building sites in the development as open space for the purpose of providing recreational facilities and pedestrian circulation. The cluster development concept may be used under Planned Unit Development regulations.

5.135 Plat: A map, plan or layout showing land subdivision information required by the Land Development Code.

5.136 Plumbing Code: The current Standard Plumbing Code, Southern Building Code Congress International, as adopted by the Governing Authorities.

5.137 Premises: Land together with structure or structures occupying it.

5.138 Private Drive: A driveway located on a lot which serves only that lot, and which shall not be a private street.

5.139 Public Safety, Director of: That person designated by the Mayor and ratified by the City Council who is responsible for the activities and functions of the Department of Public Safety, or their designated representative.

5.140 Public Services, Director of: That person designated by the Mayor and ratified by the City Council who is responsible for the activities and functions of the Department of Public Services, or their designated representative.

5.141 Public Use: A use owned and/or operated by a Government Authority (City, County, State, Federal) for the benefit and well being of the general public.

5.142 Public or Private Utility: Any person, firm, corporation, municipal department or board duly authorized under State or municipal regulations to furnish such public services as electricity, gas, water, sewer, telephone, television cable, telegraph, transportation or other public services to its subscribers or customers.

5.143 Recreational Vehicle: A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.

5.144 Residential Structure: A building or portion thereof designed or used exclusively for residential occupancy but not including hotels, motels, and motor lodges.

5.145 Restaurant: A business establishment whose primary service is the providing of food for patrons for consumption on the premises or for take out. Beverages containing alcohol may also be sold and consumed within the confines of the structure in conjunction with the food service and shall meet Mississippi Code 67-1-5 and City

ordinances. See Section 73, Alcoholic Beverage Sales. Examples of these types of restaurants include but are not limited to the following: Cafes, cafeterias, delicatessen, fast food drive-ins, fast food with counter service, and drive through. *(Amended by Ord. 2450, Sec 1, 6/22/93)*

5.146 Schools: A public or private institution at which persons are instructed in the specifics of learning for purposes of this Code including kindergarten, elementary grades 1-6, junior high grades 7-9, and secondary senior high grades 10-12, but does not include business schools, colleges, or universities. Included in this definition is any facility operating as kindergarten, nursery school, Head Start, or like facility in conjunction with an elementary and/or secondary school system, whether it be public, private, or parochial, whose primary purpose is a structured school readiness program. *(Amended by Ord. 2434, Sec. 1, 11/17/92)*

5.147 Semi-Public Use: A use owned, operated and/or maintained by a private, eleemosynary institute or other group generally for the benefit of a selected public group and the community (i.e. religious group).

5.148 Setback Line: That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

5.149 Sidewalk: A paved, surfaced or leveled area, usually paralleling and separated from the street, used as a pedestrian walkway.

5.150 Sign Definitions:

1. **Billboard/Outdoor Advertising Sign:** An outdoor advertising structure which advertises a use, product, or service. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
2. **Blinking:** A means of animation on electronic message board signs whereby the message winks or flashes on and off. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
3. **Complete Message:** A complete message contains all the necessary components to understand the message in its entirety; it is not necessary for the reader to await additional information to understand the meaning of the message or to receive additional the information related to the message. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
4. **Electronic Message Board:** A sign or portion thereof with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*

5. **Facade**: Means any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction, or in the direction within 45° of one another, they are to be considered as part of a single façade. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
6. **Flashing**: A change in light intensity at regular intervals, including repeated brightening or dimming of lights, change in contrast or hue, or turning them on and off in a manner in which the duration of light is less than the duration of darkness. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
7. **Free Standing Sign**: Means any sign connected to the ground which is not an attached sign, inclusive of signs on movable objects, except signs on vehicles which are moving or are parked only temporarily. A freestanding sign may display on and off premise information. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
8. **Height**: As applied to a sign, shall be measured as the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the ground. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
9. **Message Area**: Effective area for free standing signs means the area enclosed by the minimum imaginary rectangle of vertical and horizontal lines which fully contains all extremities of the sign, exclusive of its supports. This rectangle is to be calculated from an orthographic projection of the sign viewed horizontally. Also called sign area or surface area. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
A viewpoint for this projection is to be taken which gives the largest rectangle of that kind, as the viewpoint is rotated horizontally around the sign. If elements of the sign are movable or flexible, as a flag or string of lights, the measurement shall be taken when the elements are fully extended and parallel to the plan of view. The effective area for attached signs shall mean the sum of the areas of the minimum imaginary rectangles enclosing each word attached to any particular facade. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
10. **Message Off-Time**: The length of time between two message times when an electronic message board is blank/displays no part of any message. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
11. **Message On-Time**: The length of time that the text of a message is visible on an electronic message board. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*

12. **On-Premise Sign**: A sign advertising activities conducted on, or principal products sold on the property on which the sign is located. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
13. **Off-Premise Sign**: A sign advertising activities conducted off the property, or principal products sold off the property on which the sign is located. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
14. **Projecting Sign**: A sign that is wholly or partly dependent upon a building for support and which projects at an angle away from the building. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
15. **Roof Sign**: Any sign or outdoor advertising device attached to the roof of a building. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
16. **Scintillation**: The effect produced by turning lamps on and off in a seemingly random pattern, customarily producing a twinkling affect. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
17. **Scrolling**: The traveling or moving of lines of text horizontally or vertically across the electronic message board. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
18. **Setback**: Means the required distance between any point on private land and the nearest point at the edge of the nearest public right-of-way. Where a public way crosses a railroad right-of-way, the setback distance is to be measured from the public right-of-way line extended across the railroad right-of-way. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
19. **Sign**: Means any device, flag, light, figure, picture, letter, word, message, symbol, plaque, or poster visible from outside the premise on which it is located and designed to inform or attract the attention of persons not on that premise, excluding searchlights. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
20. **Sign Support/Structure**: Means any pole, strut, cable, or other structural fixture or framework necessary to hold and secure a sign, providing that said fixture or framework is not imprinted with any picture, symbol or word using characters, nor is internally or decoratively illuminated. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*
21. **Wall Sign**: A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and which does not project more than six (6) inches from such building or structure. *(Amended by Ord. 2870, Sec. 1, 4/19/05)*

22. **Wind Device**: Means any flag, banner, pennant, streamer, or similar device that moves freely in the wind. (*Amended by Ord. 2870, Sec. 1, 4/19/05*)

5.151 Site Plan Review Committee: As established by the Land Development Code, its purpose shall be to utilize to the fullest extent possible its individual and collective technical expertise, to coordinate and expedite the review, processing and pre-hearing procedures as they may apply to the Land Development Code, and all development and building codes and all applicable City Codes.

5.152 Slum Area: Slum Area shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such facts or conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare. Mississippi State Law 43-35-3, as amended.

5.153 Space Satellite Receiving Systems: A structure which receives audiovisual wave frequencies from earth orbiting communications satellites. These satellite systems shall be considered as an accessory use.

5.153.1 Specified Anatomical Areas: Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or less than fifty percent (50%) of the female breast below a point immediately above the top of the areolae; or human male genitals in a discernibly turgid state even if completely and opaquely covered. (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.153.2 Specified Sexual Activities: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touchings of human genitals, pubic regions, buttocks, or female breasts; flagellation or torture in the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of physical pain; erotic touching, fondling or other such contact with an animal by a human being; or human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in this ordinance. (*Added by Ord. 2462, Sec. 1, 9/21/93*)

5.154 Stable: An accessory building for the keeping of livestock owned by the occupants of premises and not kept for remuneration, hire or sale, and not to exceed one animal over two hundred (200) pounds per forty thousand (40,000) square feet of open space.

5.155 Story: Pursuant to the currently adopted building code, a story is that portion of a building included between the upper surface of a floor and the upper surface of the floor

or roof next above, excluding “basement” as defined in the currently adopted building code, and including “story above grade plane,” also as defined in the currently adopted building code. (*Amended by Ord. 2880, Sec. 1, 7/19/05*)

5.156 Street, Arterial:

1. **Major Arterial:** A street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterials. Shall have a minimum right-of-way of one hundred and twenty (120) feet.
2. **Minor Arterial:** A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets. Shall have a minimum right-of-way of one hundred (100) feet.

5.157 Street, Collector: A street designed to facilitate traffic movement between minor arteries and minor streets and indirect access to abutting properties. Shall have a minimum right-of-way of eighty (80) feet.

5.158 Street, Cul-de-sac, Court, or Dead-end Street: A short street of a maximum of eight hundred (800) feet in length having one end open to traffic and the other permanently terminated by a vehicular turn-around.

5.159 Street, Curb Line Radius: The radius used to join two (2) intersecting streets or the curve of a street.

5.160 Street, Dedicated: A street with its right-of-way which has been given by the owner for public use and has been accepted by the responsible political entity in which the street is located and is so dedicated and recorded in the Office of the County Chancery Clerk.

5.161 Street Grade: The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street at the center of the street shall be considered as the street grade.

5.162 Street, Half: One half of the right-of-way of a street.

5.163 Street, Intersection: The place where a street joins or crosses another street at an angle.

5.164 Street Line: Public right-of-way line of a street. See district diagram.

5.165 Street, Minor: A street designed primarily to provide access to abutting properties. Shall have a minimum right-of-way of fifty (50) feet.

5.166 Street, Private: Any private way which is platted as a principal means of access for abutting properties but which is not dedicated for public use. A private street shall be built to City specifications and right-of-way requirements, however, maintenance shall be the responsibility of the adjoining property owners. (See Section 133, Private Streets.)

5.167 Street, Public: Any way or place which is dedicated and accepted for public use, which provides the principal means of access for abutting properties. A public street shall be constructed to City specifications and accepted by the City prior to dedication.

5.168 Street or Alley, Vacated: A dedicated right-of-way which has been officially closed and abandoned by Ordinance by the Governing Authority, and said right-of-way is divided equally between adjacent properties.

5.169 Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attached to something having a fixed location on the ground, structures include billboards, mobile homes, walls, swimming pools, and fences, but do not include marquees, canopies, service or dispensing facilities, whether free standing or attached.

5.170 Structural Alterations: Any change in the roof, exterior walls or supporting members of a building.

5.171 Subdivider: Any person, firm, partnership, corporation or other entity acting as a unit, and subdividing or proposing to subdivide land as herein defined.

5.172 Subdivision: The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development by means of an appropriately recorded legal document.

5.173 Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the actual cash value of the structure either (1) before the improvement is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

5.174 Surveyor, Registered Land: Shall mean a registered land surveyor licensed in the State of Mississippi.

5.175 Swimming Pool Code: The Standard Swimming Pool Code of Southern Building Code Congress International, as adopted by the Governing Authorities.

5.176 Tearoom: A restaurant facility that generally serves tea, coffee and light lunches, and may be open for evening meals. (*Amended by Ord. 2444, Sec. 1, 4/20/93; Added by Ord. 2348, Sec.3, 12/22/92*)

5.177 Traffic, Through: The continuous movement of traffic from one general area to

another general area.

5.178 Trailer, Camper: A portable or mobile dwelling used for temporary occupancy, intended for camping purposes and not for extended or permanent occupancy. Example: Recreational vehicle or pop-up camper.

5.178.1 Tree Regulations

1. Urban Forester: The City of Hattiesburg employee especially trained in forestry, and arboriculture or his/her duly authorized designee.
2. Diameter at Breast Height (DBH): The measurement of the width of the trunk of the tree at four and one-half feet above the existing grade. For multi-trunk trees the DBH shall be the sum of the diameter of the trunks.
3. Drip Line: The circumference of the tree's natural, unaltered canopy extended vertically to the ground.
4. Grubbing: The effective removal of undesirable under story vegetation and tree stumps.
5. Land Clearing: Those operations where trees and vegetation are removed and which occur previous to building; e.g., road right-of-way excavation, lake and drainage system excavation, utility excavation, grubbing, and any other necessary or approved clearing operations.
6. Large Tract: A tract of property of one acre or more in size.
7. Small Tract: A tract of property of less than one acre in size.
8. Protected Ground Area: A uniform circular area marked with a physical barrier (i.e. plastic fence, silt barrier, staked wire guard, or wooden enclosure), which shall serve as the area of defined protection for protected trees.
9. Public Tree: A tree located on any property owned by the City, such as street and alley rights of way, parks and other public areas.
10. Other Improvements: Sidewalks, driveways, and other site modifications outside of the structured walls.
11. "Tree" shall mean any tree greater than 12" DBH.
12. "Removal" shall mean the act of removing one (1) or more trees from a certain parcel, or lot.

13. “Tree protection” refers to implementing on-the-ground protection measures (See 8: “Protected Ground Area” in this section).
14. Tree Contractors: Any business or individual who receives compensation for tree pruning or removal.
(Amended by Ord. 2897, Sec. 1, 1/17/06, Ord. 2645 Sec. 1, 6/16/98)

5.179 University/College/Business School: An institution at which persons are instructed in vocational, career and academic learning for preparation for employment and education for persons 15 years old and older. Post secondary education. Example: University of Southern Mississippi, Pearl River Vocational Technical Center or private business college.

5.180 Variance: A modification of the literal provisions of this Code which the Board of Adjustment and/or the City Council is permitted to grant when strict enforcement of said provisions would cause undue hardship (such hardship cannot be self created or of an economic nature) owing to circumstances unique to the individual property on which the variance is sought.

5.181 Veterinary Clinic/Hospital:

1. **Veterinary Clinic/Hospital - Small Animals:** A commercial facility where sick or injured small animals of less than two hundred (200) pounds are given medical care, and in the course of same may be housed overnight, fed, and provided related services. This shall not include temporary boarding.
2. **Veterinary Clinic/Hospital - Large Or Farm Animals:** A commercial facility where sick or injured animals are given medical care and in the course of same may be housed overnight, fed, and provided related services, including temporary boarding.

5.182 Vicinity Map: A map of the general surrounding area indicating the location of the property being subdivided.

5.183 Water Supply System: Any system approved by the State Health Department and City of Hattiesburg which provides a source, means or process of supplying potable water.

5.184 Yard: An open space at grade between a building and the adjoining lot lines. See district diagram.

5.185 Yard, Front: A yard located in front of the front elevation of a building unoccupied and unobstructed by any portion of a structure from the ground upward and extended across a lot between the side lot lines and being the minimum distance between the front property line and the outside wall of the main building. See district diagram.

5.186 Yard, Rear: A yard extending across the rear of a lot measured between inner side yard lines and being the minimum distance between the rear lot line and the rear of the main building. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. See district diagram.

5.187 Yard, Side: A yard between the building (from the building foundation line) and the side line of the lot and extending from the front building line to the rear building line and being the minimum distance between a side lot line and the outside wall of the side of the main buildings. See district diagram.

5.188 Zoning Map: The official zoning map or maps which are a part of the Land Development Code and delineate the boundaries of the zoning districts.