

**LAND DEVELOPMENT CODE  
ESTABLISHING ZONING DISTRICTS AND REGULATIONS  
FOR LAND DEVELOPMENT AND SUBDIVISION  
IN THE CITY OF HATTIESBURG, MISSISSIPPI  
ORDINANCE NO. 2330  
ADOPTED DECEMBER 05, 1989**

**DESCRIPTION**

**THE LAND DEVELOPMENT CODE IS A PART OF THE IMPLEMENTATION OF THE COMPREHENSIVE PLAN. THE CODE IS AN INTEGRAL TOOL FOR THE ACCOMPLISHMENT OF THE CONTINUOUS COMPREHENSIVE PLANNING PROCESS. THE CODE COORDINATES THE CITY'S DEVELOPMENT AND DELIVERY OF CITY SERVICES.**

**LAND DEVELOPMENT CODE**  
**ESTABLISHING ZONING DISTRICTS AND REGULATIONS**  
**FOR LAND DEVELOPMENT AND SUBDIVISION**  
**FOR THE CITY OF HATTIESBURG, MISSISSIPPI**  
**ORDINANCE NO. 2330**

**TABLE OF CONTENTS**

**ARTICLE 1 GENERAL PROVISIONS**

<b>SECTION</b>	<b>PAGE</b>
1 Statutory Authorization	11
2 Finding of Fact	12
3 Statement of Purpose	13
4 Objectives	14
5 Definitions	18
6 Omission Provision	41
7 Provisions Separable	41
8 Declaration	41
9 Most Restrictive Law or Requirement to Apply	41
10 Plat Required	42
11 Establishment of Districts, Provision of Official Zoning Map, Annexation Court Ordered Rezoning	43
12 Nonconforming Uses	46
13 Vacation of Public Easements and/or Rights of Way	48

<b>SECTION</b>		<b>PAGE</b>
14	Jurisdiction	48
15	Compliance	49
16	Uses Permitted on Review	50
17	Reserved	50
18	Reserved	50
19	Reserved	50
 <b>ARTICLE 2 ADMINISTRATION, ENFORCEMENT, DESIGNATION OF RESPONSIBILITIES</b>		
20	Department of Administration Responsibilities as Related to this Code	52
21	Board of Adjustments Designation and Responsibilities	53
22	Reserved	54
23	Site Plan Review Committee Designation and Responsibilities	55
24	Fees	57
25	Governing Authorities	58
26	Hattiesburg Planning Commission Designation and Responsibilities	59
27	Land Development Code Administrator Designation and Responsibilities	60
28	Department of Planning and Community Development Responsibilities as Related to this Code	63
29	Reserved	63
30	Reserved	63

<b>SECTION</b>	<b>PAGE</b>
31 Violation Enforcement Procedure	64
32 Violations Penalties and Notifications	66
33 Reserved	66
34 Reserved	66
35 Reserved	66
36 Reserved	66

**ARTICLE 3 APPLICATION PROCEDURE FOR LAND DEVELOPMENT CODE  
CHECKLIST, AMENDMENTS, VARIANCES, PUBLIC NOTICE  
AND HEARING PROCEDURE, APPEALS AND CERTIFICATES**

37 Application Procedure	68
38 Land Development Code Checklist	69
39 Amendments	70
40 Variance	71
41 Public Notice	73
42 Public Hearing Procedure	74
43 Appeal Procedure	76
44 Certificate of Zoning Compliance	78
45 Reserved	78
46 Reserved	78
47 Reserved	78
48 Reserved	78
49 Reserved	78

**SECTION****PAGE****ARTICLE 4 SPECIFIC DISTRICT REGULATIONS**

50	A-1	General Agriculture District	80
51	A-2	Agricultural Residential District	84
52	R-1A	Single-Family Residential District 10,000 Square Feet	88
53	R-1B	Single Family Residential District 7,500 Square Feet	91
54	R-1C	Single Family Residential District 5,000 Square Feet	94
55	R-2	Two-Family Residential District	97
56	R-3	Multi-Family Residential District	101
57	R-4	High Density Residential District	106
58	B-1	Professional Business District	112
59	B-2	Neighborhood Business District	116
60	B-3	Community Business District	120
61	B-4	Downtown Business District	125
62	B-5	Regional Business District	129
63		Reserved	133
64	I-1	Light Industrial District	134
65	I-2	Heavy Industrial District	139
66	F	Flood Plain District	143
67	H	Historic Conservation District/Landmark Resource	144
68	MH	Manufactured (Mobile) Home District	145
69		Reserved	146

Revised 10/08/07

<b>SECTION</b>	<b>PAGE</b>
70     Reserved	146
71     Reserved	146
72     Reserved	146

## **ARTICLE 5 ADDITIONAL DISTRICT PROVISIONS**

73     Alcoholic Beverage Sales	148
74     Camper Trailer Parks	149
75     Camp or Lodge (Fish, Deer or Hunting)	151
76     Conditions of a More Restricted District	152
77     Firework Sales	152
78     Buffer Strip Regulations	153
79     Trees	157
80     Reserved	166
81     Height	167
82     Home Occupation	168
83     Bed and Breakfast Facilities	171
84     Open Space/Setback Requirements	175
85     Reserved	177
86     Reserved	177
87     Open Storage	178
88     Outdoor Sales of Goods	180
89     Parking Off Street/On Street: Automobile, Vehicle and Loading	181

	<b>SECTION</b>	<b>PAGE</b>
90	Parking or Storage of Major Recreational Equipment	190
91	Planned Unit Development	191
92	Planned Residential Development	195
93	Reserved	199
94	Regulations of Temporary Christmas Tree Sales Lots	200
95	Sign Regulations	201
96	Site Plan Review	221
97	Utilities	226
98	Wireless Telecommunication Service Towers, Related Equipment and other Towers	227
99	Reserved	243
100	Reserved	243

## **ARTICLE 6 LAND SUBDIVISION**

101	General Description	245
102	Land Subdivision Procedure	246
103	Vacation and/or Alteration of Recorded Plats	249
104	Subdivision Phasing	249
105	Planned Unit Development/Planned Residential Development Plat and Plan Submission	250
106	Reserved	251
107	Pre-application Development Layout	252
108	Preliminary Plat Required	252

<b>SECTION</b>	<b>PAGE</b>
109 Preliminary Plat Review Procedure	253
110 Preliminary Plat Specifications and Construction Drawings and Specifications	255
111 Final Plat Review	258
112 Reserved	259
113 Final Plat Specifications	260
114 Reserved	262
115 Monuments	263
116 Improvements	264
117 Optional Improvements	266
118 Improvement Guarantees	267
119 Inspection and Certification of Required Improvements	269
120 Reserved	269
121 General Development Provisions	270
122 Suitability of Land	271
123 Lots	272
124 Blocks	273
125 Streets	274
126 Storm Drainage Systems	277
127 Sanitary Sewer Systems	279
128 Water Supply Systems	281
129 Easements	283
130 Alleys	284

Revised 10/08/07



<b>SECTION</b>	<b>PAGE</b>
131 Erosion and Sediment Controls	285
132 Reserved	292
133 Private Streets	293
134 Traffic Circulation	293
135 Required Improvements	293
136 Environmental Design	294
137 Standard Street Cross Sections	295
138 Reserved	295
139 Reserved	295

## INDEX

# **ARTICLE 1**

## **GENERAL PROVISIONS**

## **SECTION 1                    STATUTORY AUTHORIZATION**

**1.01**    The Legislature of the State of Mississippi has in Title 17, Chapter 1, Section 17-1-1 through 17-1-27 of the Mississippi Code, annotated, 1972, as amended, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizens. Therefore be it ordained by the Governing Authority of the City of Hattiesburg, Mississippi, that the Land Development Code Establishing Zoning Districts and Regulations for Land Development and Land Subdivision in the City of Hattiesburg also to be known as the Comprehensive Zoning Regulations be established.

## **SECTION 2                      FINDING OF FACT**

**2.01** The Governing Authorities of the City of Hattiesburg and the Hattiesburg Planning Commission are committed to a sound, reasonable, continuous, comprehensive planning process to implement the Hattiesburg Comprehensive Plan and promote the goals and objectives of said plan. Which purpose is to promote the health, safety, morals, convenience, environment, and general welfare of its citizens and provide coordination and efficient government actions, economic diversification and protection of the environment and aesthetics of the city.

**2.02** The Hattiesburg Planning Commission has provided for land subdivision and has divided the incorporated area of the City into zoning districts in accordance with a comprehensive plan for economic and physical development and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.

**2.03** The Hattiesburg Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

**2.04** The Hattiesburg Planning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the Hattiesburg City Council.

**2.05** The Hattiesburg City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings.

**2.06** All requirements of Section 17-1-1 through 17-1-27 of the Mississippi Code of 1972, as amended, with regard to the preparation of the report of the Hattiesburg Planning Commission and subsequent action of the Hattiesburg City Council have been met.

## **SECTION 3                      STATEMENT OF PURPOSE**

**3.01**    The purpose and intent of this Land Development Code is to promote the health, safety, morals, convenience, environment and general welfare of the people of the City of Hattiesburg, Mississippi; to assist in bringing about the coordination and efficiency of governmental actions, economic diversification, and protection of environment and aesthetics of the City of Hattiesburg, Mississippi to implement the Hattiesburg Comprehensive Plan and the continuous comprehensive planning process of the City of Hattiesburg; to insure the proper coordination of land uses, utilities, and transportation facilities; and to insure the proper designs, construction and implementation of quality, efficient, sound, agricultural, residential, business and industrial facilities which will provide long term benefits by establishing specific regulations for procedure, minimum standards and requirements to be followed in the development or redevelopment of land.

### **3.02    Goals:**

1.        Coordination and efficiency of governmental actions
2.        Economic diversification.\*
3.        Protection of environment and aesthetics.\*

\* See the Comprehensive Plan.

**3.03**    Unless otherwise indicated, all references to Articles and Sections shall be to this Land Development Code.

## SECTION 4                      OBJECTIVES

**4.01** The objectives of the Hattiesburg Comprehensive Plan and the continuous, comprehensive planning process are to provide guidance for rational response to change. They reflect, ideally, consideration of a combination of community issues and facts blended with community values. Goals and objectives institute the conscious statements of a community concerning what it wants to become and how it will direct its energy toward that achievement. See the Comprehensive Plan.

**4.02    Air Quality:** Improve and maintain air quality at levels necessary to protect public health.

**4.03    Air Quality:** Improve and maintain air quality at levels necessary to provide visual clarity.

**4.04    Arts and Humanities:** Coordinate the provision of arts and humanities facilities to optimize use and efficiency.

**4.05    Biology:** Promote the survival of any identified endangered species and encourage the preservation and compatible use of unique biological resources.

**4.06    Cultural:** Promote a full range of cultural facilities, resources and activities.

**4.07    Demography:** Provide for needs of all projected population.

**4.08    Demography:** Recognize demographic characteristics and trends in the provision of housing opportunities, services and facilities.

**4.09    Demography:** Recognize variations in population composition and attendant needs.

**4.10    Economy:** Encourage equal opportunities for all segments of the population.

**4.11    Economy:** Promote economic growth and stability.

**4.12    Economy:** Enhance the existing economic base.

**4.13    Energy Use/Demand:** Promote efficient use of nonrenewable resources.

**4.14    Energy Use/Demand:** Promote the maximum use of renewable resources.

**4.15    Energy Use/Demand:** Encourage the development of a coordinated approach to public and private energy management.

**4.16    Environment:** Recognize environmental constraints in the establishment of land use patterns.

Revised 10/08/07

- 4.17 **Environment:** Recognize the unique susceptibility of the forest, stream, and pasture plant environment to visual degradation.
- 4.18 **Geology:** Promote reclamation of extractive operation sites; and buffer incompatible land uses from active operations, if any.
- 4.19 **Geology:** Protect unique mineral and geologic resources.
- 4.20 **Geology:** Direct development away from areas of known potential instability.
- 4.21 **Health:** Promote the coordinated delivery of health and social services to minimize duplication and maximize effectiveness.
- 4.22 **Historical/Archaeological:** Promote public use and appreciation of historical and archaeological resources.
- 4.23 **Historical/Archaeological:** Utilize and protect local historical and archaeological resources to enrich the community aesthetically and economically.
- 4.24 **Housing:** Improve the efficiency of the development process to minimize housing costs while maintaining standards of quality.
- 4.25 **Housing:** Provide a maximum range of affordable housing alternatives.
- 4.26 **Housing:** Promote development of sufficient housing to meet needs.
- 4.27 **Housing:** Encourage efficient use of land resources in the provisions of housing.
- 4.28 **Human Resources:** Provide health and social services commensurate with needs and available resources.
- 4.29 **Hydrology:** Achieve the most efficient management and utilization of available water resources.
- 4.30 **Hydrology:** Minimize hazards to life, property and natural resources caused by storm water runoff.
- 4.31 **Hydrology:** Manage ground water aquifers to insure water quality consistent with the highest appropriate beneficial use.
- 4.32 **Hydrology:** Manage groundwater aquifers to minimize damage from land subsidence and high water table levels.
- 4.33 **Hydrology:** Provide waste water management sufficient to protect water resources.

- 4.34 Institutional:** Establish administrative techniques that are consistent with adopted management policies.
- 4.35 Infrastructure:** Meet the demand for sewerage, waste water treatment, water supply, and solid waste disposal with maximum efficiency and economy consistent with environmental constraints.
- 4.36 Land Use:** Promote compatibility in land uses.
- 4.37 Land Use:** Promote orderly expansion of urban growth to provide efficient utilization of resources.
- 4.38 Land Use:** Recognize the role of the private sector in the establishment of land use patterns.
- 4.39 Land Use:** Recognize land use management relationships among government levels and entities.
- 4.40 Meteorology:** Consider meteorological constraints and opportunities in all aspects of planning.
- 4.41 Noise:** Encourage uses that are compatible with defined noise impact areas of essential activities.
- 4.42 Noise:** Prevent introduction of unnecessary noise.
- 4.43 Parks and Recreation:** Provide park and recreation facilities consistent with community standards for all segments of the community.
- 4.44 Private Development:** Consider the relationship of existing and proposed regulations to the private business sector.
- 4.45 Private Development:** Maximize the predictability of the land development sequence.
- 4.46 Public Finance:** Maximize efficiency and economy in provision of public services considering fiscal resources.
- 4.47 Public Safety:** Coordinate the provision of Public Safety service to optimize use and efficiency.
- 4.48 Schools:** Coordinate the provision of school facilities to optimize use and efficiency.
- 4.49 Soils:** Recognize constraints of extreme soil characteristics or a combination of factors that include soil characteristics.



- 4.50 Topography:** Recognize use limitations of areas that exhibit hazard potential due to extreme slope or a combination of factors that include slope.
- 4.51 Transportation:** Provide a generally safe, efficient and convenient transportation system which optimizes the use of available modes.
- 4.52 Transportation:** Provide a transportation system which optimizes the use of available resources.
- 4.53 Transportation:** Provide a transportation system which supports local and regional social and economic goals, policies and comprehensive plans.
- 4.54 Transportation:** Provide a transportation system which serves to achieve community environmental objectives and provides a safe and adequate routing of hazardous materials.
- 4.55 Visual/Aesthetics:** Recognize and promote use relationships that serve the pedestrian.
- 4.56 Visual/Aesthetics:** Promote community design and development standards consistent with community concepts of aesthetic quality.

## 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.

Revised 10/08/07

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

Revised 10/08/07

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

Revised 10/08/07

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 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 it 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

Revised 10/08/07

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

Revised 10/08/07

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.

Revised 10/08/07

**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.
6. **Hospice:** A freestanding licensed hospice facility which provides palliative and supportive medical and other health services to meet the physical, psychological, social, spiritual, and special needs of terminally ill patients and their families in a group residential setting.

**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

Revised 10/08/07

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

Revised 10/08/07



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 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

Revised 10/08/07

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.)

Revised 10/08/07

**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)

Revised 10/08/07

**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.

## **SECTION 6                   OMISSION PROVISION**

**6.01**   The omission of any specific use, dimension, word, phrase or other provision from this Land Development Code shall not be interpreted as permitting any variation from the general meaning and intent of this Land Development Code as commonly inferred or interpreted and should occasion arise as to such intent or meaning, the interpretation of the Governing Authorities shall hold.

## **SECTION 7                   PROVISIONS SEPARABLE**

**7.01**   Should any Section or provision of this Land Development Code declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of this Land Development Code as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

## **SECTION 8                   DECLARATION**

**8.01**   It is the purpose and intent of this Land Development Code that the interpretation and application of the provisions given herein shall be held to be the minimum requirements necessary for promotion of the public health, safety, morals and general welfare, and that in no case should they be regarded as advocated standards.

## **SECTION 9                   MOST RESTRICTIVE LAW OR REQUIREMENT TO APPLY**

**9.01**   Whenever the requirements of this Code or of any other lawfully adopted rules, regulations, codes, or ordinances are in conflict with the provisions of this Code, the most restrictive law or requirements shall govern.

## **SECTION 10            PLAT REQUIRED**

**10.01** Any person desiring to subdivide any land within the corporate limits of the City of Hattiesburg, Mississippi, shall comply with the requirements as set forth in this Code and the Mississippi Statutes.

**10.02** The provisions of the Code shall apply to the following terms of land subdivision:

1.     The division of land into two (2) or more lots, tracts, sites or parcels; or
2.     The division of land, previously subdivided or platted, into lots, tracts, sites, or parcels; or
3.     The dedication of any street or alley through any tract of land regardless of the area involved.

**10.03** Exceptions: Realizing that there are certain types of land uses, or property transfer procedures relating to those uses, wherein certain provisions of this Code would not be applicable, it is the purpose of this Section to set forth the exceptions to which certain provisions of the Code are not applicable.

1.     A division of land resulting in two (2) or more lots, tracts, sites, or parcels to be used for bona fide agricultural purposes and zoned and meet the agricultural district A-1 or A-2 requirements or for uses of a similar nature of such as dairy, poultry, livestock, farming, forestry, and grazing ranges for livestock, shall be exempt from the requirements of the Code.
2.     The platting of cemeteries shall be exempt from this Code except the preliminary plat shall be approved.
3.     The transfer of land between adjacent property owners, whether by sale, gift or other method, but only where no additional building lots are created, shall be exempt and subject only to other applicable laws.
4.     A subdivision legally established and recorded prior to the adoption of this Code, but only if there are no alterations of said subdivision, shall be exempt from the requirements of this Code.

## SECTION 11                      ESTABLISHMENT OF DISTRICTS, PROVISION OF OFFICIAL ZONING MAP, ANNEXATION, COURT ORDER REZONING

**11.01 Official Zoning Map:** The incorporated area of Hattiesburg is hereby divided into zones, or districts, as follows:

	Eagle Prismacolor Pencil Number:
A-1    General Agricultural District 120,000 square foot lot	909
A-2    Agricultural Residential District 40,000 square foot lot	912
R-1A   Single-Family Residential District 10,000 square foot lot	915
R-1B   Single-Family Residential District 7,500 square foot lot	942
R-1C   Single-Family Residential District 5,000 square foot lot	943
R-2    Two-Family Residential District	934
R-3    Multi-Family Residential District	902
R-4    High Density Residential District	932
B-1    Professional Business District	930
B-2    Neighborhood Business District	918
B-3    Community Business District	926
B-4    Downtown Business District	923
B-5    Regional Business District	925
I-1    Light Industrial District	905
I-2    Heavy Industrial District	936
F      Flood Plain District	Overlay
H      Historic Conservation District	Overlay
MH    Manufactured (Mobile) Home District	Overlay

as shown in the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code.

The Official Zoning Map shall be identified by the signature of the President of the Hattiesburg City Council, attested by the Clerk of Council, and the signature of the Mayor, attested by the City Clerk, and shall bear the seal of the City.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under Section 32, Violations, Penalties, and Notifications.

Regardless of the existence of purported copies of the Official Zoning Map which may

Revised 10/08/07

from time to time be made or published, the Official Zoning Map which shall be located in the Office of the City Clerk shall be the final authority as the current zoning status of land and water areas, buildings, and other structures in the City.

**11.02 Replacement of Official Zoning Map:** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Hattiesburg City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the President of the Hattiesburg City Council, attested by the Clerk of Council, and by the signature of the Mayor, attested by the City Clerk, and bear the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the zoning ordinance of Hattiesburg, Mississippi."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.

**11.03 Rules for Interpretation of District Boundaries:** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, railroad or alleys right-of-way shall be construed to follow such right-of-way center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
4. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as naturally moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered

Revised 10/08/07

by Section 11.03, 1 through 6, above, the Board of Adjustment shall interpret the district boundaries.

7. Where a district boundary line divides a lot which was in single ownership at the time of this Code, the Board of Adjustments may recommend an amendment to permit the extension of the regulations for either portion of the lot not to exceed one hundred (100) feet beyond the district line into the remaining portion of the lot. See Section 42, Public Hearing Procedure.

**11.04 Classification of Newly Annexed Property:** All annexations of land to the City of Hattiesburg shall be zoned or rezoned in accordance with Sections 42, Public Hearing Procedure, and will conform with the Comprehensive Plan.

**11.05 Court Ordered Rezoning:** In the event rezoning is required pursuant to a court order specifically establishing the zoning classification to be applicable to the property which is the subject matter of the suit, the procedural requirements of the Land Development Code for rezoning property shall not apply. A certified copy of the final court order shall be filed with the City Clerk after all available time for appeal has expired. The City Clerk shall have the zoning change entered on the Official Zoning Map and cause the zoning change and certified copy of the court order to be entered in the minutes of the City Council.

## **SECTION 12                    NONCONFORMING USES**

**12.01** The lawful use of a "building" existing at the time of the passage of this Code may be continued although such use does not conform with the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restrictive classification. If such nonconforming building is removed, every future use of such premises shall be in conformity with the provisions of this Code.

**12.02** Repairs and alterations may be made to a legal nonconforming building, provided that no structural alterations shall be made except those required by law or ordinance, unless the building is changed to a conforming use; and provided that no additional dwelling units shall be added where the nonconforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located. The Board of Adjustment shall determine after hearing to grant extension to nonconforming buildings not to exceed twenty-five (25) percent of the ground area of the same in case of evident hardship, as recommended by the Land Development Code Administrator subject to the yard setback requirements and restrictions herein provided.

**12.03** The lawful use of "land" existing at the time of the passage of this Code, although such does not conform to the provisions herein, may be continued, but if such nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of this Code.

**12.04** A legal nonconforming use if changed to conforming use may not thereafter be changed back to a nonconforming use. A legal nonconforming use if changed to a more restricted nonconforming use may not thereafter be changed unless to an equal or to a more restricted use.

**12.05** A legal nonconforming use, when discontinued or abandoned, shall not be resumed. Discontinuance or abandonment shall be defined as follows:

1. When land used for a legal nonconforming use shall cease to be used in a bona fide manner for one (1) calendar month.
2. When a building designed or arranged for a nonconforming use ceases to be used in a bona fide manner as a legal nonconforming use for a continuous period of six (6) consecutive calendar months.
3. When a building designed or arranged for a conforming use shall cease to be used in a bona fide manner as a legal nonconforming use for a period of six (6) consecutive calendar months.

Upon evidence of hardship, the Board of Adjustment shall have the power to extend the above time limits once, not to exceed six (6) months.

**12.06** Certificate of Zoning Compliance For New, Altered, or Nonconforming Uses: No nonconforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Land Development Code Administrator. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this Code, provided that upon enactment or amendment of this Code, owners or occupants of nonconforming uses or structures should apply for Certificates of Zoning Compliance. The burden of proof, based on public records, as to the legality of the nonconforming use rests with the property owner.

**12.07** Any nonconforming building damaged by fire or other calamity may be repaired or rebuilt only for its preexisting use, provided such repairing and rebuilding is substantially completed within twelve (12) months after such calamity, subject to one twelve (12) month's extension granted by the Mayor and Council for good cause.

**12.08** Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been heretofore issued, and plans for which are on file with the City at the time of the passage of this Code, and the construction of which in either case shall have been started and diligently prosecuted within six (6) months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within such time, and which entire building shall be completed, according to such plans as filed, within two (2) years from the date of the passage of this Code.

**12.09** The lawful location and maintenance of signs and billboards existing at the time of the passage of this Code may be continued, subject to Section 95.15, Nonconforming Signs.

**12.10** The foregoing provisions of Section 12 shall also apply to uses, yards, or buildings made nonconforming by subsequent amendments to this Code.



## **SECTION 13                    VACATION OF PUBLIC EASEMENTS AND/OR RIGHT-OF-WAY**

**13.01** Whenever any street, alley or other public easement is vacated, the district classifications of the property to which the vacated portions of land accrued shall become the classification of the vacated land.

## **SECTION 14                    JURISDICTION**

**14.01** From and after the date of adoption, the Land Development Code shall govern all development, land development, zoning, land uses, and land subdivision of land located within the corporate limits of the City of Hattiesburg, Mississippi. Cooperation in the enforcement of this Code is requested from other appropriate governmental agencies in order to provide for the sound, orderly development of the City of Hattiesburg.

The Chancery Clerk of Forrest County and/or Lamar County, Mississippi shall not receive, file or record a plat of a subdivision within the jurisdiction of this Code without prior approval of the Governing Authority, as provided by State law.

## **SECTION 15                      COMPLIANCE**

**15.01** No land development code checklist shall be issued for the use of land, building or structure on any land within the City of Hattiesburg, Mississippi if the development does not meet the standards and requirements of this Code.

**15.02** No land lying within the City of Hattiesburg, Mississippi shall be reclassified to a district if the size and/or dimensions of said land or other physical constraints prevent said land from compliance with the intent and requirements of a district without multiple variances; unless extreme hardship is proven.

**15.03** No land lying within the City of Hattiesburg, Mississippi shall be divided or redivided, subdivided or resubdivided except by the Final Plat of such subdivision which has been duly approved by the Governing Authority and recorded in the office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi.

**15.04** No owner or agent of the owner of any lots located in a subdivision, as defined by this Code, shall transfer title of such lots before a plat of such subdivision has been duly approved and recorded in the Office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi.

**15.05** No building permit shall be issued for the construction of any building or structure on any land within the City of Hattiesburg, Mississippi before the Final Plat of such subdivision has been duly approved by the Governing Authority and recorded in the Office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi and accepted by the City of Hattiesburg for maintenance.

**15.06** No Final Plat of any subdivision shall be recorded in the Office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi, until such Final Plat has received approval from the Hattiesburg City Council.

## **SECTION 16                      USES PERMITTED ON REVIEW**

16.01 Findings Required: In reviewing proposed use permits, the Hattiesburg Planning Commission and the Hattiesburg City Council shall consider facts related to these principles. *(Amended by Ord. 2376, Sec. 1, 6/18/91)*

1.     The need to protect the stability, integrity, and character of Hattiesburg's residential neighborhoods.
2.     The need to preserve and encourage the stability of the Hattiesburg business community.
3.     The need to reinforce Hattiesburg's quality of life, preserve neighborhood identity, and boost community pride.
4.     The need to conserve and protect Hattiesburg's physical infrastructure.
5.     The public need for the proposed use, as opposed to the private interest of an individual.

*(Amended by Ord. 2376, Sec. 1, 6/18/91)*

16.02 Subject to Annual Review: The Hattiesburg Planning Commission may require stipulations to accompany the Use Permit. Annually, in the anniversary month of the granted Use Permit, the Land Development Code Division shall visit and review the permitted operation. If stipulated conditions are not being followed, the Land Development Code Administrator shall issue a notice of non-compliance. The property owner shall have sixty (60) days from date of such notice to bring the use in compliance. Failure to bring the use in compliance within the sixty (60) days following the notice of non-compliance shall result in revocation of the Use Permit. *(Amended by Ord. 2376, Sec. 1, 6/18/91)*

16.03 Stipulations: Recommended stipulations shall be as deemed advisable by the Hattiesburg Planning Commission and City Council with the intent of protecting the surrounding neighborhood from adverse side effects of the proposed use. *(Amended by Ord. 2376, Sec. 1, 6/18/91)*

**SECTION 17                      RESERVED**

**SECTION 18                      RESERVED**

**SECTION 19                      RESERVED**

# **ARTICLE 2**

## **ADMINISTRATION, ENFORCEMENT, DESIGNATION OF RESPONSIBILITY**

**SECTION 20                      DEPARTMENT OF ADMINISTRATION  
DESIGNATION AND RESPONSIBILITIES AS  
RELATED TO THE CODE**

**20.01** The Department of Administration is hereby designated as the authority whose duties, in accordance with the provisions herein, shall include, but not necessarily be limited to:

1. All public notice requirements.
2. Accounting of all fees and maintenance of current fee schedule.
3. Setting of dates for application deadlines, applications for appeals and agenda deadlines.
4. Coordination of all applications and appeals through the City Clerk's office and City Council agenda.

## **SECTION 21                      BOARD OF ADJUSTMENT DESIGNATION AND RESPONSIBILITIES**

**21.01** Board of Adjustment and Methods of Appeal: There is hereby created for Hattiesburg, Mississippi a Board of Adjustment with the powers and duties as hereinafter set forth.

**21.02** Membership: The Hattiesburg Board of Adjustment shall be composed of five (5) members, residents of the City appointed by the Mayor and ratified by the City Council for a term of three (3) years; provided, however, that for the first appointment under the provisions of these Regulations two (2) members shall be appointed for a term of one (1) year; two (2) members shall be appointed for a term of two (2) years; and one (1) member shall be appointed for a term of three (3) years. All appointments thereafter shall be for a term of three (3) years.

The Board of Adjustment shall elect a Chairman from its membership to serve for a term of one (1) year. The Chairman is a voting member and shall have an equal vote on the Board. **NOTE:** The Chairman shall not be considered the sole person to break ties.

**21.03** Procedure: The Board of Adjustment shall adopt rules in accordance with the provision of these Regulations. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its meetings.

**21.04** Appeals to the Board of Adjustment: Appeals may be filed to the Board of Adjustment by any person aggrieved or affected by any decision of the Land Development Code Administrator. Such appeal shall be filed within ten (10) days from the date of the decision by the Land Development Code Administrator. The employee from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all files constituting the record upon which the action appealed from was taken.

**21.05** Powers: The Board of Adjustments shall have the following powers:

1. To hear and decide Code interpretation appeals. **NOTE:** The Board of Adjustments is the only Board authorized to grant or deny variances, subject to Appeal, Section 43, Appeals Procedure..
2. Powers Relative to Variances: Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, the strict application of these regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, the Board of Adjustment is hereby empowered to authorize upon an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship, but may establish such requirements relative to such property as would carry out the purpose and intent of these regulations.

Revised 10/08/07

3. The Board of Adjustment is hereby empowered to grant relief to the following specifications:
  - a. To permit the extension of a district not to exceed one hundred (100) feet where the boundary lines of a district divides a lot in single ownership as shown of record.
  - b. To interpret the provisions of these regulations where the street layout actually on the ground varies from street layout as shown on the map fixing the several districts which map is attached to and made a part of these regulations.
4. In exercising the above mentioned powers the Board of Adjustment may, in conformance with the provisions of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals from rulings made under these regulations, the Board, in making its findings on any specific case, determine the affect of the proposed change upon the supply of light and air to adjacent property, upon the congestion of the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals and general welfare of the people of Hattiesburg, Mississippi. Every ruling made upon any appeal to the Board of Adjustment shall be accompanied by a written findings of fact based upon the testimony received at the hearing afforded by the Board of Adjustment and shall specify the reason for granting or denying the appeal.
5. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Code, or to effect any variation in the application of this Code.  
*(Amended by Ord. 2510, Sec. 1, 12/20/94)*

**21.06** Appeal: See Section 43, Appeals Procedure.

## **SECTION 22            RESERVED**

## **SECTION 23                    SITE PLAN REVIEW COMMITTEE DESIGNATION AND RESPONSIBILITIES**

**23.01** The Site Plan Review Committee is hereby designated as the Committee whose purpose and responsibility as related to the Land Development Code shall be to utilize to the fullest extent possible its individual and collective technical expertise, to coordinate and expedite the review, processing, recommendation, and pre-hearing procedures, as needed, as they may apply to the following:

1. Pre-application development layout review, provided sufficient data to permit a responsible evaluation is submitted.
2. Official zoning map amendments as they impact on delivery of City services.
3. Land subdivision, as required by the Code, to complete recommendation of the preliminary plat.
4. Variance review and Use Permits on Review may be recommended to the Land Development Code Administrator. The Site Plan Review Committee cannot grant or deny variances. (*Amended by Ord. 2516, Sec. 1, 3/21/95*)
5. Other special cases and projects that may be brought to the Committee's attention by the Mayor, City Council, Director of Planning and Community Development, the Director of Public Services, the City Engineer, or the Land Development Code Administrator.
6. Recommend from time to time legislation which may be desirable to further the purposes of city planning.
7. Implement the statement of purpose, goals, objectives and comprehensive plan and continuous planning process as it relates to the Land Development Code and other City codes, ordinances and policies.

**23.02** Site Plan Review Committee: To be chaired by the Director of Planning and Community Development or his designated representative; shall consist of the following members or designated representative from these City departments or divisions:

1. City Engineer
2. Fire
3. Land Development Code Administrator
4. Police
5. Sewer



6. Streets
7. Traffic Control
8. Water
9. Tax
10. Building Official

**23.03** Commission or Board Approval Required: The study and recommendation by the Site Plan Review Committee shall be presented to the appropriate Board or Commission for final approval.

The developer will be advised of any discrepancies or comments made by any of the concerned departments and may appear before the Site Plan Review Committee or the appropriate Commission or Board.

**23.04** All procedures for permits, amendments and variances shall follow the applicable requirements and procedures as established by City codes or ordinances. See Section 37, Application Procedure. The Committee's report shall consist of the review of each member.

## **SECTION 24            FEES**

**24.01** Schedule of Fees Established: The Governing Authorities shall establish a schedule of fixed fees and a collection procedure covering the processing of the building inspection, Code enforcement, public hearings and notices, and applications. The fixed fee schedule shall cover the reviewing of applications for permits, amendments, and variances, and any other matters pertaining to this Land Development Code. The fixed schedule may be altered or amended only by the Governing Authorities.

**24.02** Collection of Fees: The schedule of fees shall be available to the public in the City Clerk's Office, Department of Planning and Community Development, Department of Public Services, and Tax Department. Until all applicable fees have been paid in full, no action will be taken on any application, appeal or other processing of land use matters.

**24.03** Other Fees and License: The list of applicable development and business license fees shall be available to the public in the offices of City Clerk, Department of Planning and Community Development, Department of Public Services, and the Tax Department.

## **SECTION 25                    GOVERNING AUTHORITIES**

**25.01** The final authority to approve or deny amendments to this Code and on matters relating to appeals, Planned Unit Developments, and, as provided in this Code, variances, modify or otherwise change applications for final plat approval; or any other provision of this Land Development Code, and in keeping with all lawful requirements and procedures of law, shall be reserved exclusively to the Governing Authority of the City of Hattiesburg, Mississippi.

## **SECTION 26                    HATTIESBURG PLANNING COMMISSION DESIGNATION AND RESPONSIBILITIES**

**26.01 Designation of Planning Commission:** The Hattiesburg Planning Commission has been created by the Mayor and City Council as an advisory committee to the City of Hattiesburg in zoning matters and is vested with the rights and responsibilities as provided in Mississippi Code Annotated Section 17-1-17 (1972), and established in the City of Hattiesburg Ordinance No. 1490. The Hattiesburg Planning Commission shall adopt reasonable rules and regulations governing the conduct of its land use affairs and in keeping with the provisions of this Code.

**26.02 Responsibilities:** The Hattiesburg Planning Commission shall have the following responsibilities: (See Ordinance No. 1490.)

1. Prepare a comprehensive plan for the future development of the City of Hattiesburg, including among other things recommendations relative to all aspects of location, size and arrangement of streets, parks, public grounds, railroads, transportation, platting of public and private property, grouping of public and private buildings and housing, appearance and beauty, and financial planning of said city or any portion thereof.
2. Make recommendations in connection with the execution and detailed interpretation of the Hattiesburg Comprehensive Plan, and make such changes and adjustments in the Plan as may be deemed desirable from time to time.
3. Act upon any matter relating to zoning regulations and planned unit developments of said city which shall be referred to it by the City Council and assume such other related duties and responsibilities as may be required of it by ordinance or by order of the Governing Authority.
4. Make recommendations regarding the approval and disapproval of preliminary plats and final plats for land subdivision. Such plats shall be referred to the Hattiesburg Planning Commission before the Governing Authority takes any action.
5. Recommend from time to time legislation which may be desirable to further the purposes of city planning.
6. Implement the statement of purpose, goals, objectives of the Comprehensive Plan and continuous planning process as it relates to the Land Development Code and other City codes, ordinances and policies.

## **SECTION 27                      LAND DEVELOPMENT CODE ADMINISTRATOR DESIGNATION AND RESPONSIBILITIES**

**27.01** The Land Development Code Administrator is hereby designated as the authority whose duties, in accordance with the provisions herein, shall include, but not necessarily be limited to:

1. Conduct such inspections of buildings, structures and use of land as are necessary to determine compliance with the terms of this Land Development Code. This duty shall include complete coordination and cooperation with the Department of Public Services, Department of Public Safety and Department of Planning and Community Development, as well as other city officials and the Hattiesburg Planning Commission to correct any violations found to exist.
2. Supervise the maintenance of the Official Zoning Map in good and useful condition and properly record on the Map all of the amendments to the Code that change boundaries of the Zoning District.
3. Maintain permanent and current records of documents and proceedings under this Land Development Code.
4. Provide and maintain a continuing program of education and public information on zoning and subdivision matters.
5. Upon receipt from the City Clerk's Office, receive, file, and transmit to the Site Plan Review Committee, the Hattiesburg Planning Commission, Board of Adjustments, or the City Council, all appeals and all applications for variances, amendments, and special permits and other matters on which the Site Plan Review Committee, The Hattiesburg Planning Commission, Board of Adjustment or City Council are authorized to act under the provisions of this Land Development Code.
6. Issuance of Land Development Code applications and other forms.
7. Providing public information relating to zoning matters.
8. Registration and maintenance of records and maps on nonconforming uses, structures and undeveloped lots.
9. Maintenance and data collection for the current land use map.
10. Appearance before the Hattiesburg Planning Commission and the Board of Adjustment to furnish information helpful in reaching decisions.
11. Define words or phrases of this Code which are not found under Section 5, Definitions.

12. Coordination of the Preliminary Subdivision Plat approval process.
13. The Land Development Code Administrator shall not have the authority to grant or deny variances.
14. Issue Certificates of Zoning Compliance.
15. Shall wear a visible badge.

**27.02 Administrative Interpretation of Code:** In the event there is a question concerning the general intent or meaning of any provision of this Code, or the positioning of district boundaries, or of district designation, or other matters relating to the Official Zoning Map, the Land Development Code Administrator shall have the right to make such administrative decisions and interpretations.

Administrative interpretation shall in no manner be construed as permitting or granting a variance to the provisions of this Land Development Code. Administrative interpretation may be appealed to the Board of Adjustments.

**27.03 Enforcement:** It shall be the duty of the Land Development Code Administrator to enforce the provisions of this Code and enforce such rules, regulations and decisions as shall be adopted hereinafter. It shall be a violation of these regulations for any person to change or permit the change in the use of land or buildings or structures or to erect, alter, move or improve any building or structure until the Land Development Code Checklist has been completed and a building permit has been obtained.

**27.04 Land Development Code Checklist:** Whenever any structure or building is to be improved, erected, moved, or structurally altered, a Land Development Code Checklist shall be issued prior to the issuance of a Building Permit. The Land Development Code Administrator may require every applicant for a Land Development Code Checklist to furnish the following information:

1. A plot plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures or building proposed to be repaired, altered, erected or moved, and the size, arrangement, number of parking stalls, fire lanes, handicapped parking, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
2. A declaration of the existing and intended use of each existing and proposed building or structure on the lot and the number of families and housekeeping units which each existing and proposed building is designed to accommodate.
3. Additional information relating to the proposed improvement needed to determine compliance with these regulations, including Buffer Plans and Sign Plans.
4. The Land Development Code Administrator may require a survey prepared by an

engineer or land surveyor, registered or approved in the State of Mississippi, of the boundaries of the lot on which the improvement is proposed to be located.

**27.05 Certificate of Occupancy** No structure and/or land shall be used, occupied, or changed in use until a Certificate of Occupancy shall have been issued therefore by the Land Code Administrator certifying that the proposed use of the land or the new structure to be placed thereon or the existing structure to be altered thereon is in full compliance with the provisions of this ordinance. *(Added by Ord. 2672, Sec. 1, 10/20/98)*

1. Structures – Application for a Certificate of Occupancy for a new structure or for an existing structure to be altered shall be made coincident with the application for a building permit, after erection or alteration of such structure shall have been completed in accordance with the provisions of this ordinance and a Certificate of Occupancy has been issued by the Land Code Administrator, or his agent. *(Added by Ord. 2672, Sec. 1, 10/20/98)*
2. Land – Application for a Certificate of Occupancy for the use of vacant land or for a change in the character of the use of land shall be made before any such land is occupied or used, and a Certificate of Occupancy shall be issued by the Land Code Administrator, if such proposed use or change in use has been certified to be in compliance with the provisions of this ordinance. *(Added by Ord. 2672, Sec. 1, 10/20/98)*
3. Temporary Certificate of Occupancy - The Land Code Administrator may elect to issue a Temporary Certificate of Occupancy when a structure has met all SSBCI requirements but has other elements of an approved site plan to be completed. The Land Code Administrator shall determine the amount of time necessary to complete any remaining site plan requirements. The builder or developer shall submit a certified letter to the Land Code Administrator stipulating the completion date. The certified letter shall stipulate a date to complete remaining site plan requirements that may include, but are not limited to, landscaping. *(Added by Ord. 2672, Sec. 1, 10/20/98)*
4. Plans Review – Unless furnished with the application for a Building Permit, each application to the Department for a Certificate of Occupancy shall be accompanied by a drawing or plat, in duplicate, showing the site plan, the location of the building on the site, accurate dimensions of the building and site, location of off-street parking and off-street loading spaces required and such other information as may be necessary for the enforcement of this regulation. *(Added by Ord. 2672, Sec. 1, 10/20/98)*

**SECTION 28 DEPARTMENT OF PLANNING AND COMMUNITY  
DEVELOPMENT RESPONSIBILITIES AS RELATED TO THIS  
CODE**

**28.01** The Department of Planning and Community Development is hereby designated as the authority whose duties in accordance with the provisions herein shall include responsibility for the implementation of all development and redevelopment, i.e., Land Development Code, so that they relate to the development and redevelopment of land. These responsibilities shall include but not necessarily be limited to:

1. Responsibility for the following offices and personnel who have the primary duty to implement this Code:
  - A. Land development
  - B. Comprehensive planning and research
2. Liaison, support, and coordination with all Boards and Commissions of the City of Hattiesburg.
3. Liaison with and reports to the Mayor and City Council.
4. Chairman of the Site Plan Review Committee.
5. Coordination of matters before the Hattiesburg Planning Commission and Board of Adjustment and support services.
6. Coordination of the preliminary subdivision plat approval process.
7. Coordination of the process to vacate platted streets, right-of-ways, alleys and easements.
8. Implement procedures to make periodic checks to assure compliance with the requirements of the Land Development Code.
9. Protection and implementation of the comprehensive planning process and maintenance of the Comprehensive Plan.

**SECTION 29 RESERVED**

**SECTION 30 RESERVED**



## **SECTION 31**

## **VIOLATIONS AND ENFORCEMENT PROCEDURE**

**31.01** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure, land subdivision/ platting, land re-subdivision or re-platting, or land is used in violation of this Code, the City, in addition to other remedies, may institute any appropriate action or proceedings under City Ordinance and/or State Law to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct, or abate such violation, to prevent occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

**31.02** The owner of a subdivision shall not transfer title to any lot in such subdivision until such time as the final plat has been approved by the Governing Authority and duly recorded in the office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi.

**31.03** The Chancery Clerk of Forrest County and/or Lamar County, Mississippi shall not receive, file or record a plat of a subdivision within the jurisdiction of this Land Development Code without prior approval of the Governing Authority.

**31.04** This procedure shall be used:

	<u>WHAT</u>	<u>WHO - WHERE</u>
Step 1:	A. Discovery of alleged violation	A. Land Development Code Administrator B. Public C. Other City Staff or Officials
Step 2:	A. Verification of violation B. Prepare recommendation or decision C. Action or clearance of alleged violation	A. Land Development Code Administrator B. Support Staff C. Director of Urban Development
Step 3:	A. Issue citation for violation/ designated time 1. Verbally/sticker 2. Certified mail	A. Land Development Code Administrator B. Support Staff C. Director of Urban Development
Step 4:	A. Reinspection B. (Optional) 1. Refer to appropriate board/ commission for confirmation when special conditions apply 2. Action or clearance of alleged violations	A. Land Development Code Administrator B. Support Staff C. Director of Urban Development D. Appropriate Board/Commission
Step 5:	A. Sign affidavit	A. Concerned Citizen B. Land Development Code Administrator C. Director of Urban Development D. Support Staff
Step 6:	A. Pursue decision through the Courts B. Clearance or specific legal penalty	A. City Attorney B. Director of Urban Development C. City Judge

## **SECTION 32                    VIOLATIONS, PENALTIES AND NOTIFICATION**

**32.01** Notification: Should the Land Development Code Administrator determine that a violation may exist, he shall notify in writing by U.S. Certified Mail - Return Receipt Requested, or by sworn officer, in a manner prescribed by law, the person(s) responsible for such alleged violation, indicating the nature of the violation and ordering the action necessary to correct said violation.

**32.02** Penalties: Violation by any person of any provision of this Code, or failure to comply with any of its requirements, including any additional requirements or conditions which may have been granted or imposed, after having been duly notified shall, upon conviction thereof, constitute a misdemeanor shall be fined not more than five hundred (\$500) dollars, per offense, and in addition shall pay all costs and expenses as determined by the Court. Each day such violation continues shall constitute a separate offense. *(Amended by Ord. 2638, Sec. 1, 5/19/98)*

**32.03** The owner, developer, subdivider of any land or lot, or representative of any land owner, premises or part thereof, and any builder, contractor, owner, agent or other person who knowingly commits, participates or assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

**SECTION 33                    RESERVED**

**SECTION 34                    RESERVED**

**SECTION 35                    RESERVED**

**SECTION 36                    RESERVED**

# **ARTICLE 3**

## **APPLICATION PROCEDURE FOR LAND DEVELOPMENT CODE CHECKLIST, AMENDMENTS, VARIANCES, PUBLIC NOTICE AND HEARING PROCEDURE, APPEALS, AND CERTIFICATES**

## SECTION 37 APPLICATION PROCEDURE

### 37.01 Process for Development or Redevelopment of Land:

	<u>WHAT</u>	<u>WHO - WHERE</u>
****	Pre-application Review See Section 23, Site Plan Review Committee	A. Department of Urban Development B. Site Plan Review Committee
Step 1:	A. All Applications and Fees Filed for all Land Development Code (i.e., Zoning, Variance, Subdivisions) B. Action or Application is Placed on the Site Plan Committee Agenda According to Codes	A. City Clerk Office B. Dept. of Urban Development
Step 2:	A. Review Applications Required by Code B. Prepare Recommendation or Decision C. <u>Action</u> or Application with Recommendation is placed on the Appropriate Public Board or Commission's Agenda or directly to City Council	A. Site Plan Review Committee B. Department & Division Representatives, Chaired by the Director of Urban Development
Step 3:	A. Review Applications as Required by Code B. Prepare Recommendation or Decision C. <u>Action</u> or Application with Recommendation is placed City Council's Agenda	A. Public Board or Commission (i.e. HPC, Flood Appeals Board)
Step 4:	A. Action, Subject to Appeal Hearing or Public Hearing if Requested or Required	A. City Clerk B. Public Notice – City Clerk
Step 5:	A. Action: Approve or Deny Upon Receipt of Final Decision	A. Land Development Code Administrator B. City Council

## **SECTION 38**

## **LAND DEVELOPMENT CODE CHECKLIST**

**38.01** A Land Development Code Checklist shall be required for: All new or renovated development or redevelopment of land or buildings and all projects located in an historic conservation district which requires a Certificate of Appropriateness for exterior new construction or renovation.

**38.02** The Land Development Code Checklist is a checklist of all the requirements necessary to complete the development and to receive a Certificate of Zoning Compliance. The Land Development Code Checklist shall be issued by the Land Development Code Administrator. A Certificate of Zoning Compliance may be issued at the same time if all requirements of this Code are met.

**38.03** A Planned Unit Land development code checklist shall be issued and maintained by the Land Development Code Administrator. All development occurring in the planned unit development shall be in accordance with this permit and shall be so determined by the Land Development Code Administrator. See Section 91, Planned Unit Development - PUD.

## **SECTION 39                    AMENDMENTS**

**39.01** The regulations, conditions, specifications and procedures set forth in this Land Development Code may from time to time require amendment. The Governing Authorities, on receiving the recommendation of the Hattiesburg Planning Commission, may amend the provisions of this Code after proper public notice and hearing as required by law.

**39.02** The Governing Authorities may, from time to time, on its motion or on petition from a property owner, or on recommendation of the Hattiesburg Planning Commission amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing has been held in relation thereto by the Hattiesburg Planning Commission at which parties in interest and citizens shall have an opportunity to be heard. Every proposed amendment shall be referred to the Hattiesburg Planning Commission for recommendation. When an application has been made to the Planning Commission for the change in regulations or district boundaries, the applicant shall, prior to the holding of a public hearing on such application, fully comply with the procedures set out in Section 42, Public Hearing Procedure.

## **SECTION 40            VARIANCE**

**40.01** On application made therefor, the Board of Adjustment shall have the responsibility to grant or deny variances. The Board of Adjustment may authorize in specific cases such variance from this Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship. An application for variance shall not be considered by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
  - A. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - B. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code;
  - C. That the special conditions and circumstances do not result from the actions of the applicant;
  - D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.
2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
3. All procedures and provisions of Section 42, Public Hearing Procedures, have been met.
4. The public hearing shall be held. Any party may appear in person, or by agent or by attorney;
5. The Board of Adjustment shall make findings that the requirements of Section 21.05 (2). have been met by the applicant for a variance;
6. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
7. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Code, and will



not be injurious to the neighborhood, or otherwise detrimental to the public welfare.  
See Section 21.05 (4).

## **SECTION 41            PUBLIC NOTICE**

**41.01** No change shall be made in regulations, restrictions or district boundaries or to the Land Development Code shall become effective until after a public hearing has been held in relation thereto by the Hattiesburg Planning Commission or Board of Adjustment, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in an official newspaper. Such proposed permits, amendments and variances shall be referred to either the Hattiesburg Planning Commission or Board of Adjustments for findings and recommendations.

## **SECTION 42                    PUBLIC HEARING PROCEDURE**

**42.01** Wherever in this Code reference is made to this Section regarding procedures for Public Hearings and application for same, the following is required:

1. An application shall be made in the City Clerk's Office and shall include the following:
  - A. Name and address of applicant, who shall be the owner of the property or have legal authority to act for the owner,
  - B. Name and address of the property owner,
  - C. The present zoning classification,
  - D. The proposed zoning classification and/or use permit requested, or variance requested,
  - E. A legal description of the property,
  - F. A sketch plan showing the location and intended use of the site,
  - G. Any fees or charges established, and
  - H. Any other reasonable material that the Hattiesburg Planning Commission or Board of Adjustments may determine pertinent to the application.
2. The Hattiesburg Planning Commission, or the Board of Adjustments shall hold a public hearing within forty-five (45) days of the date of filing of the application or receipt of the Site Plan Review Committee's review and recommendation.
3. At least fifteen (15) days prior to the public hearing notice of the time and place of the hearing shall be published in a paper of general circulation in Hattiesburg, Mississippi, in the manner prescribed by State law.
4. The Director of Planning and Community Development Department shall cause a sign to be posted on the lot or structure at least fifteen (15) days prior to the date of said hearing which shall show the time, date and place of said hearing, the reason for the hearing, the date of the notice and the signature of the Director of Planning and Community Development and a telephone number for information.

This provision does not apply in cases where there is a proposal to enact an entire new ordinance to change the text as a whole or to change all or part of the Zoning District Map or multiple parceled areas, or both, in which event the procedure set out

in Section 17-1-3 through 17-1-21 inclusive of the Mississippi Code of 1972 as amended and supplemented shall be followed.

5. The Hattiesburg Planning Commission and Board of Adjustment shall, per the adopted public hearing rules, within ten (10) days of the final hearing, transmit to the City Council for action its findings and recommendations or actions.

**42.02** Whenever a petition is filed requesting a change or amendment to the Code, and said petition has been finally acted upon by the Mayor and City Council, or when said petition has been officially advertised for public hearing but has subsequently been withdrawn either before or after said public hearing has been held, then the Mayor and City Council shall not consider any further petition requesting or proposing the same such change or amendment for the same property within six (6) months from the date of the Board of Mayor and Council's final legal action on said petition or from the date of withdrawal of said petition, provided, however, that said petition has been officially advertised. (*Amended by Ord. 2833, Sec. 1, 10/21/03*)

## **SECTION 43            APPEAL PROCEDURE**

**43.01** The regulations, restrictions and district boundaries set forth by this Code may from time to time be amended, supplemented, changed or repealed. Also, from time to time the public health, safety, or general welfare of the community may require that amendments and variances be granted in specific cases from the regulations and provisions of this Code. Appeals from the recommendations of the Hattiesburg Planning Commission relating to amendments, variances and appeals from the decisions of the Land Development Code Administrator, Board of Adjustments, or Hattiesburg Planning Commission in the administration or enforcement of the provisions of this Code shall be submitted to the City Council for ruling.

### **43.02   Procedure:**

1.    Written Notice of Appeal Required: A written Notice of appeal from a recommendation of the Board of Adjustments or Hattiesburg Planning Commission shall be filed with the Land Development Code Administrator. The written Notice of Appeal shall state the order, determination, interpretation, requirement, recommendation or decision from which an appeal is desired.
2.    Stay of Proceedings: An appeal stays all proceedings in furtherance of the action appealed from, unless the Land Development Code Administrator, from whom the appeal is taken, certifies to the Governing Authority, after the Notice of Appeal is filed with him, that by reason of the facts stated in the deed, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Governing Authority or by the Circuit Courts of Forrest County and Lamar County, Mississippi, on application, on notice to the Land Development Code Administrator from whom the appeal is taken and on the due cause shown.
3.    Appeal of Hattiesburg Planning Commission Recommendation or of Board of Adjustment Decision: Any party aggrieved by a recommendation of the Hattiesburg Planning Commission or decision of the Board of Adjustment shall be entitled to an appeal from such recommendation or decision to the City Council, provided the procedures herein stated are followed:
  - a.    A written notice of appeal shall be given to the Land Development Code Administrator within ten (10) days from the date of such recommendation by the Hattiesburg Planning Commission or the Board of Adjustment. The Planning Director and Governing Authority shall set the appeal date, shall mail a notice to all parties entering an appearance in such cause, and shall have published advertisements.
  - b.    The Planning Director shall have published one (1) advertisements of such hearing setting forth the time and place of the hearing, description of the property involved, the existing zoning and purported changes and

modifications therein. Such publication shall be made in a newspaper of general circulation within the City of Hattiesburg, Mississippi, the first publication to be at least fifteen (15) days before such hearing.

4. Action of the City Council: Within sixty (60) days after the date set in the case advertisement and receipt of the transcript and documented case record, the City Council shall either approve or deny, in whole or in part, the decision and recommendation of the Hattiesburg Planning Commission or the Board of Adjustment on record of the case or where there is need for additional information may remand the case to the Hattiesburg Planning Commission or the Board of Adjustment for further consideration, in accordance with the provisions of the Mississippi Code Annotated, Section 17-1-17 (1972).
5. Two-Thirds Council Vote Needed: In case of a protest against an amendment or variance signed by twenty percent or more of the owners of lots within a distance of 160 feet from the property involved, widths of all streets excluded, such amendment or variance shall not become effective except by the favorable vote of two-thirds of all members of the City Council.
6. Appeal to Court of Law: An appeal from the decision of the City Council may be made as provided by law for appeals from any order of the Governing Authorities of the municipality.

## **SECTION 44                      CERTIFICATE OF ZONING COMPLIANCE**

**44.01** Certificates of Zoning Compliance for Existing, New, Altered, or Nonconforming Uses: It shall be unlawful to use or occupy or permit the occupancy of any building or premises, or both, or part thereof hereinafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefor by the Land Development Code Administrator stating that the proposed use of the building or land conforms to the requirements of this Code.

**44.02** No nonconforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Land Development Code Administrator. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this Code, provided that upon enactment or amendment of this Code, owners or occupants of nonconforming uses or structures should have apply for Certificates of Zoning Compliance. Failure to make such application shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Code unless proof is shown based upon public record (utility bills, Business Permit).

**44.03** No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made, and the certificate shall be issued in conformity with the provisions of this Code upon completion of the work prior to the issuance of the Certificate of Zoning Compliance.

**44.04** The Land Development Code Administrator shall maintain a record of all Certificates of Zoning Compliance, and a copy shall be furnished upon request to any person, in compliance with the public records act.

**44.05** Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Code.

**SECTION 45                      RESERVED**

**SECTION 46                      RESERVED**

**SECTION 47                      RESERVED**

**SECTION 48                      RESERVED**

**SECTION 49                      RESERVED**

# **ARTICLE 4**

## **SPECIFIC DISTRICT REGULATIONS**



## SECTION 50

## A-1 GENERAL AGRICULTURAL DISTRICT

**50.01** General Description: This district is intended to provide an area primarily for agricultural purposes and low density residential development. Because of the rural nature, it is the purpose of this district to encourage and protect such uses from urbanization until such is warranted and the appropriate change in district classification is made.

**50.02** Use Permitted: The following uses of property, buildings or structures:

1. Accessory structure located on same lot
2. Agricultural use, building, or activity, provided that no more than one (1) livestock animal for each 40,000 square feet of open space shall be allowed
3. Agriculture use, building, or activity
4. Church (*Amended by Ord. 2799, Sec. 1, 9/17/02*)
5. Single family detached dwelling
6. Farms, truck gardens, orchards or nurseries for the growing of plants, shrubs and trees, provided no retail or wholesale business sales offices are maintained on the premises, and provided that no obnoxious fertilizer is stored upon the premises, and no obnoxious soil or fertilizer processing is conducted thereon
7. Golf course, except miniature course or stand-alone driving range operated for commercial purposes
8. Home Occupation, See Section 82
9. Manufactured or mobile home, but not including manufactured or mobile home parks (*Amended by Ord 2663, Sec. 1, 9/22/98*)
10. Parking, See Section 89, Parking Off-Street/On-Street
11. Pier or boathouse
12. Ponds, for livestock, fish or fowl, when the earth is not removed from the premises
13. Sign, See Section 95, Sign Regulations
14. and similar uses
15. RESERVED

16. RESERVED
17. RESERVED
18. RESERVED
19. RESERVED
20. RESERVED

**50.03** Uses Permitted On Review By the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; See Section 78, Buffer Strip Regulations. Additional conditions may be required.

The following uses of property, buildings or structures:

1. Airport and landing field
2. Ambulance Service
3. Care Center
4. Cemetery, Animal
5. Cemetery, Human
6. Circus, carnival, fair, side show, requires temporary permit
7. Country Club
8. Extractions of dirt, gravel, rock, ore and various products from the earth when the product is removed from the premises. Bonding is required and shall meet state law
9. Firing Range
10. Fish camps and/or hunting camps, for temporary occupancy only
11. Group Care Facility
12. Junk Yard, see Open Storage, Section 87
13. Kennel
14. Marinas
15. Park and playground

16. Parking/Parking Lot: See Section 89, Off-Street Parking Regulations, not permitted in front setback
17. Public Library
18. Public or private schools, but not including business or commercial college, university
19. Public use
20. Radio and television transmission tower
21. Riding academy or stable
22. Sanitary landfill, but not including the burning of trash outdoors
23. Veterinary Clinics/Hospitals: Small animals and large or farm animals
24. Utilities, See Section 97, Utilities
25. RESERVED
26. RESERVED

**50.04 Areas and Setback Regulations: Yards:**

1. Front: Setback a minimum of fifty (50) feet for main structure, and sixty (60) feet for accessory structure.
2. Side: Setback a minimum of twenty (20) feet for interior lots, provided that any permitted pen or building in which livestock is kept shall be located not less than one hundred (100) feet from any lot line.

On corner lots the side yard regulation shall be the same as for interior lots except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or separated only by an alley. No accessory buildings on a said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any accessory building be erected, reconstructed, altered or enlarged, closer than five (5) feet to the line of the abutting lot to the rear.

3. Rear: Setback a minimum of twenty-five (25) feet, provided that any permitted pen or building in which livestock is kept shall be located not less than one hundred (100) feet from any lot line. Unattached accessory buildings may not be located within ten

- (10) feet of a rear or side yard line or sixty (60) feet of a front lot.
4. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet, and are not considered as part of the setback.
  5. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
  6. Lot Area: A minimum of one hundred twenty thousand (120,000) square feet. For lots not served by sanitary sewer service the following requirement shall apply:
    - A. For lots not served by public sanitary sewer or a central disposal system, any individual on-site waste water disposal system (septic tank) proposed for use shall comply with State Law. In all instances, an individual on-site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
    - B. When sanitary sewer is provided to a lot, the existing or planned development/structure shall be required to (hook-up) use said sanitary sewer.
  7. Height Regulations: No building shall exceed thirty-five (35) feet in height.
  8. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.
  9. Lot Width: A minimum of one hundred (100) feet at the building setback line.
  10. Driveways: Driveway or automobile access laid out in the A-1 District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way access per one thousand (1,000) feet of street frontage.

## SECTION 51

### A-2 AGRICULTURAL-RESIDENTIAL DISTRICT (LARGE LOT DEVELOPMENT)

**51.01 General Description:** This district is intended to provide an area for residential development with restricted agricultural endeavors. This zoning district is to encourage large lots, open space and low density of population through Single-Family residential development in an agricultural environment.

**51.02 Uses Permitted:** The following uses of property, building or structures:

1. Accessory structure located on same lot
2. Agricultural use, building, or activity, provided that no more than one (1) livestock animal for each 40,000 square feet of open space will be permitted
3. **RESERVED** (*Removed by Ord. 2799, Sec. 1, 9/17/02*)
4. Single family detached dwelling
5. Farms, truck gardens, orchards or nurseries for the growing of plants, shrubs and trees, provided no retail or wholesale business sales offices are maintained on the premises, and provided that no obnoxious fertilizer is stored upon the premises, and no obnoxious soil or fertilizer processing is conducted thereon
6. Home occupations, See Section 82
7. Parking, See Section 89, Parking Off-Street/On-Street
8. Pier, boathouse, slip, etc.
9. Sign See Section 95, Sign Regulations
10. and similar uses
11. **RESERVED**
12. **RESERVED**
13. **RESERVED**
14. **RESERVED**
15. **RESERVED**

**51.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. Ambulance Service
2. Care Center
3. Cemetery, Animal
4. Cemetery, Human
5. Golf Course, except miniature course or stand-alone driving range operated for commercial purposes
6. Group Care Facility
7. RESERVED
8. Manufactured or mobile home, but not including manufactured or mobile home parks  
(*Amended by Ord 2663, Sec. 1, 9/22/98*)
9. Park and playground
10. Parking/Parking Lot: See Section 89, Off-Street Parking Regulations, not permitted in front setback
11. Public Library
12. Public or private schools, but not including business or commercial schools, college or university
13. Public Use
14. Utilities, See Section 97, Utilities
15. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
16. RESERVED
17. RESERVED
18. RESERVED
19. RESERVED

20. RESERVED

**51.04** Area and Setback Regulations: Yards:

1. Front: Setback a minimum of thirty-five (35) feet for main structure and sixty (60) feet for accessory structure.
2. Side: Setback a minimum of ten (10) feet for interior lots.

On corner lots the side yard regulations shall be the same for interior lots except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or separated only by an alley. No accessory buildings on a said corner lot shall project beyond the yard line of the lots in the rear, nor shall any accessory building be erected, reconstructed, altered or enlarged, closer than five (5) feet to the lot line of the abutting lot to the rear.

3. Rear: Setback a minimum of twenty-five (25) feet required. Unattached accessory buildings may not be located within ten (10) feet of a rear or side yard line, or sixty (60) feet from front lot line.
4. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet within the required setback, and are not considered as part of the setback.
5. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
6. Lot Area: A minimum of forty thousand (40,000) square feet. For lots not served by sanitary sewer service the following requirement shall apply:
  - A. For lots not served by public sanitary sewer or a central sewage disposal system, any individual on site wastewater disposal system (septic tank) proposed for use shall comply with State Law. In all instances, individual on-site wastewater disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
  - B. When sanitary sewer is provided to a lot, the existing or planned development/structure shall be required to (hook up) use said sanitary sewer.
7. Height Regulations: No building shall exceed thirty-five (35) feet in height.
8. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.

9. Lot Width: A minimum of one hundred (100) feet at the building setback line.
10. Driveways: Driveway or automobile access laid out in the A-2 District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way access per one thousand (1,000) feet of street frontage.



**SECTION 52                    R-1A SINGLE-FAMILY RESIDENTIAL DISTRICT -  
10,000 SQUARE FEET**

**52.01 General Description:** The principal use is for single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationships of each element.

**52.02 Uses Permitted:** The following uses of property, buildings or structures:

1.     Accessory structure located on same lot
2.     **RESERVED** (*Removed by Ord. 2799, Sec. 1, 9/17/02*)
3.     Single family detached dwelling
4.     Home occupation, See Section 82
5.     Parking, See Section 89, Parking Off-Street/On-Street
6.     Private Garden, private greenhouse
7.     Private Pier, boathouse, slip, and dock, as an accessory use
8.     Public Park and playground
9.     Sign, See Section 95, Sign Regulations
10.    RESERVED
11.    RESERVED
12.    RESERVED
13.    RESERVED
14.    RESERVED
15.    RESERVED

**52.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. Art gallery or museum (public)
2. Golf Course, not including commercial miniature course or stand-alone driving range
3. Library (public)
4. Private Parks and Playgrounds
5. Parking/Parking Lot: See Section 89, Off-street parking regulations, not permitted in front setback
6. Public or private school offering general courses, but not including business or commercial college or university
7. Public use
8. Utilities, See Section 97, Utilities
9. Day Care Centers (*Added by Ord. 2438, Sec. 1, 12/22/92*)
10. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
11. RESERVED
12. RESERVED
13. RESERVED
14. RESERVED
15. RESERVED

**52.04** Area and Setback Regulations: Yards:

1. Front: Setback a minimum of thirty (30) feet.
2. Side:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet.

- B. On corner lots the side yard regulation shall be the same as for interior lots except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged closer than five (5) feet to the line of the abutting lot to the rear.
3. Rear: Setback a minimum of twenty-five (25) feet measured from the rear main building line. Unattached accessory structures may not be located within five (5) feet of a rear lot line or five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
4. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet within the required setback, and are not considered as part of the setback.
5. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
6. Lot Width: A minimum of fifty (50) feet at building setback line.
7. Lot Area: A minimum of ten thousand (10,000) square feet. For lots not served by sanitary sewer service, the following requirements shall apply:
- A. For lots not served by certified public sanitary sewer or a central disposal system, any individual on site waste water disposal system (septic tank) proposed for use shall comply with State Law. In all instances, an individual on site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
- B. When sanitary sewer is provided to a lot, the existing or planned development/structure shall be required to (hook-up) use said sanitary sewer.
8. Height Regulations: No building structure shall exceed thirty-five (35) feet in height.
9. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.
10. Driveways: Driveway or automobile access laid out in the R-1A District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way accesses per street frontage.

**SECTION 53 R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT -  
7,500 SQUARE FEET**

**53.01 General Description:** The principal use is for single-family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationships of each element.

**53.02 Uses Permitted:** The following uses of property, buildings or structures:

1. Accessory structure located on same lot
2. **RESERVED** (*Removed by Ord. 2799, Sec. 1, 9/17/02*)
3. Home Occupation, See Section 82
4. Single family detached dwelling
5. Parking, see Section 89, Off-Street/On-Street Parking
6. Private Pier, boathouse, slip, and dock, as an accessory use
7. Public Park and playground
8. Sign, see Section 95, Sign Regulations
9. RESERVED
10. RESERVED
11. RESERVED
12. RESERVED
13. RESERVED
14. RESERVED
15. RESERVED

**53.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78 Buffer Strip Regulations. Additional conditions may be required.

1. Art gallery or museum (public)
2. Golf Course, not including commercial miniature course or stand-alone driving range
3. RESERVED
4. Library (public)
5. Parking/Parking Lot: See Section 89, Off-street Parking Regulations, not permitted in front setback
6. Private Parks and Playgrounds
7. Public or private school offering general courses, but not including business or commercial school or college
8. Public use
9. Utilities, see Section 97
10. Day Care Centers *(Added by Ord. 2438, Sec. 1, 12/22/92)*
11. Church *(Added by Ord. 2799, Sec. 2, 9/17/02)*
12. RESERVED
13. RESERVED
14. RESERVED
15. RESERVED

**53.04** Area and Setback Regulations: Yards:

1. Front: Setback a minimum of twenty-five (25) feet.
2. Side:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet.

- B. On corner lots the side yard regulation shall be the same as for interior lots except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged, closer than five (5) feet to the line of the abutting lot to the rear.
3. Rear: Setback a minimum of twenty-five (25) feet measured from the rear main building line. Unattached accessory structures may not be located within five (5) feet of a rear lot line, to five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
4. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet into required setback, and are not considered as part of the setback.
5. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
6. Lot Width: A minimum of fifty (50) feet at building setback line.
7. Lot Area: A minimum of 7,500 square feet. For lots not served by sanitary sewer service the following requirements shall apply:
- A. For lots not served by public sanitary sewer or central disposal system, any individual on site waste water disposal system (septic tank) proposed for use shall be comply with State Law. In all instances, an individual on site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
- B. When sanitary sewer is provided to a lot, the existing or planned development/structure shall be required to (hook-up) use said sanitary sewer.
8. Height Regulations: No building structure shall exceed thirty-five (35) feet in height.
9. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.
10. Driveways: Driveway or automobile access laid out in the R-1B District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way accesses per street frontage.

**SECTION 54                    R-1C SINGLE-FAMILY RESIDENTIAL DISTRICT  
5,000 SQUARE FEET**

**54.01** General Description: The principal use is for single family dwellings and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationships of each element.

**54.02** Uses Permitted: The following uses of property, buildings or structures:

1. Accessory structure located on same lot
2. **RESERVED**    *(Removed by Ord. 2799, Sec. 1, 9/17/02)*
3. Home Occupation, See Section 82
4. Single family detached dwelling
5. Manufactured home - single family lot, see Section 68, Manufactured Home District  
*(Amended by Ord 2663, Sec. 1, 9/22/98)*
6. Parking, See Section 89, Off-Street/On Street Parking
7. Private Pier, boathouse, slip, and dock, as an accessory use
8. Public Park and playground
9. Sign, see Section 95, Sign Regulations
10. RESERVED
11. RESERVED
12. RESERVED
13. RESERVED
14. RESERVED
15. RESERVED

**54.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. Art gallery or museum (public)
2. Golf Course, not including commercial miniature courses or stand-alone driving range
3. RESERVED
4. Library (public)
5. Parking/Parking Lot: See Section 89, Off-street parking regulations, not permitted in front setback
6. Private Parks and Playgrounds
7. Public or private school offering general courses, but not including business or commercial school or college
8. Public use
9. Utilities, see Section 97, Utilities
10. Day Care Centers (*Added by Ord. 2438, Sec. 1, 12/22/92*)
11. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
12. RESERVED
13. RESERVED
14. RESERVED
15. RESERVED

**54.04** Area and Setback Regulations: Yards:

1. Front: Setback a minimum of twenty (20) feet.
2. Side:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet.



- B. On corner lots the side yard regulation shall be the same as for interior lots except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged, closer than five (5) feet to the line of the abutting lot to the rear.
3. Rear: Setback a minimum of twenty-five (25) feet measured from the rear main building line. Unattached accessory structures may not be located within five (5) feet of a rear lot line, to five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
4. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet into the required setback, and are not considered as part of the setback.
5. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
6. Lot Width: A minimum of fifty (50) feet at building setback line.
7. Lot Area: A minimum of five thousand (5,000) square feet. For lots not served by sanitary sewer service the following requirements shall apply:
- A. For lots not served by public sanitary sewer or a central disposal system, any individual on site waste water disposal system (septic tank) proposed for use shall comply with State Law. In all instances, an individual on site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
- B. When sanitary sewer is provided to a lot, the existing or planned development/structure shall be required to (hook-up) use said sanitary sewer.
8. Height Regulations: No building structure shall exceed thirty-five (35) feet in height.
9. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.
10. Driveways: Driveway or automobile access laid out in the R-1C District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way accesses per street frontage.

## SECTION 55

## R-2 TWO-FAMILY RESIDENTIAL DISTRICT

**55.01** General Description: This is a residential district to provide for medium population density. The principal use of land may range from single family to two-family dwelling units, and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationships of each element.

**55.02** Uses Permitted:

1. Accessory structure located on same lot
2. **RESERVED** (*Removed by Ord. 2799, Sec. 1, 9/17/02*)
3. Single family detached dwelling
4. Home occupation, See Section 82
5. Manufactured home - single family lot, see Section 68, Manufactured Home District (*Amended by Ord 2663, Sec. 1, 9/22/98*)
6. Parking, see Section 89, Off-Street/On-Street Parking
7. Private Pier, boathouse, slip, and dock, as an accessory use
8. Public Park and playground
9. Two-family dwelling, single family attached dwelling
10. Sign, See Section 95, Sign Regulations
11. **RESERVED** (*Amended by Ord. 2885, Sec. 1, 9/9/05*)
12. **RESERVED**
13. **RESERVED**
14. **RESERVED**
15. **RESERVED**

**55.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. Art gallery or museum (public)
2. Golf Course, not including commercial miniature or stand-alone driving course
3. Group Care Facility
4. Library (public)
5. Parking/Parking Lot: See Section 89, Off-street parking regulations, not permitted in front setback
6. Private Parks and playgrounds
7. Public use
8. University or college, not to include business or commercial college
9. Utilities, see Section 97, Utilities)
10. Care Center (*Added by Ord. 2372, Sec. 1, 5/21/91*)
11. School (*Added by Ord. 2438, Sec. 1, 12/22/92*)
12. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
13. RESERVED
14. RESERVED
15. RESERVED

**55.04** Area and Setback Regulations: Single Family Detached, Single Family Attached, and Two-Family; Yards

1. Front: Setback a minimum of twenty (20) feet.
2. Side: Single Family Detached:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than five (5) feet.

- B. On corner lots the side yard regulation shall be ten (10) feet in width. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged closer than five (5) feet to the line of the abutting lot to the rear. *(Amended by Ord. 2885, Sec. 1, 9/9/05; Amended by Ord. 2663, Sec. 1, 9/22/98)*
3. Side: Single Family Attached, and Two-Family:
- A. On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet. *(Amended by Ord. 2885, Sec. 1, 9/9/05; Amended by Ord. 2663, Sec. 1, 9/22/98)*
- B. On corner lots the side yard regulation shall be ten (10) feet in width, except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged closer than five (5) feet to the line of the abutting lot to the rear. *(Amended by Ord. 2885, Sec. 1, 9/9/05; Amended by Ord. 2663, Sec. 1, 9/22/98)*
4. Rear: Setback a minimum of twenty-five (25) feet measured from the rear main building line. Unattached accessory structures may not be located within five (5) feet of a rear lot line, or five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
5. Roof overhangs or appurtenances, not on the ground, may project from outside wall of residence no more than three (3) feet into the required setback, and are not considered as part of the setback.
6. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
7. Lot Width: Single-Family and Two-Family: A minimum of forty (40) feet at the building setback line per dwelling unit.
8. Lot Area: *(Amended by Ord. 2885, Sec. 1, 9/9/05)*
- A. Single-Family: a minimum of four thousand (4,000) square feet.
- B. Two-Family: A minimum of eight thousand (8,000) square feet.

- C. For lots not served by sanitary sewer service the following requirements shall apply:
1. For lots not served by public sanitary sewer or a central disposal system, any individual on site waste water disposal system (septic tank) proposed for use shall comply with State Law. In all instances, an individual on site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
  2. When sanitary sewer is provided to a lot, the existing or planned development/ structure shall be required to (hook-up) use said sanitary sewer.
9. Height Regulations: No building structure shall exceed thirty-five (35) feet in height.
10. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.
11. Driveways: Driveway or automobile access laid out in the R-1C District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way accesses per street frontage.

## SECTION 56

## R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

**56.01 General Description:** This is a residential district to provide for medium and high population density. The principal use of land may range from single family dwelling units to multi-family, not exceeding eight dwelling units per lot, and related recreational, religious and educational facilities normally required to provide the basic elements of a balanced and attractive residential area. These areas are intended to be defined and protected from the encroachment of uses not performing a function appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationships of each element.

**56.02 Uses Permitted:**

1. Accessory structure located on same lot
2. **RESERVED** (*Removed by Ord. 2799, Sec. 1, 9/17/02*)
3. Home occupation, See Section 82, Home Occupation
4. Single family detached dwelling
5. Manufactured home - single family lot, see Section 68, Manufactured Home District (*Amended by Ord 2663, Sec. 1, 9/22/98*)
6. Multi-family dwelling {See Section 56.04 (8D)} (*Amended by Ord. 2902, Sec. 1, 3/21/06*)
7. Parking, see Section 89, Off-Street/On-Street Parking
8. Single family, townhouses and two family dwellings (*Amended by Ord. 2885, Sec. 2, 9/9/05*)
9. Signs, see Section 95, Sign Regulation (*Added by Ord. 2885, Sec. 2, 9/9/05*)
10. Day Care Center, as defined in Article 1, Section 5.31.2 (*Added by Ord. 2502, Sec. 1, 9/16/94*)
11. RESERVED
12. RESERVED
13. RESERVED
14. RESERVED

15. RESERVED

16. RESERVED

**56.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. Art gallery or museum (public)
2. Care Centers
3. Golf Course, not including commercial miniature or stand-alone driving course
4. Group Care Facility
5. RESERVED
6. Library (public)
7. Parking/Parking Lot: See Section 89, Off-street parking regulations, not permitted in front setback
8. Private nursery, day school, kindergarten, and home care centers
9. Private Parks and playgrounds
10. Public use
11. Rooming and boarding house
12. University or college, not to include business or commercial college
13. Utilities, see Section 97, Utilities
14. Self-Service Laundries (*Added by Ord. 2338, Sec. 1, 3/20/90*)
15. School (*Added by Ord. 2438, Sec. 1, 12/22/92*)
16. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
17. RESERVED
18. RESERVED

19. RESERVED

20. RESERVED

**56.04** Area and Setback Regulations: Yards

1. Front: Setback a minimum of twenty (20) feet.
2. Side: Single Family Detached:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than five (5) feet.
  - B. On corner lots the side yard regulation shall be ten (10) feet in width. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged closer than five (5) feet to the line of the abutting lot to the rear. *(Amended by Ord. 2885, Sec. 2, 9/9/05)*
3. Side: Single Family Attached, and Two-Family:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet. *(Amended by Ord. 2885, Sec. 2, 9/9/05; Amended by Ord. 2663, Sec. 1, 9/22/98)*
  - B. On corner lots the side yard regulation shall be ten (10) feet in width, except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged closer than five (5) feet to the line of the abutting lot to the rear. *(Amended by Ord. 2885, Sec. 2, 9/9/05; Amended by Ord 2663, Sec. 1, 9/22/98)*
4. Rear: Setback a minimum of twenty-five (25) feet measured from the rear lot line to the rear main building line. Unattached accessory structures may not be located within five (5) feet of a rear lot line, or five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
5. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet into the required setback, and are not considered as part of the setback.



6. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
7. Lot Width:
  - A. Single-Family: A minimum of forty (40) feet at the front setback line. *(Amended by Ord. 2885, Sec. 2, 9/9/05)*
  - B. Two-Family and Multi-Family: A minimum of eighty (80) feet at the front setback line.
  - C. RESERVED *(Removed by Ord. 2902, Sec. 2, 3/21/06)*
8. Lot Area:
  - A. Single Family Detached: A minimum of four thousand (4,000) square feet. *(Amended by Ord. 2885, Sec. 2, 9/9/05)*
  - B. Two-Family: A minimum of eight thousand (8,000) square feet.
  - C. RESERVED *(Removed by Ord. 2902, Sec. 3, 3/21/06)*
  - D. Multiple Family Dwelling Units: A minimum of twenty-five hundred (2,500) square feet per dwelling unit. *(Amended by Ord. 2902, Sec. 4, 3/21/06)*
  - E. For lots not served by certified public sanitary sewer the following requirements shall apply:
    1. For lots not served by public sanitary sewer or a central disposal system, any individual on site waste water disposal system (septic tank) proposed for use shall comply with State Law. In all instances, an individual on site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
    2. When sanitary sewer is provided to a lot, the existing or planned development/ structure shall be required to (hook-up) use said sanitary sewer.
9. Lot Coverage: The impervious surface area shall not cover over fifty (50) percent of the lot area.
10. Height Regulations: In no case shall the height of a structure exceed thirty-five (35) feet.

11. Driveways: Driveway or automobile access laid out in the R-3 District shall not be greater in width than twenty (20) feet, and no lot shall be provided with more than two (2) street right-of-way accesses per street frontage.

## **SECTION 57                    R-4 HIGH DENSITY RESIDENTIAL DISTRICT:**

**57.01** General Description: This is a district to provide for high density residential living.

**57.02** Uses Permitted:

1.     Accessory structure located on same lot
2.     **RESERVED**     *(Removed by Ord. 2799, Sec. 1, 9/17/02)*
3.     Group Care Facility
4.     Home occupation, See Section 82
5.     Manufactured home - single family lot, see Section 68, Manufactured Home District  
*(Amended by Ord 2663, Sec. 1, 9/22/98)*
6.     Manufactured home park, development review required. See Section 96, Site Plan Review  
*(Amended by Ord 2663, Sec. 1, 9/22/98)*
7.     Multi-Family
8.     Parks or playgrounds
9.     Parking, see Section 89, Off-Street/On-Street Parking
10.    Single family detached, Townhouses, two-family, and zero lot line dwellings
11.    Signs, see Section 95, Sign Regulations
12.    RESERVED
13.    RESERVED
14.    RESERVED
15.    RESERVED

**57.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted on review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1.     Art gallery or museum (public)
2.     Care center

3. Civic, cultural or community center
4. Golf Course, not including commercial miniature or stand-alone driving course
5. Library (public)
6. Lodge or assembly hall, not including those whose activities are providing services customarily carried on as a business
7. Parking/Parking Lot: See Section 89, Off-street parking regulations, not permitted in front setback
8. Pier, dock, boat livery, boat launching area, marina, golf, country, yacht and fraternal club, and other appropriate recreational areas and facility
9. Private nursery, kindergarten
10. Private parks and playgrounds
11. Public or private school
12. Public use
13. Rooming and boarding house
14. Utilities, see Section 97, Utilities
15. Self-Service Laundries (*Added by Ord. 2338, Sec. 1, 3/20/90*)
16. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
17. RESERVED
18. RESERVED
19. RESERVED
20. RESERVED

**57.04** Area and Setback Regulations: Yards

1. Front:
  - A. Single Family Detached, Single Family Attached, Two-Family and Multi-Family dwellings: a minimum of twenty (20) feet; to include manufactured (mobile) home on a single lot.

2. Side:
  - A. Single family detached, single family attached, two-family and multi-family: on interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet.
  - B. On corner lots the side yard regulation shall be ten (10) feet except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case, there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory buildings on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged closer than five (5) feet to the line of the abutting lot to the rear.
3. Zero Lot Line: There shall be no minimum on one side and ten (10) feet on the opposite side except that on corner lots the minimum side yard of the corner side shall be ten (10) feet, and shall not include vehicular drives, streets, or parking areas. Zero lot line dwellings shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side and a two (2) hour fire wall shall be constructed. Where adjacent zero lot line dwellings are not constructed against a common lot line, the builder or developer must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall. However, in no case shall a parallel zero lot line dwelling be built closer than ten (10) feet to the lot line of a lot which is zoned as A-1, A-2, or R-1A, R-1B, or R-1C Residential District. In no case shall any manufactured home with an established overlay district or within a manufactured home park be less than ten (10) feet from the lot line, manufactured homes cannot be zero lot lined. *(Amended by Ord 2663, Sec. 1, 9/22/98)*
4. Rear: Setback a minimum of twenty-five (25) feet measured from the rear lot line to the rear main building line. Unattached accessory structures may not be located within five (5) feet of a rear lot line, or five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
5. Roof overhangs or appurtenances not at grade may project from outside wall of residence no more than three (3) feet into required setback, and are not considered as part of the setback.
6. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
7. Manufactured Home: A minimum of ten (10) feet on an individual lot. *(Amended by Ord 2663, Sec. 1, 9/22/98)*

8. Lot Width:

- A. Single Family, Zero Lot Line, Two Family Dwellings: a minimum of forty (40) feet per dwelling unit; including manufactured homes on individual lots. *(Amended by Ord 2663, Sec. 1, 9/22/98)*
- B. Townhouse: A minimum of twenty (20) feet;
- C. Multi-Family: A minimum of eighty (80) feet.

9. Lot Area:

- A. Single-Family, Zero Lot Line and Two Family: A minimum four thousand (4,000) square feet per dwelling unit, including manufactured homes on individual lots. *(Amended by Ord 2663, Sec. 1, 9/22/98)*
- B. Townhouse: A minimum of two thousand (2,000) square feet per dwelling unit.
- C. Multiple Family Dwelling Units:

<u>Units</u>	<u>Minimum Sq. Ft. Per Unit</u>
4-10	2,000
11-20	1,500
20-30	1,250
31+	1,000

- D. For lots not served by certified sanitary sewer service the following requirements shall apply:
  - 1. For lots not served by public sanitary sewer or a central disposal system, any individual on site waste water disposal system (septic tank) proposed for use shall comply with State Law. In all instances, an individual on site waste water disposal system must be installed and continually operated in compliance with specifications set forth by State Law.
  - 2. When sanitary sewer is provided to a lot, the existing or planned development/structure shall be required to (hook-up) use said sanitary sewer.
  - 3. Multi-Family Dwellings: Multi-family development requires certified sanitary sewer system.

10. Height Regulations: A maximum of forty-five (45) feet or approval of Fire Marshall shall be required.
11. Lot Coverage: The impervious surface area shall not cover over eighty (80) percent of the lot area. *(Added by Ord. 2905, Sec.1, 5/16/06)*

**57.05** Special Regulations For Manufactured (Mobile) Home Parks: *(Amended by Ord. 2663, Sec. 1, 9/22/98)*

1. Each manufactured (mobile) home park shall contain a minimum of three (3) acres. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
2. Manufactured (mobile) home parks shall not exceed a density of eight (8) mobile home units per gross acre within the mobile home park. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
3. Manufactured (mobile) home parks shall be surrounded by a buffer strip at least fifteen (15) feet in depth on the sides and rear and thirty-five (35) feet in depth along the front measured from the street right- of-way line; provided, however, that no side or rear buffer is required between adjacent manufactured (mobile) home parks. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
4. Buffers shall otherwise be unoccupied except for landscaping, utility facilities, signs, or entrance ornamentation, and except for the inside twenty (20) feet of a fifty (50) foot front buffer which may be used for interior street, roadway or driveway.
5. A minimum of five (5) percent of the gross land area of the manufactured (mobile) home park shall be required for recreation area. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
6. All manufactured (mobile) home lots shall abut upon a driveway of not less than twenty (20) feet in width, which shall have unobstructed access to a public street. *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
7. All streets, roadways and driveways within the park shall be hard surface and meet the minimum construction standards of the Hattiesburg Standard Specifications for Construction of Streets, Pavements, Sewer and Water Distribution System. They shall be lighted at night with electric lamps.
8. Manufactured (mobile) home area and setback requirements:
  - A. Front Yard: A minimum of ten (10) feet.
  - B. Rear Yard: A minimum of ten (10) feet.

- C. Side Yard: A minimum of ten (10) feet between all manufactured (mobile) homes or five (5) feet on each side or zero lot line with five (5) foot maintenance easement with adjacent manufactured (mobile) home no closer than twenty (20) feet. (*Amended by Ord. 2663, Sec. 1, 9/22/98*)
  - D. Manufactured (mobile) home park lot area: Minimum of three thousand five hundred (3,500) square feet for each pad or stand. (*Amended by Ord. 2663, Sec. 1, 9/22/98*)
  - E. Manufactured (mobile) home park lot width: A minimum of thirty-five (35) feet at structure set back line. (*Amended by Ord. 2663, Sec. 1, 9/22/98*)
9. Shall be served by certified sanitary sewer.



## SECTION 58

## B-1 PROFESSIONAL BUSINESS DISTRICT

**58.01** General Description: The purpose of this business district is to provide areas for professional and business offices and related activities that require separate buildings and building groups surrounded by landscaped yards and open areas. The intent is to provide centralized, compact locations for business offices, medical and dental offices, as well as suburban locations near residential neighborhoods.

**58.02** Uses Permitted: The following uses of property, buildings, or structures:

1. Accessory structure located on same lot
2. **RESERVED**      *(Removed by Ord. 2799, Sec. 1, 9/17/02)*
3. Single family detached dwelling
4. Home occupation, see Section 82
5. Medical and Dental Offices, Hospice
6. Offices, professional and service, business or organizations, but not including shops, garages or retail products
7. Parking/Parking Lot, see Section 89, Off-Street/ On-Street Parking, not permitted in front setback, permitted in side and rear setbacks only
8. Sign, See Section 95, Sign Regulations
9. Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, gymnastics, but not including commercial gymnasiums
10. Two-family dwellings
11. B-1 uses with a gross floor area equal to or less than ten thousand (10,000) square feet.
12. and other similar uses
13. Single-family residences that are a part of or attached to offices, professional and service, business or organization but not including shops, garage or retail products.  
*(Added by Ord. 2598, Sec. 1, 4/22/97)*
14. **RESERVED**
15. **RESERVED**

**58.03** Uses Permitted on Review by the Planning Commission. The following uses may be permitted upon review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. Libraries, museums, art galleries, and reading rooms; no retail products
2. Utilities
3. B-1 uses with a gross floor area greater than ten thousand (10,000) square feet
4. RESERVED
5. Church (*Added by Ord. 2799, Sec. 2, 9/17/02*)
6. Group Care Facility
7. Tearoom, not drive-ins or restaurants specializing in take-out foods (*Amended by Ord. 2444, Sec. 1, 4/20/93; Added by Ord. 2348, Sec.1, 12/22/92*)
8. Catering services (*Added by Ord. 2348, Sec.2, 12/22/92*)
9. Care Center (*Added by Ord. 2373, Sec. 1, 5/21/91*)
10. RESERVED
11. Florist (*Added by Ord. 2907, Sec. 1, 5/16/06*)

**58.04** Area and Setback Regulations:

1. Front: Setback a minimum of twenty-five (25) feet or equal to an average of the adjacent lot setbacks.
2. Side:
  - A. On interior lots there shall be a side yard on each side of a building having a width of not less than ten (10) feet.
  - B. On corner lots the side yard regulation shall be ten (10) feet except in the case of reversed frontage where the corner lot rears on the side of a lot facing the other intersecting street, in which case there shall be a side yard on the corner lot of not less than fifty (50) percent of the front yard required on the lot abutting the rear of the corner lot or lot separated only by an alley. No accessory building on said corner lot shall project beyond the front yard line of the lots in the rear, nor shall any building be erected, reconstructed, altered or enlarged, closer than five (5) feet to the line of the abutting lot to the rear.

- C. Zero Lot Line: There shall be no minimum on one side and ten feet on the opposite side except that on corner lots the minimum side yard of the corner side shall be ten (10) feet, and shall not include vehicular drives, streets, or parking areas. Zero lot line dwellings shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side and a two (2) hour fire wall shall be constructed. Where adjacent zero lot line dwellings are not constructed against a common lot line, the builder or developer must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall. However, in no case shall a parallel zero lot line dwelling be built closer than ten (10) feet to the lot line of a lot which is zoned A-1, A-2 or R-1A, R-1B, or R-1C Residential District.
3. Rear: Setback a minimum of twenty-five (25) feet measured from the rear main building line.
  4. Unattached accessory structures may not be located within five (5) feet of a rear lot line, to five (5) feet of a side lot line, and shall not be located closer than sixty (60) feet to the front lot line.
  5. Roof overhangs or appurtenances not at grade may project from outside walls of residence no more than three (3) feet in the required setback, and are not considered as part of the setback.
  6. Outside air conditioning units or similar installations shall be setback a minimum of five (5) feet from any property line.
  7. An accessory building or structure that is not part of the main structure shall be located within the building area of the lot.
  8. Where this district abuts an agricultural district, residential district, except R-4, High Density Residential District, or B-1 district, the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.
  9. Lot Width: A minimum of fifty (50) feet.
  10. Lot Area: A minimum of four thousand (4,000) square feet.
  11. Shall be served by public sanitary sewer.
  12. Lot Coverage: A maximum of sixty (60) percent of the lot may be covered by impervious surfaces.
  13. Height Regulations: No building shall exceed thirty-five (35) feet in height.

14. Driveways: No driveway or automobile access laid out in the B-1 District shall be greater in width than twenty (20) feet, and no property shall be provided with more than two (2) street access.
15. Buildable Area: A maximum of ten thousand (10,000) square feet of floor area per lot.

## **SECTION 59 B-2 NEIGHBORHOOD BUSINESS DISTRICT**

**59.01 General Description:** The purpose of this business district is to provide retail stores and personal services for the convenience of the people in adjacent residential areas.

**59.02 Uses Permitted:** . (Numbering of entire section Amended by Ord. 2877, Sec. 1, 6/21/05)

1. Accessory Use
2. Attached accessory dwelling unit occupied by the business owner, caretaker, security guard or other similar person employed by the business establishment (*Added by Ord. 2877, Sec. 1, 6/21/05*)
3. Arts & Crafts (*Added by Ord. 2877, Sec. 1, 6/21/05*)
4. Art Gallery or museum
5. Automated Teller Machine
6. Bakery Retail
7. Bank
8. Barber shop or beauty shop
9. Catering shop
10. Church (*Amended by Ord. 2799, Sec. 1, 9/17/02*)
11. Delicatessen
12. Dental or doctor offices
12. Care center, kindergarten, or nursery
13. Drug Store
15. Dwelling in conjunction with uses permitted within the B-2 district, provided that: (*Added by Ord. 2877, Sec. 1, 6/21/05*)
  - a) Mixed residential and non-residential uses are located within the same structure(s); (*Added by Ord. 2877, Sec. 1, 6/21/05*)
  - b) Dwelling units shall be located on the floor above permitted non-residential uses; no more than 20% of the dwelling units may be located on the ground

floor of a building; ground floor dwelling units must comply with the Americans with Disabilities Act of 1990, as amended; and (*Added by Ord. 2877, Sec. 1, 6/21/05*)

- c) Dwelling density does not exceed one unit per 5,000 square feet of gross development area. (*Added by Ord. 2877, Sec. 1, 6/21/05*)
- 16. Florist
- 17. Grocery store, retail, with gasoline sales
- 18. Group Care Facility
- 19. Interior decorating shop
- 20. Jewelry store, including repairing of jewelry, watches, and clocks
- 21. Laundry, self-service only
- 22. Laundry, and/or dry cleaning pickup station
- 23. Library or reading room
- 24. Offices, professional and service
- 25. Parking, see off-street parking regulations, not permitted in front setback, permitted on side and rear setbacks only
- 26. Repair Shop, i.e., small appliances, shoes, etc., excluding internal combustion engine repair
- 27. Sign, See Section 95, Sign Regulations
- 28. Storage warehouse, renting only to individual lockers for customer storage of dry goods, and household goods permitted, but not including any type of food storage
- 29. Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, gymnastics, but not including commercial gymnasium
- 30. Variety store limited to the sale of items sold by any other use in this district
- 31. B-2 uses with a gross floor area less than or equal to ten thousand (10,000) square feet
- 32. and other similar uses

33. RESERVED

34. RESERVED

35. RESERVED

36. RESERVED

**59.03** Uses Permitted on Review by the Planning Commission: The following uses may be permitted on review. See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. R-3, Multiple Family Residential, uses shall meet minimum R-3, Multiple Family Residential, requirements
2. Utilities
3. B-2 uses with a gross floor area greater than ten thousand (10,000) square feet
4. Restaurants with the following stipulations:
  - a. May not serve alcohol or be connected to bars or taverns
  - b. May not be open after 10:30 p.m.
  - c. No drive-ins or drive-thru types of operations
  - d. No appreciable change in activities or noise levels in the immediate area (entire #4 was Amended by Ord. 2450, Sec. 1, 6/22/93)
5. Automotive glass repair and replacement (*Added by Ord. 2671, Sec. 1, 10/20/98*)
6. RESERVED
7. RESERVED
8. RESERVED
9. RESERVED
10. RESERVED

**59.04** Area and Setback Regulations: Yards:

1. Front: A minimum of twenty (20) feet.
2. Side:

- A. A minimum of fifteen (15) feet on one side. No side yard required on the other side. However, the structure cannot have any windows or doors opening on the side unless there is a minimum ten (10) foot side yard setback. All structures must meet the Fire Code.
  - B. Zero lot line structures shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side. Where adjacent zero lot line structures are not constructed against a common lot line, the builder, developer, or owner must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall.
  - C. On a corner lot the side yard abutting a street right-of-way shall be minimum of twenty (20) feet.
  - D. Where this district abuts an agricultural district, residential district or B-1 District, the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.
3. Rear: None required.
- Where this district abuts an agricultural district, residential district or B-1 District, the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.
4. Lot Width: A minimum of one hundred (100) feet.
5. Lot Area: None required.
6. Shall be served by public sanitary sewer.
7. Height Regulations: No building or structure shall exceed thirty-five (35) feet in height.
8. Buildable Area: A maximum of ten thousand (10,000) square feet of floor area per lot.



## **SECTION 60            B-3 COMMUNITY BUSINESS DISTRICT**

**60.01** General Description: This business district is intended for the conduct of personal and business services and retail business of the community. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

**60.02** Uses Permitted: (all of Section 60.02 numbers were amended by Ord. 2877, sec. 2, 6/21/05)

1. Accessory use
2. Attached accessory dwelling unit occupied by the business owner, caretaker, security guard or other similar person employed by the business establishment. (*Amended by Ord. 2877, sec. 2, 6/21/05*)
3. Ambulance service
4. Amusement facilities
5. Appliance store, and repair
6. Arts & crafts
7. Art gallery or museum
8. Auction house
9. Auditorium
10. Automated teller machine
11. Automobile car wash
12. Automobile filling station, where the primary function is the retail sale of gasoline, accessories, washing, polishing, and tune-up, including tire sales
13. Automobile maintenance service, but not commercial truck maintenance service
14. Bakery, retail
15. Bank
16. Barber shop or beauty shop
17. Bicycle and/or lawn mower sales and repair

18. Blueprinting and Photostatting
19. Book store
20. Bowling alley
21. Business machines store
22. Business college
23. Cabinet shop
24. Care center, kindergarten, or nursery
25. Catering shop
26. Church (*Amended by Ord. 2799, Sec. 1, 9/17/02*)
27. Clinic, medical
28. Convalescent, rest or nursing home
29. Delicatessen
30. Dental or medical offices
31. Drug store
32. Dry cleaning establishment
33. Dry goods store
34. Dwelling in conjunction with uses permitted within the B-2 district, provided that:  
(*Added by Ord. 2877, Sec. 2, 6/21/05*)
  - a) Mixed residential and non-residential uses are located within the same structure(s); (*Added by Ord. 2877, Sec. 2, 6/21/05*)
  - b) Dwelling units shall be located on the floor above permitted non-residential uses; no more than 20% of the dwelling units may be located on the ground floor of a building; ground floor dwelling units must comply with the Americans with Disabilities Act of 1990, as amended; and (*Added by Ord. 2877, Sec. 2, 6/21/05*)

- c) Dwelling density does not exceed one unit per 5,000 square feet of gross development area. (*Added by Ord. 2877, Sec. 2, 6/21/05*)
35. Exterminators
  36. Fairgrounds, baseball park and stadium
  37. Feed store
  38. Florist
  39. Food locker plant - renting only individual lockers for home customer storage of food; cutting and packaging of meats and game permitted but not including any slaughtering or eviscerating thereof
  40. Funeral home, mortuary, or undertaking establishment
  41. Furniture store, retail
  42. Fur dyeing, finishing and storage; no tanning
  43. Grocery store, retail
  44. Group Care Facility
  45. Hotel, motel, tourist home, all for transient occupancy except that not more than one-third (1/3) of the gross floor area may be used for apartments for permanent occupancy
  46. Interior decorating shop
  47. Jewelry store, including repairing of jewelry, watches, and clocks
  48. Laboratory, dental or medical
  49. Laundry, self-service only
  50. Laundry, and/or dry cleaning pickup station
  51. Library or reading room
  52. Offices, professional and service
  53. Package liquor store
  54. Parking, see Off-street Parking Regulations, permitted in all setbacks

55. Parking lot
56. Pawn shop
57. Public health center
58. Restaurant or lounge
59. Seafood sales
60. Sign, see Section 95, Sign Regulations
61. Small animal clinic
62. Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, gymnastics, including commercial gymnasium
63. Theater
64. Variety store limited to the sale of items sold by any other use in this district
65. and other similar uses
66. Parking Garage (*Added by Ord. 2545, Sec. 2, 1/16/96*)

**60.03** Uses Permitted on Review by the Planning Commission: See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. RESERVED (*Repealed by Ord. 2545, Sec. 2, 1/16/96*)
2. Utilities
3. Firing Ranges
4. Hospitals
5. Automobile Sales (*Added Ord. 2550, Sec. 1, 4/2/96*)
6. Storage warehouses, renting only to individual lockers for customer storage of dry goods, and household goods permitted, but not including any type of food storage. (*Added by Ord. 2896, Sec. 1, 12/20/05*)
7. RESERVED

8. RESERVED

9. RESERVED

10. RESERVED

**60.04** Area and Setback Regulations: Yards:

1. Front: A minimum of thirty (30) feet.

2. Side:

A. Same as B-2 Neighborhood Business District: A minimum of fifteen (15) feet on one side. No side yard required on the other side. However, the structure cannot have any windows or doors opening on the side unless there is a minimum ten (10) foot side yard setback. All structures must meet the Fire Code.

B. Zero lot line structures shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side. Where adjacent zero lot line structures are not constructed against a common lot line, the builder, developer, or owner must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall.

C. On a corner lot the side yard abutting a street right-of-way shall be minimum of thirty (30) feet.

D. Where this district abuts an agricultural district, residential district or B-1 District, the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.

3. Rear: None required.

Where this district abuts an agricultural district, residential district or B-1 District, the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.

4. Lot Width: Same as B-2 Neighborhood Business District: A minimum of one (100) feet.

5. Lot Area: None required.

6. Shall be served by public sanitary sewer.

7. Height Regulations: No building or structure shall exceed three (3) stories in height. (*Amended by Ord. 2880, Sec. 2, 7/19/05*)

## **SECTION 61            B-4 DOWNTOWN BUSINESS DISTRICT**

**61.01** General Description: This business district is intended for the conduct of personal business services and retail trade normally found in the following area.

**61.02** Uses Permitted:

1.     Accessory use
2.     Ambulance service
3.     Amusement facilities
4.     Appliance store
5.     Arts & crafts
6.     Art gallery or museum
7.     Auction house
8.     Auditorium
9.     Automated teller machine
10.    Automobile car wash
11.    Bakery Retail
12.    Bank
13.    Barber shop or beauty shop
14.    Bicycle and/or lawn mower sales and repair
15.    Blueprinting and Photostatting
16.    Book store
17.    Bowling alley
18.    Business machines store
19.    Business college

20. Cabinet shop
21. Catering shop
22. Church (*Amended by Ord. 2799, Sec. 1, 9/17/02*)
23. Clinic, medical
24. Delicatessen
25. Dental or doctor offices
26. Day care center, kindergarten, or nursery
27. Drug store
28. Dry cleaning pickup station
29. Dry goods store
30. Feed store
31. Florist
32. Food locker plant - renting only individual lockers for home customer storage of food; cutting and packaging of meats and game permitted but not including any slaughtering or eviscerating thereof,
33. Funeral home, mortuary, or undertaking establishment
34. Furniture store, retail
35. Fur dyeing, finishing and storage; no tanning
36. Grocery store, retail
37. Hotel, motel, tourist home, all for transient occupancy except that not more than one-third (1/3) of the gross floor area may be used for apartments for permanent occupancy
38. Interior decorating shop
39. Jewelry store, including repairing of jewelry, watches, and clocks
40. Laboratory, dental or medical

41. Library or reading room
42. Offices, professional
43. Package Liquor Store
44. Parking/Parking Lot, See Off-Street Parking Regulations
45. Pawn Shop
46. Public Health Center
47. Restaurant or lounge
48. Seafood sales
49. Sign, See Section 95, Sign Regulations
50. Small animal clinic
51. Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, including commercial gymnasium
52. Theater
53. Variety store
54. and other similar uses
55. Parking Garage (Added by Ord. 2545, Sec. 1, 1/16/96)
56. Residential, Refer to R-4 except Single-Family residential detached. (*Added by Ord. 2608, Sec. 1, 8/19/97*)

**61.03** Uses Permitted on Review by the Planning Commission: See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Regulations. Additional conditions may be required.

1. RESERVED (Removed by Ord. 2545, Sec. 2, 1/16/96)
2. RESERVED (Removed by Ord. 2609 Sec. 1, 8/19/97)
3. Utilities
4. RESERVED



5. RESERVED
6. RESERVED
7. RESERVED
8. RESERVED
9. RESERVED
10. RESERVED

**61.04** Area and Setback Regulations: Yards:

1. Front: None required.
2. Side: None Required. Where this district abuts an agricultural district or residential district the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.
3. Rear: None Required. Where this district abuts an agricultural district or residential district the landscape requirements shall be met. See Section 78, Buffer Strip Regulations.
4. Lot Width: None Required.
5. Lot Area: None Required.
6. Shall be served by public sanitary sewer.
7. Height Regulations: No building or structure shall exceed nine (9) stories or one hundred thirty-five (135) feet, subject to the approval of the Fire Marshall.

## **SECTION 62**

## **B-5 REGIONAL BUSINESS DISTRICT**

**62.01** General Description: This business district is intended for the conduct of personal and business services for the motoring public.

**62.02** Uses Permitted:

1. Accessory use
2. Ambulance service
3. Amusement facilities
4. Appliance store
5. Arts & crafts
6. Art gallery or museum
7. Auction house
8. Auditorium
9. Automated teller machine
10. Automobile Sales
11. Automobile car wash
12. Automobile filling station, where the primary function is the retail sale of gasoline, accessories, washing, polishing, and tune-up, including tire sales
13. Automobile repair, including truck repair
14. Bakery retail
15. Bank
16. Barber shop or beauty shop
17. Bicycle and/or lawn mower sales and repair
18. Blueprinting and Photostatting
19. Book store

20. Bowling alley
21. Business machines store
22. Business college
23. Cabinet shop
24. Catering shop
25. Church (*Amended by Ord. 2799, Sec. 1, 9/17/02*)
26. Delicatessen
27. Dental or medical facilities
28. Day care center, kindergarten, or nursery
29. Drug store
30. Dry cleaning establishment
31. Dry goods store
32. Exterminators
33. Fairgrounds, sports park and stadium
34. Feed store
35. Florist
36. Food locker plant - renting only individual lockers for home customer storage of food; cutting and packaging of meats and and game permitted but not including any slaughtering or eviscerating thereof
37. Funeral home, mortuary, or undertaking establishment
38. Furniture store, retail
39. Fur dyeing, finishing and storage; no tanning
40. Grocery store, retail
41. Group Care Facility

42. Hospital
43. Hotel, motel, tourist home, all for transient occupancy except that not more than one-third (1/3) of the gross floor area may be used for apartments for permanent occupancy
44. Interior decorating shop
45. Jewelry store, including repairing of jewelry, watches, and clocks
46. Laboratory, dental or medical
47. Laundry, self-service only
48. Laundry, and/or dry cleaning pickup station
49. Library or reading room
50. Lumber sales where lumber storage is screened from public view
51. Machinery sales and service, new and used, to include automobile sales and service, provided that no merchandise can be stored in the front yard setbacks and, in case of a corner lot, in the side yard setback
52. Manufactured (mobile) home sales and service, provided that no merchandise can be stored in the front yard setbacks and, in case of a corner lot, in the side yard setbacks
53. Marine sales and service, provided that no merchandise can be stored in the front yard setbacks and, in case of a corner lot, in the side yard setback
54. Offices, professional and service
55. Package liquor store
56. Parking/Parking Lot, See Off-Street Parking Regulations, permitted in all setbacks
57. Pawn shop
58. Restaurant or lounge
59. Seafood sales
60. Sign, See Section 95, Sign Regulations
61. Small animal clinic

62. Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, but not including commercial gymnasium
63. Theater
64. Utilities, except telecommunication towers. *(Amended by Ord. 2745, Sec. 1, 1/16/01)*
65. Variety store limited to the sale of items sold by any other use in this district
66. Wholesale and warehousing
67. and other similar uses
68. Parking Garage *(Added by Ord. 2545, Sec. 1, 1/16/96)*

**62.03** Uses Permitted on Review by the Planning Commission: See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Requirements. Additional conditions may be required.

1. RESERVED *(Repealed by Ord. 2545, Sec. 2, 1/16/96)*
2. I-1 Uses
3. R-4 Uses
4. Firing Ranges
5. Adult Entertainment, to include adult arcades, adult bookstores, adult cabarets, adult entertainment establishments, adult motels and adult motion picture theaters. *(Added by Ord. 2462, Sec. 2, 9/21/93)*
6. Telecommunication towers. *(Added by Ord. 2745, Sec. 1, 1/16/01)*
7. RESERVED
8. RESERVED
9. RESERVED
10. RESERVED

**62.04** Area and Setback Regulations: Yards:

1. Front: A minimum of thirty (30) feet.

2. Side: Same as B-2 Neighborhood Business District: A minimum of fifteen (15) feet on one side. No side yard required on the other side. However, the structure cannot have any windows or doors opening on the side unless there is a minimum ten (10) foot side yard setback. All structures must meet the Fire Code.

Zero lot line structures shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side. Where adjacent zero lot line structures are not constructed against a common lot line, the builder, developer, or owner must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall.

On a corner lot the side yard abutting a street right-of-way shall be minimum of thirty (30) feet.

Where this district abuts an agricultural district or residential district the landscape requirements shall be met. See Section 78, Buffer Strip Requirements.

3. Rear: None required. Where this district abuts an agricultural district or residential district the landscape requirements shall be met. See Section 78, Buffer Strip Requirements.
4. Lot Width: Same as B-2 Neighborhood Business District: A minimum of one hundred (100) feet.
5. Lot Area: None required.
6. Shall be served by public sanitary sewer.
7. Height Regulations: No building or structure shall exceed three stories in height. (*Amended by Ord. 2880, Sec. 2, 7/19/05*)
8. No adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motel or adult motion picture theater, as defined in this Ordinance, shall be located within one thousand (1000) feet of any other such use, or located within one thousand (1000) feet of any residentially zoned property, church, school, park or playground, from property line to property line. No separation is required for adult entertainment establishments under a common roof with single proprietorship and approved entrance. (See Section 95.12.6 for sign regulations) (*Added by Ord. 2462, Sec. 3, 9/21/93*)

## **SECTION 63 RESERVED**

## **SECTION 64            I-1 LIGHT INDUSTRIAL DISTRICT**

**64.01** General Description: This industrial district is intended primarily for production and assembly plants that are conducted so the noise, odor, dust and glare of each operation is properly controlled. Any use specifically listed in I-2 is prohibited in I-1.

**64.02** Uses Permitted: The following uses of property, buildings, or structures provided they meet the requirement of the applicable federal, state and local agencies relative to hazardous waste material or substances. All uses shall meet the screening and height limitations for open storage and display of merchandise and materials as set forth in Section 87 of this Code. See Section 87, Open Storage.

1.     Accessory use
2.     Airport and dusting service
3.     Any use permitted in B-5, Regional Business District
4.     Armory
5.     Automobile and truck maintenance shops and garages
6.     Automobile and truck laundry, including steam cleaning
7.     Automobile and truck body repair
8.     Battery manufacture
9.     Beverage manufacture
10.    Carting, express, crating, hauling and storage
11.    Clothing manufacture
12.    Cold storage plant
13.    Concrete and concrete products manufacture
14.    Contractors storage yard for vehicles, equipment, materials and/or supplies
15.    Cosmetics (compounding only)
16.    Creamery
17.    Drug manufacture

18. Dry cleaning
19. Electroplating
20. Elevator maintenance and service
21. Farming and truck gardening
22. Food locker plant
23. Food products manufacture
24. Food products, wholesale storage and sales
25. Foundry
26. Freight depot, railway and/or truck
27. Frozen food plant
28. Fruit and produce, wholesale
29. Hardware manufacture
30. Hatchery
31. Hosiery mill
32. Ice cream manufacture
33. Ice manufacture
34. Laboratory
35. Laundry, linen supply, or diaper service
36. Lumber yard and building materials
37. Machine shop
38. Machinery, tools and construction equipment, sales and service
39. Mattress manufacture and rebuilding
40. Metal sharpening



41. Metal products fabrication
42. Millinery manufacture
43. Mill work and similar wood products manufacture
44. Mobile home sales and manufacturing
45. Novelty and souvenir manufacture
46. Office equipment and supplies manufacture
47. Oil well supplies and machinery
48. Packing and gasket manufacture
49. Painting and decorating contractor
50. Paper products manufacture
51. Paper supplies, wholesale
52. Pipe storage
53. Plumbing shop
54. Printing, publishing, and allied industries
55. Railroad facilities
56. Restaurant supplies sales
57. Roofing and sheet metal shop
58. Rug cleaning
59. Sand and gravel storage yard
60. Shoe manufacture
61. Signs, business (on premises)
62. Sign shop
63. Taxidermist

64. Tire shredding, but not incineration
65. Toy manufacture
66. Trailer sales
67. Transit vehicle storage and servicing
68. Trade school
69. Utilities, except telecommunication towers. (*Amended by Ord. 2745, Sec. 1, 1/16/01*)
70. Venetian blind and metal awning fabricating and cleaning
71. Water distillation
72. Water storage
73. Welding shop
74. Well drilling company
75. Wholesale and warehousing
76. and other similar uses

**64.03** Uses Permitted on Review of the Planning Commission: See Section 42, Public Hearing Procedure, see Section 78, Buffer Strip Requirements. Additional conditions may be required.

1. Animal Shelter
2. Firing Ranges
3. Junk yards, see Open Storage, Section 87
4. Telecommunication towers. (*Added by Ord. 2745, Sec. 1, 1/16/01*)
5. RESERVED
6. RESERVED
7. RESERVED

8. RESERVED
9. RESERVED
10. RESERVED

**64.04** Area and Setback Regulations: Yards:

1. Front: A minimum of forty (40) feet at the building setback line.
2. Side: None required, except in instances where this district use abuts an agricultural district, residential district or B-1, Professional Business District, in which case a minimum side yard of sixty (60) feet shall be provided on the side adjacent to the residential district. Such space shall be screened from the abutting residential district in accordance with Section 78, Buffer Strip Regulations.

Zero lot line structures shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side. Where adjacent zero lot line structures are not constructed against a common lot line, the builder, developer, or owner must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall.

3. Rear: None required, except where a building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard or combination thereof not less than fifty (50) feet except in instances where this district use abuts an agricultural district, a residential district, or a B-1, Professional Business District, in which case a rear yard of not less than sixty (60) feet shall be provided. Such space shall be screened from the abutting residential district in accordance with Section 78, Buffer Strip Regulations.
4. Lot Width: Minimum one hundred (100) feet.
5. Lot Area: None required.
6. Shall be served by public sanitary sewer.
7. Height Regulations: No building or structure shall exceed sixty (60) feet in height. Outdoor storage subject to the provisions of Section 87, Open Storage.

## **SECTION 65.            I-2 HEAVY INDUSTRIAL DISTRICT**

**65.01** General Description: This industrial district is intended to provide for heavy industrial uses.

**65.02** Uses Permitted: The following uses of property, buildings, or structures provided they meet the requirements of the applicable federal, state and local agencies relative to hazardous and other waste materials or substances. All uses shall meet the screening and height limitations for open storage and display of merchandise as set forth in Section 87 of this Code:

1. Any use permitted in B-5, Regional Business District, or I-1, Industrial District
2. Abrasives manufacture
3. Acetylene gas manufacture and/or storage
4. Alcohol distillation and/or storage
5. Ammonia, bleaching powder, and chlorine manufacture
6. Asbestos products manufacture
7. Asphalt products manufacture
8. Automobile and truck body manufacture
9. Boat building
10. Boiler or tank works
11. Brewery
12. Caustic soda manufacture
13. Celluloid manufacture
14. Chemicals (heavy or industrial) manufacture and/or processing
15. Cotton compress
16. Cotton ginning and baling
17. Dye stuff manufacture

18. Electric power generating station
19. Fungicides manufacture
20. Glass manufacture
21. Grain drying or feed manufacture from refuse, mash, or grain
22. Grain milling, storage and elevators
23. Graphite manufacture
24. Hair products manufacture or processing
25. Incinerator
26. Insulation manufacture or fabrication
27. Linoleum manufacture
28. Junk Yard, see Open Storage, Section 87
29. Oils and fats (animal and vegetable) manufacture
30. Paints, pigments, enamels, japan, lacquers, putty, varnishes, whiting, and wood filler, manufacture or fabrication
31. Paper, pulp, cellulose and rayon manufacture
32. Plastics manufacture
33. Potash works
34. Rock crusher
35. Sawmill or planing mill
36. Sewage disposal plant
37. Soda and washing compound manufacture
38. Stone cutting
39. Sugars and starches manufacture
40. Syrup manufacture

41. Tar distillation or manufacture
42. Utilities, except telecommunication towers. (*Amended by Ord. 2745, Sec. 1, 1/16/01*)
43. Wood preserving by creosote or other impregnating treatment
44. and other similar uses
45. RESERVED
46. RESERVED
47. RESERVED
48. RESERVED
49. RESERVED
50. RESERVED

**65.03** Uses Permitted on Review by the Planning Commission: See Section 42, Public Hearing Procedure; see Section 78, Buffer Strip Requirements. Additional conditions may be required.

1. Other similar uses.
2. Firing ranges
3. Telecommunication towers. (*Added by Ord. 2745, Sec. 1, 1/16/01*)
4. RESERVED
5. RESERVED
6. RESERVED
7. RESERVED
8. RESERVED
9. RESERVED
10. RESERVED

**65.04** Area and Setback Regulations: Yards:

1. Front: A minimum of forty (40) feet at the building setback line.
2. Side: Same as I-1: None required, except in instances where this district use abuts an agricultural district, a residential district, or a B-1, Professional Business District, in which case a minimum side yard of sixty (60) feet shall be provided on the side adjacent to the residential district. Such space shall be screened from the abutting residential district in accordance with Section 78, Buffer Strip Regulations.

Zero lot line structures shall be constructed against the lot line on one side of a lot. No overhang, windows, doors, or other openings shall be permitted on this side. Where adjacent zero lot line structures are not constructed against a common lot line, the builder, developer, or owner must provide for a perpetual wall maintenance easement of five (5) feet in width along the adjacent lot and parallel with such wall.

3. Rear: Same as I-1: None required, except where a building is to be serviced from the rear, there shall be provided an alleyway, service court, rear yard or combination thereof not less than fifty (50) feet except in instances where this district use abuts an agricultural district, a residential district, or a B-1, Professional Business District, in which case a rear yard of not less than sixty (60) feet shall be provided. Such space shall be screened from the abutting residential district in accordance with Section 78, Buffer Strip Regulations.
4. Lot Width: Minimum one hundred (100) feet.
5. Lot Area: None required.
6. Shall be served by public sanitary sewer. Shall meet State Law.
7. Height Regulations: No building or structure shall exceed sixty (60) feet. Outdoor storage subject to provisions of Section 87, Open Storage.
8. Lot Coverage: None required.

## **SECTION 66            F            FLOOD PLAIN DISTRICT**

**66.01** General Description: This overlay district is intended to identify those areas which are subject to periodic or occasional inundation from stream and river overflows and are, therefore, usually unsuited for residential, commercial and industrial uses.

All lands lying within this district are subject to inundation by the base flood as defined on the current Flood Insurance Rate Maps. The district acts as an overlay zone and does not eliminate or change any requirements of other zoning districts.

**66.02** Uses Permitted: Uses are subject to the requirements of the zoning district and shall, in addition, comply with the current Flood Damage Prevention Code.



**SECTION 67            H            HISTORIC CONSERVATION DISTRICT/LANDMARK  
RESOURCE**

**67.01** This overlay district is intended to provide for the preservation of Hattiesburg's historic neighborhoods; see current Hattiesburg Historic Conservation Code.

**67.02** Uses Permitted: Uses are subject to the requirements of the zoning district and shall, in addition, comply with the current Hattiesburg Historic Conservation Code.

## **SECTION 68                    MANUFACTURED HOME DISTRICT (MH)**

**68.01** General Description: This overlay district is intended to provide for needed and properly planned manufactured home locations whereby lots are offered for sale, and which the purchaser receives title to the lot. The purpose here is to provide for infill development to replace dilapidated or otherwise poor housing with a better type development. It would also permit placement of manufactured homes (MH) on existing vacant property and provide, in some instances, for manufactured home subdivisions.        *(Amended by Ord. 2663, Sec. 1, 9/22/98)*

### **68.02** Regulations:

1.     The district may be applied only as an overlay zone in residential districts R-1C, R-2, R-3, and R-4.
2.     This overlay district does not permit a manufactured home park.    *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
3.     No zero lot line will be permitted in the MH District.
4.     A public hearing will be required to establish a MH overlay district, see Section 42. It is the intent that this overlay district may be located in such areas as not to adversely affect established residential subdivisions or residential densities of the city.
5.     Manufactured home subdivisions shall meet the requirements of Article 6, Land Subdivision.    *(Amended by Ord. 2663, Sec. 1, 9/22/98)*
6.     The Manufactured Home Overlay District shall be a minimum of five (5) contiguous acres.    *(Amended by Ord. 2663, Sec. 1, 9/22/98)*

### **68.03** Stipulations for Manufactured Homes in the MH District:        *(Added by Ord. 2663, Sec. 1, 9/22/98)*

1.     Shall meet area and setback requirements    *(Added by Ord. 2663, Sec. 1, 9/22/98)*
2.     Shall have wheels and hitch-axle removed.    *(Added by Ord. 2663, Sec. 1, 9/22/98)*
3.     Shall be anchored in accordance with SBCCI standard in a manner to withstand 90 MPH wind loads.    *(Added by Ord. 2663, Sec. 1, 9/22/98)*
4.     Shall provide two off-street parking spaces.    *(Added by Ord. 2663, Sec. 1, 9/22/98)*
5.     Shall be generally in keeping with the scale, size and texture of the residential structures in the surrounding neighborhood of the MH District.    *(Added by Ord. 2663, Sec. 1, 9/22/98)*

6. Shall bear FMHCCS Label or Seal of Compliance. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
7. Shall have horizontal siding (No metal materials). *(Added by Ord. 2663, Sec. 1, 9/22/98)*
8. Shall have a minimum of a 3/12 roof pitch with asphalt shingles. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
9. Shall be completely skirted with masonry material, preferably brick. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
10. Shall have front entrance facing street. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
11. Shall be a minimum of twenty-four (24) feet in width, transportable in two or more sections. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
12. Shall have green space (meaning grass, trees, or other ground cover) on at least thirty-five (35) percent of the lot area, including setbacks. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
13. Shall have a built customized porch and carport/garage. *(Added by Ord. 2663, Sec. 1, 9/22/98)*
14. Reserved *(Added by Ord. 2663, Sec. 1, 9/22/98)*
15. Reserved *(Added by Ord. 2663, Sec. 1, 9/22/98)*

**SECTION 69            RESERVED**

**SECTION 70            RESERVED**

**SECTION 71            RESERVED**

**SECTION 72            RESERVED**

# **ARTICLE 5**

## **ADDITIONAL DISTRICT PROVISIONS**

**SECTION 73                    REGULATION OF SALE OF ALCOHOLIC BEVERAGES**

**73.01    Regulation of the Sale of Alcoholic Beverages:**

1.        It shall be unlawful to operate in the City of Hattiesburg, Mississippi, any place of business for the sale, either at wholesale or retail, of alcoholic beverages without approval of the State Tax Commission or Alcoholic Beverage Commission.

## **SECTION 74            REGULATIONS FOR CAMPER TRAILER PARKS**

### **74.01   Regulations for Camper Trailer Parks:**

1.     Developer shall furnish a sketch of the layout of camper trailer spaces, tent spaces, driveways, buildings, utilities and recreation areas.
2.     Each camper trailer park shall contain a minimum of five (5) acres.
3.     Sewerage facilities, washroom or toilet facilities, and water supply shall comply with the sanitary regulations governing tourist camps, cabin camps, tent camps, trailer camps and similar establishments of the Mississippi State Board of Health, and/or Mississippi Air and Water Pollution Control Commission where applicable.
4.     The Park shall afford proper drainage and same shall be certified by a registered engineer.
5.     Parks shall be restricted to towed campers or travel trailers not exceeding thirty-one (31) feet in length, and to self propelled vehicles not exceeding forty (40) feet in length.
6.     Parks shall be surrounded by an unoccupied open space or buffer strip fifty (50) feet wide on all sides within the boundaries of the park. The inside twenty (20) feet may be used for a driveway.
7.     Lot Sizes (Camp Sites):
  - A.     Minimum lot area: one thousand, six hundred (1,600) square feet.
  - B.     Minimum lot width: thirty (30) feet.
8.     Driveways:
  - A.     Minimum: twenty-four (24) feet two-way traffic; twelve (12) feet one-way traffic.
  - B.     Maximum Grade: six (6) percent.
  - C.     Minimum curve radius: fifty (50) feet.
  - D.     Surface requirements: Minimum four (4) inch sub base with six (6) inches of well graded, compacted clay gravel surface or equivalent. Regular and adequate maintenance required to afford circulation of traffic and suitable surface for travel.
  - E.     Adequate turnarounds shall be provided.

9. Electrical Requirements:
  - A. Electrical outlets shall meet the minimum standards of the National Electric Code or City Electric Code.
  - B. Washrooms or toilet facilities shall remain lighted at night.
  - C. Outdoor lighting is required along pathways to rest rooms at a maximum of one hundred (100) feet apart, not exceeding three (3) feet above ground and reflected downward, or as may be approved by the Land Development Code Administrator to provide adequate visibility.
10. Camper trailer parks may contain accessory buildings for the operation of the park such as bathhouses, rest rooms, laundry rooms, offices, recreation buildings, if approved by the Hattiesburg Planning Commission. One single-family residence is allowed on site for occupancy by the owner or operator only for each one hundred (100) camp sites or portion thereof.
11. The Site Plan Review Committee shall have the right to require any other improvements deemed necessary for proper layout and design, or health, safety, convenience and general welfare of the citizens of the City of Hattiesburg.

## **SECTION 75            CAMP OR LODGE (FISH, DEER OR HUNTING)**

### **75.01   Regulations for Camp or Lodge:**

1.     Developer shall furnish a sketch of the layout. The layout shall include driveways, parking areas, buildings, utilities, recreation areas, boat stalls and vehicle or camper spaces.
2.     The camp shall afford proper drainage, which shall be certified by a registered engineer.
3.     If the camp abuts a residential zoning district, there shall be an unoccupied space or buffer strip fifty (50) feet wide between the camp or lodge and the residential district within the boundaries of the camp. The inside twenty (20) feet may be used for a driveway.
4.     Driveways:
  - A.     Minimum: twenty-four (24) feet two-way traffic; twelve (12) feet one-way traffic.
  - B.     Maximum Grade: six (6) percent.
  - C.     Minimum curve radius: fifty (50) feet.
  - D.     Surface requirements: Minimum four (4) inch sub base with six (6) inches of well graded, compacted clay gravel surface or equivalent. Regular and adequate maintenance required to afford circulation of traffic and suitable surface for travel.
  - E.     Adequate turnarounds shall be provided.
5.     For camps and lodges not served by public sanitary sewer or central sewage disposal system, the regulations governing tourist camps, cabin camps, tent camps, trailer camps, and similar establishments of the Mississippi State Board of Health and/or Mississippi Air and Water Pollution Control Commission shall apply.
6.     Camps and lodges may contain accessory buildings or uses for service incidental to the camp or lodge.
7.     The Site Plan Review Committee shall have the right to require any other improvements deemed necessary for proper layout and design, or health, safety, convenience and general welfare of the citizens of the City of Hattiesburg.



**SECTION 76****CONDITION OF A MORE RESTRICTIVE DISTRICT**

**76.01** Whenever the specific district regulations pertaining to one district permits the uses of a more restrictive district, such uses shall be subject to the conditions as set forth in the regulations of the more restrictive district unless otherwise specified.

**SECTION 77****REGULATIONS OF FIREWORKS SALES (PROHIBITED)**

**77.01** Provisions in this Section shall govern the sales of fireworks and related articles:

1. Retail sale of fireworks is not permitted in any district.

## **SECTION 78 BUFFER STRIP AND GREEN SPACE REGULATIONS**

**78.01 General Description:** The purpose and intent of the Buffer Strip and Green Space Regulations is to maintain many of the environmental features and amenities of the City for present and future generations. Adherence to these regulations will improve the appearance and compatibility of land uses and other development within the city through the installation and maintenance of plantings and fencing for screening and aesthetic effects, thereby serving to protect and preserve the appearance, character, value and safety of the total urban area and nearby properties. It is intended that these provisions shall constitute minimum requirements. Also see applicable regulations, of Section 12, Non-Conforming Uses, Section 79, Trees, Section 89, Parking Off-Street/On-Street and Vehicle Loading, Section 91 Planned Unit Development and Section 92, Planned Residential Development. (Amended by Ord. 2972, Sec. 1, 10/2/07)

**78.02 Buffer Strips and Green Spaces require Site Plan Review.** When the developer needs to ask for a variance from these Buffer Strip and/or Green Space Regulations, an alternative Design Plan which shall fulfill the intent of this Code shall be submitted to the Site Plan Review Committee, which will, upon review, shall authorize minor changes (not to exceed twenty percent (20%) of overall square footage) or make a recommendation regarding the submission, and then forward the submission and recommendation to the Land Development Code Board of Adjustments. (Amended by Ord. 2972, Sec. 1, 10/2/07)

**78.03 Buffer Strip Relating to Abutting Properties:** In the table below, when a district abuts a use indicated, a buffer strip shall be provided as listed

Use District	Abutting Use District	Buffer Strip Minimum Width (feet)
R-3	- A-1, A-2, R-1A, R-1B, R-1C, R-2	10
R-4	- A-1, A-2, R-1A, R-1B, R-1C, R-2, R-3	10
B-1	- A-1, A-2, R-1A, R-1B, R-1C, R-2, R-3, R-4	10
B-2	- All Agricultural and Residential Districts and B-1	20
B-3	- All Agricultural and Residential Districts and B-1	30
B-4	- All Agricultural and Residential Districts and B-1	40
B-5	- All Agricultural and Residential Districts and B-1	50
I-1	- All Agricultural, Residential and Commercial Districts	60
I-2	- All Agricultural, Residential and Commercial Districts	60

(Amended by Ord. 2972, Sec. 1, 10/2/07)

1. A buffer strip unbroken by vehicular access way of the minimum width shall be located parallel to the property line.
2. Any easements shall not be included in a buffer strip or be used or otherwise employed to meet the requirements of Section 78.
3. A six (6) foot, masonry wall or solid chain link fence or a fence of approved wood of natural decay resistance shall be placed along the property line or along the inner

perimeter of the buffer strip so as to provide one hundred percent (100%) visual screening at the time of issuance of the Certificate of Zoning Compliance.

4. Trees and Vegetation: Trees, as specified in Section 78.05, 78.06, and 78.07, and other vegetation as needed, shall be planted so as to provide an eighty percent (80%) year-round visual screening at maturity. Maturity of vegetation planting shall be reached within three (3) years. Staggered planting may be required to achieve this thicket effect. Site Plan Review Committee recommends that any natural vegetation be left in place, rather than grading and replanting, if the eighty percent (80%) year-round visual screening at maturity is naturally met and not disturbed or impacted by the development. (Amended by Ord. 2972, Sec. 1, 10/2/07)
5. Buffer Strip requirements shall also apply to existing sites when the total gross floor area of the presently existing structure(s) is renovated or increased by at least fifty (50) percent. Upon evidence of a hardship, the Site Plan Review Committee may determine adjustments, if any, as needed, on a case-by-case basis. (Added by Ord. 2972, Sec. 1, 10/2/07)

**78.04** Green Space Adjacent to Public Right-of-way: A green space shall be provided along but not in the public right-of-way in the following districts: R-3, R-4, B-1, B-2, B-3, B-5, I-1, I-2. (Amended by Ord. 2972, Sec. 1, 10/2/07)

1. A green space of a minimum of ten (10) feet in depth shall be located parallel to the public right-of-way on all frontages. (Amended by Ord. 2972, Sec. 1, 10/2/07)
2. Any easements shall not be included in a green space or be used or otherwise employed to meet the requirements of Section 78. (Amended by Ord. 2972, Sec. 1, 10/2/07)
3. Trees: One (1) tree per forty (40) linear feet as specified in Sections 78.05, 78.06, and 78.07 shall be planted in the right-of-way green space. (Amended by Ord. 2972, Sec. 1, 10/2/07)
4. Grass and Ground Cover: Each planting area shall have a ground cover of grass or other landscaping material, excluding paving or sand, in conjunction with Sections 78.05 and 78.06. (Amended by Ord. 2972, Sec. 1, 10/2/07)
5. Green spaces requirements shall also apply to existing sites when the total gross floor area of the presently existing structure(s) is renovated or increased by at least fifty (50) percent. Upon evidence of a hardship, the Site Plan Review Committee may determine adjustments, if any, as needed, on a case-by-case basis. (Added by Ord. 2972, Sec. 1, 10/2/07)

**78.05** Plant Standards: All required planting shall consist of any of the following or combination thereof: materials such as, but not limited to, grafts, ground covers, shrubs, vines, hedges, or trees. In addition, a maximum of twenty-five percent (25%) nonliving

durable materials may be used to complement, but not to be credited as plants. These materials include, but are not limited to, wood chips, loose rocks and pebbles, wood structures, walls, or fences, but excluding paving and sand. Plant materials used in conformance with provisions of this Code shall conform to the standards recommended by the American Society of Landscape Architects for Mississippi. (Amended by Ord. 2972, Sec. 1, 10/2/07)

1. Trees: Trees shall be a minimum of ten (10) feet in height at the time of planting and a minimum of twenty (20) feet at maturity. Trees shall be a species recognized by the State of Mississippi Division of Forestry, as being acceptable for this area. Trees shall be of a species achieving, at maturity, an average spread of crown of greater than fifteen (15) feet and having trunk(s) which can be maintained with a minimum of six (6) feet of clear wood trunk elevation. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping same so as to create the equivalent of a fifteen (15) foot crown spread. Trees species shall have a minimum of two (2) inch caliper measured twelve (12) inches above ground. Trees of a species whose roots are known to cause damage to public roadways, sewers, or other public works (unless the tree root system is completely contained within a barrier for which a minimum interior containing dimension shall be ten (10) feet square and five (5) feet deep) shall not be accepted. Each such tree shall be planted in twenty-five (25) square feet of planting area with a minimum dimension of at least five (5) feet.
2. Ground Covers: Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within three (3) months after planting. (Amended by Ord. 2972, Sec. 1, 10/2/07)
3. Lawn Grass: Grass areas shall be planted and grown as permanent lawns. Grass may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion and providing that in areas where other than solid sod or grass seed is used, grass seed shall be sown for immediate effect and protection until coverage is achieved.

**78.06** Installation and Maintenance: All buffer strips and green spaces shall be installed in a sound workmanship like manner and according to accepted good planting procedures with the quality of plant material as herein described. All elements of buffer strips and green spaces exclusive of plant material, except hedges, shall be installed so as to meet all other applicable ordinances and code requirements. Buffer strips and green spaces shall require protection from encroachment. (Encroachment is defined as any protrusion of a vehicle outside of a parking space, display area or access way into a landscaped area.) (Amended by Ord. 2972, Sec. 1, 10/2/07)

The owner shall be responsible for the maintenance of all buffer strips and green spaces which shall be maintained in good condition so as to present a healthy, neat and orderly

appearance and shall be kept free from weeds, refuse and debris. (Amended by Ord. 2972, Sec. 1, 10/2/07)

In the event that trees or other landscaped materials should die, such materials shall be replaced at the appropriate planting time as determined by the Urban Forester/City Arborist. Such time shall not exceed nine (9) months. Failure of the owner of the property to maintain the premises in good condition, as set forth above, shall make him liable for the penalties as set forth in this Code. (Amended by Ord. 2972, Sec. 1, 10/2/07)

No required buffer strip, green space, terminal or interior island areas shall be abandoned, paved, or otherwise employed, unless zoning of adjacent property changes and approved by the Site Plan Review Committee. (Amended by Ord. 2972, Sec. 1, 10/2/07)

**78.07 Visibility at Intersections:** Public Row: On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impair or block vision between a height of two and one-half (2.5) and seven (7) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines thirty (30) feet from the point of intersection. See Diagram.

**78.08 Intersection of Driveway and Public Row and/or Private Street:** In any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impair or block vision between a height of two and one-half (2.5) and seven (7) feet above the center line grades of any intersecting street/driveways in the area bounded by the street lines/driveway lines of such corner and a line joining points along said street lines fifteen (15) feet from the point of intersection. See Diagram.

**78.09 Credit for Existing Plant Material:** If the owner(s) can demonstrate that healthy plant material exists on a site prior to its development for the purposes of buffer strips and green spaces, the application of the above landscape standards may be adjusted by the Urban Forester/City Arborist and the Site Plan Review Committee to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this Code. (Amended by Ord. 2972, Sec. 1, 10/2/07)

## **SECTION 79 TREES**

**79.01 General Description:** It is the purpose and intent of this section to establish standards regulating the removal, care, and planting of private and public trees. These standards serve to enhance the ecological and aesthetic benefits, which trees provide throughout the City of Hattiesburg. It is intended that these provisions shall constitute minimum requirements. Also see applicable regulations, of Section 12, Non-Conforming Uses, Section 78, Buffer Strip and Green Space Regulations, Section 89, Parking Off-Street/On-Street and Vehicle Loading, Section 91 Planned Unit Development and Section 92, Planned Residential Development. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.02 Objectives:** The following objectives are the benefits resulting from following and enforcing this section:

1. Encourage the protection and care of Hattiesburg's existing trees.
2. Aid in the prevention of erosion and sedimentation and their associated costs.
3. Help soil in retaining and distributing rainwater, thus reducing the costs of irrigation.
4. Reduce the amount of storm water runoff and associated costs.
5. Aid in the removal of carbon dioxide from the atmosphere, replenishing the atmosphere with oxygen, and filtering the air of pollutants.
6. Provide summer shade and protection from winter winds, thus reducing heating and cooling costs.
7. Encourage planting trees where the original forest cover has been removed.
8. Protect and enhance property values.
9. Protect and enhance economic prosperity by promoting the healthy appearance and character of the neighborhoods and City.
10. Aid in providing privacy, buffering views, and reducing noise.
11. Provide food and habitat for wildlife.
12. Reduce the glare from buildings, pavements, and cars and filter night lighting from adjacent sites.
13. Aid in protecting and maintaining the health and functioning of the urban forest.
14. Promote flexibility and innovation in landscape design and development.

15. Encourage the renovation and upgrading of existing structures.
16. Provide standards for the preservation of trees (private and public) as part of the land development process.
17. Regulate mass tree cutting (clear-cutting) and mass grading of land that results in the loss of mature trees, and to ensure appropriate replanting when tree loss does occur
18. Prevent a marked increase in storm water runoff and soil erosion, and the adverse impact on adjacent property owners, nearby streams, streets and drainage infrastructure.
19. Preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees and ground cover.
20. Encourage site development of public and private property, including clearing; excavation, filling and proper debris disposal in such a manner as to minimize hazards to life, health, and property.  
(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)

#### 79.03 **Tree Density for New Construction**

1. Trees shall be re-established on the project site at the rate of:
  - A. Zone R-1, R-2, R-3, R-4, and B-1 – one (1) tree required per 4,000 square feet of project area. This is approximately 11 trees per acre. (Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
  - B. Zone B-2, B-3, B-5, I-1, I-2, A-1 - one (1) tree required per 8,000 square feet of project area. This is approximately 6 trees per acre. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
2. Where there is road frontage, required trees shall be planted on private property, parallel to the road, at a minimum rate of one tree per forty (40) linear feet of road frontage; after meeting this requirement, any remaining trees required by 79.03(1) above may be planted in the interior of the site. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
3. Installation. All trees shall be planted in a sound workmanlike manner and in accordance with the tree planting plan, as finally approved. Replacement trees shall be planted if any required tree dies. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)

4. Tree Locations. To be specified on tree planting plans submitted to the Site Plan Review Committee as per Section 79.06. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
5. No trees other than species with a maturity height of less than 35 feet as defined by the Urban Forester/City Arborist, shall be planted under or within ten (10) lateral feet of any overhead power line. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
6. These landscaping requirements shall also apply to sites with an existing structure(s) when the total gross floor area of the presently existing structure(s) is increased by fifty (50) percent. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.04 **Tree Planting Requirements:** Size and Number: If new trees must be planted on a site to meet the requirements of these regulations, each must be a minimum of two (2) inches in diameter and meet the specifications of American Nursery Standards. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.05 **Tree Credits Toward Requirements:** Preservation of existing trees with a minimum DBH of twelve (12) inches can be credited toward the tree planting requirement of this section according to the following rationale: the number of credited trees shall be determined by measuring, at a height of 4½ feet above grade level, the diameter (in inches) of each preserved tree and dividing the sum by six (6). To be included in the computation, each preserved tree must be at least twelve (12) inches in diameter. The Urban Forester/City Arborist may give credit for existing trees on a one-for-one basis. This is to be agreed upon by both parties and made a part of the permit. Credited trees shall be uniformly encircled by a protected ground area and shall be clearly marked in the field. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

No credit will be allowed for any tree proposed to be retained if:

1. There is any encroachment within the drip line of the tree.
2. The tree is unhealthy or dead. If any tree being used for credit dies or fails to thrive within three years, the owner shall plant new trees equal to the number of lost trees, and the replacement trees will be the same species or variety as the credited tree(s) lost, or a type of tree agreed upon by the developer (land owner) and the Urban Forester/City Arborist. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.06 **Tree Plan Approval Process**

A tree planting plan shall be submitted to Site Plan Review Committee for approval at the time that an application for Site Plan Review is made on any land where tree requirements are applicable. Such tree plan shall be drawn at the same scale and be provided in the same number of copies as the site plan, and shall contain the following information:



1. The date, scale, north arrow, title, and the name of owner.
2. The location of existing boundary lines and dimensions of the building Site.
3. The location, species, and size of existing trees on the site.
4. The location and species of tree(s) to be planted to meet the requirements of Section 79.03 and 79.04.
5. Buffer strips and green spaces as required by Sections 78, 89, 91 and 92 of this code. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.07 Tree Protection during Construction**

1. It shall be a violation of this code for any person in the construction of any structures or other improvements to place solvents, materials, construction machinery, or temporary soil deposits within ten feet of any protected tree. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
2. Before development, land clearing, filling or any land alteration, a permit will be required; the developer shall be required to erect suitable protective barriers, and this protection, where required, shall remain until permanent barriers have been erected. Also, during construction, no attachments shall be appended to any of said trees so protected. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
3. No person shall pave with concrete, asphalt or other impervious material within eight (8) inches per inch of DBH of any remaining tree with a minimum of six (6) feet radius. The Urban Forester/City Arborist shall have the discretion to waive this requirement. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.08 Exemptions** The following shall be exemptions from Tree planting requirements of Section 79.04:

1. **Bona Fide Agriculture:** Land used to derive income from growing plants or trees, including but not limited to land used principally for timber production, but not including land used principally for another use and incidentally for growing trees or plants for income. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
2. **Commercial Nursery or Tree Farm:** A licensed plant or tree nursery or farm with trees planted and growing on the premises of the licensee which are for sale or

intended sale to the general public in the ordinary course of said licensee's business. (Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)

3. Bona fide utility construction or maintenance activity within permanent utility easements or franchised areas. (Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)

#### 79.09 PUBLIC TREES: Removal, Relocation, and Planting Requirements

1. Permit Procedure: The requirements of Section 79.11 shall apply to all public land and public rights-of-way located within the corporate limits of the City of Hattiesburg. Any person wishing to remove, relocate, or plant trees on City right-of-way shall make written application with the City of Hattiesburg, Department of Urban Development and in conjunction with the Urban Forester/City Arborist. Any and all permits issued by the City as per the requirements of Section 79 shall be declared null and void if work so permitted is not started within a reasonable time, not to exceed six months. In no case will a permit be valid for more than twelve months. Permits not used within this period will become null and void, and future work will require a new application. An on site inspection may be made prior to issuance of a permit, but in no event will it be more than ten (10) working days after the date of the application is received in the office of Department of Urban Development. (Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)
2. The Urban Forester/City Arborist, or his designated representative, may request a recommendation concerning the application from any or all appropriate City departments and the Tree Board. The Urban Forester/City Arborist, or his designated representative, will do the field checks and work with the citizen throughout the application process and on through completion of the project. As determined by the field inspection and recommendations of city departments and boards, the Urban Forester/City Arborist, or his designated representative, shall decide on the issuance of a permit for the removal, relocation, or planting of trees based on the criteria listed below.
  - A. The location of the tree in an area where structures or other improvements will be placed according to an approved plan; its interference with existing or proposed utilities; or obstructing regulated sight triangles.
  - B. The presentation by the owner of clear and convincing evidence that he or she will suffer extraordinary hardship.
  - C. The condition of the tree as to its health and likelihood of falling and causing harm to existing structures or to persons or to utility infrastructures.
  - D. The conformity of the Tree with other City Ordinances or regulations; and with federal and state laws.

*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

3. Emergencies. In case of emergencies, such as hurricane, windstorm, flood, freeze, or other natural disasters, the requirements of these regulations may be waived by the Urban Forester/City Arborist, upon a finding that such waiver is necessary so that public or private work to restore order in the City will not be impeded. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
4. Public Trees: Removal, Prune, Cut, Abuse, or Mutilation: No person shall damage, prune, cut, carve, transplant, mutilate, abuse or remove any Public Tree; attach any rope, wire, nails, advertising posters or other contrivance to any Public Tree; allow any gaseous liquid, or solid substance which is harmful to such trees come in contact with any such tree, including roots damaged during curb cuts, sidewalk, and driveway installation and repair. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  - A. Utility line clearing and removal of dangerous trees in conformance with International Society of Arboriculture, National Arborist Association Standards and the National Electrical Safety Code clearances does not constitute abuse. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  - B. No curb cuts that involve right-of-way trees shall be allowed without prior coordination with the Urban Forester/City Arborist. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  - C. No action in removing trees due to lightning, hurricanes, or other natural disasters shall be considered abuse of trees. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
  - D. This Section shall not prohibit the removal of trees for which permits have been issued. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.10 Types of Trees to Be Planted** See Section 78.05 Types should be referenced to lists to be provided by the Urban Forester/City Arborist dependent on changes and availability of plant stock. Also See Article 6, Land Subdivisions, Section 117, Optional Improvements. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.11 NON-PUBLIC (PRIVATE) Tree Removal** A tree removal permit shall be required for the removal of one (1) or more trees over twelve (12) inches DBH, except on properties exempted under Section 79.11.1. The terms and provisions of this Ordinance shall further

apply to any residential or non-residential development that requires the issuance of a development permit or building permit that would require tree removal except as provided in Section 79.08. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

Trees cannot be removed after the issuance of the certificate of occupancy for residential, commercial, and industrial properties, when such trees have been preserved or planted by the developer or builder in order to meet the tree density requirements of this ordinance without a removal permit from the city. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

1. TREE REMOVAL PERMIT AND APPROVAL REQUIRED

No trees, as defined by Section 5.178.1(k), shall be removed without first obtaining a tree removal permit.

Permits are not required for tree removal on existing single-family and two-family residential properties. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

A. The application for a tree removal permit shall include:

1. Description of tree(s) to be removed
2. Proposed start date
3. Name of individual/company cutting trees
4. Debris disposal plan
5. Plan for guarding protected trees  
*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98 )*

B. Tree removal for the purpose of land development and commercial tree harvest, shall require the following additional information:

1. Haul Route
2. Erosion Control Plan.
3. Adjacent properties' zoning classifications.
4. Required buffer and green space restrictions, if applicable.
5. Tree removal/replacement plan to be submitted to the Site Plan Review Committee along with the development site plan.

*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06;  
Added by Ord. 2646, Sec. 1, 6-16-98)*

2. A tree removal permit shall be granted by the Urban Forester/City Arborist or his/her designated representative, except under the following circumstances:
  - A. The subject tree(s) are public trees, and therefore are not owned by the applicant;
  - B. The subject tree(s) are required under the tree density provisions of Section 79.03, or are located within a buffer strip or green space as prescribed under Section 78 of this code, unless a plan is approved to replant required trees within the next planting season; or
  - C. The subject tree(s) are not located on the applicant's property.

If application for tree removal is being submitted in conjunction with an application for a grading permit, building permit, or site plan review, such applications may be submitted concurrently. The tree removal permit shall be valid for six (6) months from date of issuance. Applicant shall notify the Urban Forester/City Arborist when removal is complete. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

3. **EXCEPTIONS:**

- A. Public utilities having the right to maintain and protect power or transmission lines on public areas pursuant to valid certificates of public convenience and necessity from the public service commission are authorized to remove trees as necessary, that will interfere with the lines. Said public utilities shall communicate with the Urban Forester/City Arborist to facilitate proper maintenance of urban trees as well as utility transmission lines. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
- B. No permit is required if a tree has been identified by the city as hazardous; prior to removal, the property owner shall submit to the Urban Forester/City Arborist or his/her designee the name of the tree contractor and proposed method of debris removal. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**79.12 EROSION CONTROL PLAN** An Erosion Control Plan shall be required when more than fifty percent (50%) of the land area of any lot is disturbed; such land disturbance includes the removal or disturbance of trees, vegetation and/or topsoil. Said plan shall be submitted to the Site Plan Review Committee for review and approval. Disturbed lands shall be stabilized and re-vegetated within thirty calendar days. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.13 **REMOVAL OF HAZARDOUS TREES** The purpose of this ordinance is to protect the health, safety and welfare of the citizens of Hattiesburg by requiring homeowners and property owners to properly maintain trees located on their properties so as not to unduly pose a safety risk to people, to motor vehicles, to adjacent homes, or other structures, or to city streets and alleys. *(Amended by Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

Property owners shall promptly remove a tree that has been identified by the city as hazardous and a public risk. Code enforcement officers in consultation with the Urban Forester/City Arborist will determine if such tree poses a risk. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

79.14 **BUFFERS**

1. Natural Stream Buffers:

- A. Perennial streams, defined as streams that contain water in their channels at all times, shall maintain an undisturbed natural buffer for a minimum of 25 feet measured from the edge of the bank. A buffer of greater width may be required as outlined in Section 78, Buffer Strip Regulations of the Land Development Code.
- B. Intermittent streams, defined as streams that contain water in their channels for only a part of the year, shall maintain an undisturbed natural buffer for a minimum of 10 feet measured from the edge of bank. A buffer of greater width may be required as outlined in Section 78, Buffer Strip Regulations of the Land Development Code. *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*
- C. Property that requires a buffer strip as outlined in Section 78.03, who's property line is in the channel of water of a stream, shall measure the buffer beginning from the edge of the bank. *(Added by Ord. 2974, Sec. 1, 10/2/07)*

2. Protection During Land Disturbance Activities

- A. During authorized land disturbance activities, natural stream buffers shall be clearly demarcated and protected prior to commencement of, and during, construction.
- B. The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the Urban Forester/City Arborist *(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

3. Detention and Retention Areas

- A. Retention and Detention areas shall be landscaped. A vegetated green space shall be placed and maintained around storm water run off storage areas. Landscaping materials shall meet requirements of Section 78.05. *(Added by Ord. 2974, Sec. 1, 10/2/07)*
- B. Retention and Detention areas smaller than 1,000 Sq. Ft. shall have a five foot (5') vegetated green space around the perimeter and a ten foot (10') vegetated green space around the perimeter of areas larger than 1,000 Sq. Ft. *(Added by Ord. 2974, Sec. 1, 10/2/07)*

**79.15 TREE CONTRACTORS TREE CONTRACTORS** Tree Contractors, as defined by this ordinance, shall be licensed with the Construction Board of Examining, Adjustments and Appeals, City of Hattiesburg.

- 1. In order to be licensed the following shall be required:
  - A. General liability insurance in an amount of not less than \$100,000.
  - B. \$2,000 Surety Bond naming City of Hattiesburg as beneficiary.
  - C. Workman's Compensation Insurance, if applicable.
- 2. Persons performing the following activities are exempt from the requirements of this section:
  - A. Bona fide commercial timber harvest or logging operations on a tract containing an acre or more of land, and
  - B. Site clearance in connection with a development for which site plan approval and/or a grading permit has been issued.

*(Amended by Ord. 2974, Sec. 1, 10/2/07 and Ord. 2897, Sec. 1, 1/17/06; Added by Ord. 2646, Sec. 1, 6-16-98)*

**SECTION 80**

**RESERVED**

## **SECTION 81            HEIGHT**

**81.01** The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations appearing in Article 4.

1. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit. However, all signs must meet the Code as defined in Section 95.
2. Structures used for human occupancy may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one (1) foot for each two (2) feet by which the height of such a structure exceeds the prescribed limit. The height of a structure is limited to the ability of the Fire Departments equipment as established by the Fire Chief or his representative. *(Amended by Ord. 2481, Sec. 1, 4/19/94)*



## SECTION 82            HOME OCCUPATION

### 82.01 Regulations:

1. A Certificate of Zoning Compliance is required.
2. Home occupations shall not be carried out in more than ten (10) percent of the total dwelling building area, not to exceed five hundred (500) square feet.
3. There shall be no external evidence of the use. No signs are allowed. See Sign Regulations, Section 95.07.
4. Certificate of Zoning Compliance may be terminated by the Hattiesburg Planning Commission after due notice and public hearing thereon.
5. There shall be no use of utilities or community facilities beyond that reasonable to the use of the property for residential purposes.
6. Standards for Home Occupations: Must meet standards. Home Occupations are permitted as accessory uses and structures provided that the following standards are met:
  - a. Address of convenience. A home occupation that is solely used for the purpose of receiving phone calls, mail, and keeping business records in connection with any profession or occupation, shall be known as an "address of convenience."
  - b. Hobbies, such as boat building or repair, furniture making or repair, automobile repair, and rebuilding, and other activities not normally carried on extensively in a residential district, shall not be permitted to the extent that they are annoying or harmful to nearby residential occupants. Such uses which involve the use of power tools or the creation of noise not usual to a residential district shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m.
  - c. Permitted activities. Primary sale of goods in connection with such home occupation shall be that which is prepared, produced or grown on the premises.
  - d. Prohibited activities. There shall be no retail, wholesale or warehousing activity other than that which is clearly incidental to the direct provision of service.

- e. Employees. No person shall be employed on the premises other than members of the immediate family residing on the premises. Volunteers are not allowed.
- f. On-Premises Client Contact: Customer and client contact shall be primarily by telephone or mail, and not on the premises of the home occupation, except those home occupations, such as tutoring, counseling or personal services which cannot be conducted except by personal contact. Services or sales conducted on the premises shall be by appointment only, and shall not be oriented toward, or attract, off-the-street customer or client traffic. Barber shops and beauty shops shall be limited to one chair for clients.
- g. Deliveries. Delivery of materials to and from the premises shall not involve the use of vehicles over two (2) ton capacity, except parcel post or United Parcel Service trucks.
- h. Traffic: A home occupation located on a local street, or privately maintained road servicing three or more residences, shall not generate more than 20 vehicle trips in one day. A "trip" is a vehicle traveling in one direction to or from a source. Twenty (20) trips is equivalent to ten (10) round trips.
- i. Off Street Parking for customers shall not exceed two (2) spaces. Vehicles used in connection with a home occupation shall not be parked overnight on a public ROW. the conduct of any home occupation shall not reduce or render unusable areas provided for the required off-street parking or prevent the number of cars intended to be parked in a garage from doing so.
- j. Commercial vehicles. Not more than one home occupation related vehicle is permitted, which must be twenty (20) feet or less in overall length and not more than seven (7) feet in overall height and which must be parked off any public ROW behind the residence. All exterior storage of cargo, equipment or other material shall be shielded from view at all times when such vehicle is located on a residential lot. Excludes pickup trucks.
- k. Storage and use of yard areas: (for rural areas). Storage of materials, parts, tools, or other equipment, and all other activities associated with a home occupation, except as provided above for parking and large vehicle storage, shall occur within an enclosed structure or be screened from federal, state, county, and public roads and from adjoining property. Home occupations which involve the care of people by a baby-sitter may use yard areas.
- l. Noise: A home occupation shall not create noise of a type, duration, or intensity which, measured at the property line, exceeds 60dbA between the hours of 7:00 a.m. and 8:00 p.m. No noise shall be created by the home occupation between the hours of 8:00 p.m. and 7:00 a.m. that is detectable to normal sensory perception off the premises of the home occupation.

- m. Mechanical equipment: No mechanical equipment shall be used or stored on the premises except such that is normally used for purely domestic or household purposes, nor shall it create noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television sets off the premises, or causes fluctuations in line voltage.
- n. Uses per dwelling unit: There shall not be more than one use constituting a designated home occupation per dwelling unit.

*(Sec, 82.01 some added, some amended by Ord. 2515, Sec. 1, 3/21/95 – mark accordingly)*

## **82.02 Permits and Procedures:**

1. The applicant need apply only once for a Home Occupation Permit provided that the location remain the same. If the applicant moves to a different location, the existing Home Occupation Permit\* shall become null and void and a new Home Occupation Permit will be required. In addition, a Business License is required. No license for a home occupation shall be issued unless a Home Occupation Permit is first granted. (Amended by Ord. 2977, Sec. 6, 1/22/08; Amended by Ord. 2767, Sec. 1, 11/6/01; Amended by Ord. 2515, Sec. 1, 3/21/95)

---

\* Cross Reference Chapter 2 of the Code of Ordinances for schedule of associated fee

2. A Home Occupation Permit is granted to an individual and is not transferable.
3. After investigation and report of the Building Official of any home occupation that results in an undesirable condition interfering with the general welfare of the surrounding residential area, said home occupation may be terminated, and the business license thereof revoked by the City Council, after a hearing before the Hattiesburg Planning Commission. A copy of the transcript of the hearing shall be submitted to the City Council for its deliberation before it votes on termination. The act of termination is not exclusive, and the City retains the right to pursue municipal court action and other court proceedings to enforce this section.
4. Structural Alterations. No use shall require structural alterations to the interior or exterior of the building which changes the residential character thereof.
5. Exterior Displays. There shall be no exterior display, no exterior alteration of the property including expansion of parking, no exterior storage of materials and no other exterior indication of a home occupation or variation from the residential character of the premises.  
(all of Sec. 82.02 amended bu Ord. 2515, Sec. 1, 3/21/95)

**SECTION 83      BED AND BREAKFAST FACILITIES:**  
**(Sec. 83 Added by Ord. 2869, 4/5/05)**

**83.01    General Description**

It is the purpose of this ordinance to provide standards for the establishment and operation of bed and breakfast facilities. The ordinance is intended to encourage the restoration and use of large and distinctive houses in Hattiesburg's historic districts. The availability of bed and breakfast accommodations will help to meet the growing need for lodging and hospitality services for business travelers and visitors to downtown Hattiesburg.

The ordinance defines the standards and requirements for establishing a bed and breakfast facility in a historic residence and for conducting commercial meetings as an accessory use. These regulations enable owners to maintain historic homes in a manner that is primarily residential, and preserves the character of the surrounding neighborhood.

**83.02    Regulations**

The Bed and Breakfast facility shall be at least one (1) of the following:

- A.     A property located within an existing local or National Register historic district;
- B.     A property listed in the National Register of Historic Places or a designated National Historic Landmark; or
- C.     A property designated a Mississippi Landmark with the Mississippi Department of Archives and History.
- D.     A property owner has the right to apply for local designation status with the Hattiesburg Historic Conservation Commission or to pursue listing in the National Register with the Mississippi Department of Archives and History if said property is not so designated and merits such designation.

**83.03    Use Permitted on Review**

A bed and breakfast facility is a Use Permitted on Review by the Hattiesburg Planning Commission pursuant to Section 16 (Uses Permitted on Review) of the Land Development Code. Each application for a use permit must be accompanied by clear and convincing evidence that there will be no substantial interference with the health, safety and welfare of the general public, as well as, the character and integrity of the surrounding residential area. In addition, a bed and breakfast facility shall not promote the commercialization of residential neighborhoods. All decisions for the granting of a use permit for the operation of a bed and breakfast facility shall be made on a case-by-case basis. The Planning Commission will consider the individual petitioner's interests, the interests of the City, and the interests of the residents within the surrounding area.

A public hearing on the application must take place as provided under Section 42 (Public Hearing Procedure) of the Land Development Code. In addition to the standards of this ordinance, conditions of approval may be added to the approved use permit consistent with the intent and purpose of this ordinance.

Prior to submitting the use permit application, an application for site plan approval shall be submitted to the Site Plan Review Committee; said approval shall be considered as a recommendation to the Hattiesburg Planning Commission. Final approval shall be made by the City Council based on the recommendation of the Hattiesburg Planning Commission. The site plan presentation shall include locations of existing and proposed buildings and structures, access and egress details, off-street parking, and any other information that would aid in assessing the proposal and its compatibility with the Land Development Code.

#### **83.04 Operation**

All facilities authorized hereunder shall be owner-occupied or have a resident manager, as defined herein.

#### **83.05 Use-Related Regulations**

Commercial Meetings: Commercial meeting privileges are considered an accessory use to the bed and breakfast facility and residence, and will be granted in the following manner:

A Bed and Breakfast Inn (6 or more units) with commercial meeting privileges shall be permitted on a case-by-case basis if the physical conditions of the property—size of the property, size of the residence, buffering of activities and parking areas, volume of traffic on adjacent streets—are adequate to accommodate a commercial land use. Bed and Breakfast Inns require a larger building and lot area to accommodate the impact of a commercial use in a residential area.

A Bed and Breakfast Residence with commercial meeting privileges (up to 5 units) shall be permitted on case-by-case basis if the physical conditions of the property—size of the property, size of the residence, buffering of activities and parking areas, volume of traffic on adjacent streets—are adequate to accommodate a commercial land use. The applicant shall prove that all other requirements can be met, and that the proposed use will not have a negative impact on the safety, welfare and convenience of neighboring residents.

Advertisement for Commercial Meetings: On-site and off-site advertisement for commercial meetings to be held in bed and breakfast facilities is prohibited. This prohibition shall be applicable to all advertising, including specifically billboards and daily newspapers. This prohibition will not preclude, however, mailing or distribution of brochures or letters whether on-site or off-site, nor will it preclude the publication of advertisements in national, regional, state or local travel and tourism periodicals.

Service to Guests: Outlined as follows:

Food services may only be provided to overnight guests of a Bed and Breakfast facility or to the guests at a commercial meeting. The proprietor must meet all the requirements and seek approval by the Forrest County Health Department.

Serving alcohol to overnight and commercial meeting guests is allowed. The proprietor must meet all requirements of the Mississippi Alcohol Beverage Control Commission as governed by the standards set forth under Section 67-1-5 of the Mississippi Code of 1972, as amended, in order to serve alcohol at a bed and breakfast facility.

### **83.06 Site-Related Standards**

Appearance and Character: A Certificate of Appropriateness must be acquired by an owner prior to any exterior alteration or modification to any Bed and Breakfast facility as required in the Hattiesburg Historic Conservation Ordinance.

Commercial Meeting Assembly Space and Number of People: The maximum number of persons attending a commercial meeting at a bed and breakfast facility may not exceed one person per seven square feet of net assembly space. The facility used for commercial meetings shall comply with all applicable standards under the International Fire Code adopted by the City of Hattiesburg. The square footage of assembly space and the number or capacity of people therein who will be attending such commercial meetings must be submitted in writing to the Planning Division with the use permit application.

Location: Bed and breakfast facilities may be located in any of the above-mentioned national, state, or local historic conservation districts or landmarks. The bed and breakfast facility shall comply with all applicable standards under the International Fire Code adopted by the City of Hattiesburg. All units must be within the primary residence; the Planning Commission may authorize the use of pre-existing accessory structures or outbuildings on a case-by-case basis if it can be demonstrated to the satisfaction of the commission that such buildings or structures had been used previously as residences, and if the use of the same would not infringe on neighboring residents' privacy and the use and enjoyment of adjacent properties. Bed and breakfast facilities are an as-of-right use in the B-2, B-3, B-4 and B-5 districts within said designated historic areas. All applications for a bed and breakfast use permit will be reviewed on a case-by-case basis.

Parking: One (1) off-street parking space must be provided for each authorized unit. Such parking does not include tandem (stacked) parking, parking in the front yard of the dwelling, or on street parking. Off-street parking must be within 300 feet of a bed and breakfast facility, and proof of such parking (lease agreement, site plan, etc.) must be provided to the Department of Urban Development at the time of application. The Planning Commission may require the screening of parking (landscaping, fencing, etc.) as a condition of approval. On-street parking will be acceptable on a case-by-case basis depending on individual neighborhood parking conditions and site limitations or characteristics. Additionally, adequate off-street parking space should be provided for commercial meeting guests. A maximum of one parking space

for every three (3) commercial meeting attendees shall be provided. Spaces required for commercial meetings shall be surfaced according to the standards set forth under the Residential Buildings section of the Historic Hattiesburg Design Guidelines Manual.

Signs: One (1), non-illuminated freestanding sign shall be permitted at bed and breakfast facilities in residential zoning districts. Signs must meet the guidelines set forth under Section 95.07 of this code. All other banners or flags used for advertisement or Bed and Breakfast identification purposes are prohibited. Signs identifying bed and breakfast facilities in non-residential zoning districts shall be erected according to the requirements of the individual district, as provided under Section 95 of this code.

Size: Bed and breakfast residences are limited to a maximum of 5 units for guests. A bed and breakfast inn is limited to a minimum of 6 units and a maximum of 25. In order to be classified as a bed and breakfast inn, the owner must demonstrate that the facility is of sufficient size to contain more rooms while meeting the purpose of this ordinance. Applications for bed and breakfast residences and inns will be reviewed on a case-by-case basis.

Accessibility: All bed and breakfast facilities are encouraged to meet the provisions of the Americans with Disabilities Act of 1990.

### **83.07 Guest Book**

All bed and breakfast facilities shall maintain a guest book for overnight guests and for commercial meetings. It should include dates of stay, origin of visitors, and the dates of commercial meeting. The guest book may serve as evidence in the event that the bed and breakfast or commercial meeting privilege is in question or under review by the Planning Commission.

### **83.08 Official Bed and Breakfast Facility List**

A list of all Bed and Breakfast facilities heretofore or hereafter established in Hattiesburg shall be maintained by the Department of Urban Development, and shall be the official list of approved Bed and Breakfast facilities in the City of Hattiesburg.

### **83.09 Insurance**

Each person having a permit under this ordinance shall carry general liability insurance in the minimum amount of \$500,000.00 covering such operation. Proof of insurance shall be kept on file in the Tax Department of the City of Hattiesburg.

### **83.10 Smoke Detectors**

Smoke detectors shall be located in each bedroom in the facility. Smoke detectors shall be hard wired so that the detector receives its primary power source from the building wiring, and the detector shall have a battery back-up in the event that primary power is interrupted.

## **SECTION 84            OPEN SPACE/SETBACK REQUIREMENT**

**84.01** No open space or lot area required for a building or structure shall during its life be occupied by, or counted as open space for any other building or structure.

1. In any residential district, except the A-1 and A-2 District, the front yard minimum setback of any lot unoccupied as of the effective date of this Code shall be equal in depth to the average depth of the front yards of the nearest adjacent occupied lots.
2. Fences, walls, and hedges in residential districts may be permitted in any required yard or along the edge of any yard provided that no fence, wall or hedge which is also a screen located in front of any front building line shall exceed thirty-six (36) inches in height and shall not exceed eight (8) feet in height on side or rear yards. However, fences which allow for visibility, such as chain-link fences, may be four (4) feet high in the front of the front building line. In a reverse frontage lot situation the fence, wall or hedge which is also a screen located in the side yard abutting the rear lot shall not exceed thirty-six (36) inches in height, excepting fences which allow for visibility, such as chain-link fences, may be four (4) feet high.
3. Where the dedicated street right-of-way is less than fifty (50) feet or is unknown, the depth of the front yard shall be measured starting at a point twenty-five (25) feet from the back of ditch; or, if there is no ditch, twenty-five (25) feet back of the area commonly used by utilities or maintained by the City, except as specified in Section 84.01 (6), below.
4. No dwelling unit shall be erected on a lot which does not abut or have access to at least one public street.
5. A sight triangle shall be formed by measuring back thirty (30) feet from the point of intersection of the right-of- way lines and connecting the points so as to establish a sight triangle on the area of the lot adjacent to the street intersection. On any corner lot on which a front and side yard are required, no wall, fence, sign, structure or any plant growth, shall obstruct sight lines at elevations over two feet, six inches (2'6") above any portion of the crown of the adjacent roadways.
6. The Planning Commission may establish greater setback from highways or thoroughfares than the front yard setback requirements of the zoning district in which the highway or thoroughfare is located.

The highways or thoroughfares and the greater setback additional to the front yard setback requirements are designated on the Official Zoning Map.

All setback requirements are from the right-of-way boundary of each road.



One-half (1/2) of the required right-of-way distance will be added to the setback requirement and be measured from the designated center line of the right-of-way.

The Code and Major Thoroughfare Plan establish the following minimum right-of-ways:

Arcadia Street	80 Feet
Ashford Street	80 Feet
Bay Street	80 Feet
Bonhomie Road	100 Feet
Campbell Drive	100 Feet
Country Club Road	100 Feet
East Hardy Street	80 Feet
Edwards Street	80 Feet
Front Street	80 Feet
Glendale Avenue	100 Feet
Hall Avenue	80 Feet
Hardy Street	100 Feet
Helveston Road	100 Feet
James Street	100 Feet
Jamestown Road	80 Feet
John Merle Tatum Road	100 Feet
Lincoln Road	100 Feet
Mamie Street	80 Feet
Martin Luther King Drive	80 Feet
McInnis Loop	80 Feet
Mobile Street	80 Feet
Pine Street	80 Feet
Pinehills Drive	80 Feet
Richburg Road	100 Feet
South Main Street	100 Feet
Southaven Drive	80 Feet
Timothy Lane	80 Feet
Tipton Street	80 Feet
Wisteria Drive	80 Feet
West 4th Street	80 - 100 Feet
(See Major Thoroughfare Plan)	
West 7th Street	100 Feet
South 28th Avenue	80 Feet
South 19th Avenue	80 Feet
North 31st Avenue	80 Feet
38th Avenue	80 Feet
South 40th Avenue	100 Feet
State Highway 42	100 Feet
(including North Main Street)	
U. S. Highway 49	120 Feet

U. S. Highway 11 (except in Downtown) 100 Feet

and other streets as designated by the Major Thoroughfare Plan.

7. Setback requirements for use permits shall conform to the most restrictive zoning district of the nature of the use such as residential, commercial, industrial or mobile home park.

**SECTION 85        RESERVED**

**SECTION 86        RESERVED**

## **SECTION 87            OPEN STORAGE**

**87.01** The regulations herein set forth shall apply to any open storage of junk or salvage materials, by-products, waste products of industrial or commercial establishments and general storage of equipment and materials, solid waste material or rubbish.

### **87.02   General Requirements:**

1.     The City Council may require the removal of junk or salvage or the screening of a nonconforming establishment in the interest of preserving the health, safety, and welfare of the general public.
2.     The storage area shall be screened from view of the neighbors and the public by solid fencing or natural terrain of trees or vegetation, a minimum of eight (8) feet in height, and shall be maintained in this manner at the completion of the project and prior to the issuance of the Certificate of Zoning Compliance.
3.     Open storage of trash, junk or rubbish such as abandoned vehicles, appliances, garbage, debris, building material rubbish or similar items is not permitted on commercial, industrial, residential, or mobile homes premises unless approved in compliance with the provisions of this Code.
4.     Open Area: A twenty-five foot open area free of storage or structures shall be maintained inside the perimeter of the storage area when open storage is higher than six (6) feet. Open storage shall not exceed six (6) feet in height in Business Districts.
5.     Any such establishment in existence prior to the adoption of these provisions shall not be expanded or enlarged or the number of car bodies or quantity of junk or salvage increased or additional land used unless such expansion is made to conform to these provisions and all the regulations of this Code.

### **87.03   Storage of Junk Cars, Junk, or Salvage Materials:**

1.     A minimum of three (3) acres of land is required.
2.     Open storage businesses are referred to herein, junk cars or materials shall not be allowed within one-half (1/2) mile of any designated Federal or State Highway or within five hundred (500) feet of any other public road or street.
3.     Stacking of vehicle bodies over fifteen (15) feet in height above normal ground elevation is not allowed.
4.     Storage of any immobile vehicle or parts, tires or accessories outside the screened area is prohibited.

5. It shall be unlawful for any person to store or any property owner to allow storage of any junked motor vehicle in the open area on any private property except motor vehicles awaiting repair at legally licensed auto repair garages or legally licensed junkyards.

**87.04** Off-Site Storage of Industrial and Business By-products and Waste Products:

1. A minimum of twenty (20) acres of land is required.
2. Open storage of materials created as by-products or waste by industrial and/or business activities shall not be piled or stacked over twenty-five (25) feet in height above normal ground elevation.

**87.05** On- or Off-Site Storage of Equipment and Materials: Such as Contractors Materials and Storage Yards, Industrial Equipment Sales and Storage, Lumber and Building Materials, Sales and Storage:

1. A maximum open storage space of ten (10) percent of the lot area is allowed for business and industrial equipment and materials, and the screening and height provisions of Section 87 shall apply. If a larger storage area is required, a minimum area of three (3) acres of land is required and all provisions of Section 87 shall apply.
2. Open storage of these items shall not be piled or stacked over twenty (20) feet in height above normal ground elevation.

## **SECTION 88            OUTDOOR SALES OF GOODS**

**88.01** Farm produce or seafood may be sold from vehicles which are mobile in an Agricultural A-1 and A-2; Business, B-2, B-3, B-5; or Industrial I-1 and I-2, but shall be removed daily by dusk. All such sale of goods must meet Health Department requirements or other laws and/or ordinances. No parking is permitted on the public right-of-way. No free standing signs are allowed.

## **SECTION 89                    PARKING OFF-STREET/ON-STREET AUTOMOBILE AND VEHICLE LOADING**

**89.01 General Intent and Application:** It is the intent of these requirements that adequate off-street parking and loading facilities and fire lanes be provided for each use of land within the jurisdiction of this Code. These requirements shall be applied in all districts. On-street parking and loading area shall not be used or included in any way to meet the off-street parking requirements in any district, and shall meet the Fire Code for access to building by fire apparatus.

The purpose is to maintain many of the environmental features and amenities of the City for present and future generations. Adherence to these regulations will improve the appearance and compatibility of vehicular use areas (parking lots) and other development within the city through the installation and maintenance of trees and plantings for screening and aesthetic effects, thereby serving to protect and preserve the appearance, character, value and safety of the total urban area and nearby properties.

**89.02 Requirements of Automobile Parking and Storage Space:** For the purposes of this Section a parking or storage space shall not be less than nine (9) feet by eighteen (18) feet, excluding all driveways, entrances and exits. The area for each space including all driveways, entrances and exits shall not be less than three hundred (300) square feet per parking space. Each space shall have a wheel stop or raised concrete curb.

**89.03 All-Weather Surface Required:** Parking facilities for residential, commercial and industrial uses shall have an all-weather hard surface, be properly drained to prevent ponding and shall be maintained free of trash and rubbish. For purpose of this Code, all-weather hard surface shall mean asphalt, brick or concrete surface with adequate depth for the traffic conditions. The Board of Adjustments may permit gravel surface parking when allowed by variance procedure. The Site Plan Review Committee may permit crushed limestone surface parking in the B-5, I-1 and I-2 districts in areas where trucks and/or heavy equipment will be parked or stored, provided that all driveways and public parking and circulation areas on the same property have an all-weather hard surface. (*Amended by Ordinance 2879, Sec. 1, 7/19/05*)

Any parking area containing over ten (10) vehicles shall provide storm water run-off data to the Site Plan Review Committee for its consideration and approval.

**89.04 Off-Street Automobile Parking and Storage:** Off-street automobile parking or storage space shall be provided on every lot on which any of the uses stated in this Section are hereafter established. The Site Plan Review Committee may permit the phased construction of the required parking spaces, where appropriate and according to the proposed building or land use, provided that adequate area exists on the site to develop the total number of required parking spaces, if needed, to support future land uses. Future parking areas shall be left undisturbed during the development of the remainder of the site. If it is necessary to grade or disturb said areas during development, the areas shall be stabilized and re-vegetated

prior to the issuance of a certificate of occupancy. Where space is not available on the lot, space shall be provided within three hundred (300) feet of such uses upon approval of the Hattiesburg Planning Commission by use permit and such space shall have vehicular access to a street or alley and shall be equal in area to at least the minimum requirements for the specific use or uses as set forth herein (*Amended by Ord. 2883, Sec. 1, 7/19/05*):

1. Animal Hospitals and Kennels: One (1) parking space for each four hundred (400) square feet of gross floor area. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)
2. Antique Shops: One (1) parking space for each four hundred (400) square feet of gross floor space. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)
3. Appliance Stores: One (1) parking space for each four hundred (400) square feet of gross floor space. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)
4. Auto Sales and Repair: Minimum ten (10) spaces plus two (2) spaces for each three hundred (300) square feet of auto repair or sales space.
5. Automobile Service: Two (2) parking spaces for each grease rack or similar facility; one (1) parking space for each gas pump, plus four (4) spaces.
6. A Bar in Combination With A Restaurant: The bar will require one (1) parking space for each fifty (50) square feet of floor area and the restaurant will require an additional one (1) spaces for each one hundred (100) square feet of floor area. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)
7. Barber and Beauty Shops: One (1) parking space for each one hundred (100) square feet of gross floor space. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)
8. Bus Terminals: Five (5) parking spaces for each loading or unloading bay plus ten (10) parking spaces for package delivery facilities.
9. Business Colleges and Trade Schools: One (1) parking space for each four (4) student seats at maximum seating capacity. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)
10. Dental Clinic: One (1) parking space for each two hundred (200) square feet of gross floor area. (*Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96*)

11. Department Stores: One (1) parking space for each two hundred (200) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
12. Drive-In Eating Establishments: Minimum of ten (10) parking spaces, plus one (1) space for each four (4) seats of total capacity.
13. Drive-In Retail Business Convenience Type Grocery: Minimum of five (5) parking spaces, plus one (1) space for each three hundred (300) square feet of retail floor area.
14. Dry Cleaning: One (1) parking space for each three hundred (300) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
15. Eating Establishments: One and one-half (1.5) parking spaces for each two hundred (200) square feet of gross floor area. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
16. Elementary Schools: Three (3) parking spaces for each classroom, plus required bus parking.
17. Entertainment Including Dance Halls, Exhibit Halls without permanent seating arrangements, Skating Rinks: One (1) parking space for each one hundred (100) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
18. Financial Institutions: One (1) parking space for each three hundred (300) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
19. Food Stores: One (1) parking space for each two hundred (200) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
20. Funeral Homes: One (1) parking space for each three (3) seats in parlors and chapels, plus space for funeral home vehicles, with a minimum of ten (10) required parking spaces.
21. Furniture Stores: One (1) parking space for each four hundred (400) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
22. Hospitals: One (1) parking space for each bed intended for patients, excluding bassinets, and one (1) space for each two hundred (200) square feet of gross area.



23. Hotels, Motels, Tourist Homes, Tourist Courts, and Rooming Houses: One and one tenth (1.1) parking space for each guest or sleeping room or suite, excluding restaurants, bars, lounges, which will be computed separately.
24. Industrial and Manufacturing Establishments: One (1) parking space for each five hundred (500) square feet of gross floor area, plus one (1) space for each vehicle to be stored or stopped simultaneously. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
25. Junior High Schools: Two and one half (2.5) parking spaces for each classroom. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
26. Lounges, Taverns, Etc.: One (1) parking space for each one hundred (100) square feet of gross floor area. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
27. Medical Clinic: One and two tenths (1.2) parking spaces for each two hundred (200) square feet of gross floor area. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
28. Manufactured (Mobile) Homes: Two (2) parking spaces for each dwelling unit.
29. Multi-Family Dwellings: Two (2) parking spaces for each dwelling unit.
30. Personal Service Establishments: One (1) parking space for each three hundred (300) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
31. Private Clubs, Lodges, Fraternities and Sororities: One (1) parking space for each one hundred (100) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
32. Professional Office, excluding medical/dental clinics or offices: One (1) parking space for three hundred (300) square feet of office space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
33. Repair Shops: One (1) parking space for each four hundred (400) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
34. Retail Sales: One (1) parking space for each two hundred (200) square feet of gross floor space. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*

35. Sanatoriums, Nursing Homes, Convalescent Homes, Orphanages: One (1) parking spaces for each five (5) beds. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
36. Secondary Schools: Ten (10) parking spaces for each classroom. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*
37. Single Family Dwellings: Two (2) parking spaces for each dwelling unit.
38. Theaters, Auditoriums, Churches, Stadiums, Gymnasiums, Convention Halls, and Other Places of Public Assembly: One (1) parking space for each four (4) seats in the building or structure in the main auditorium, based on maximum seating capacity.
39. Wholesale, and Warehouses: One (1) parking space for each one thousand (1,000) square feet of gross floor area.
40. Other Uses: Parking requirements for other uses shall be determined by the Land Development Code Administrator. *(Amended by Ord. 2883, Sec. 1, 7/19/05; Amended by Ord. 2557, Sec. 1, 5/21/96)*

**89.05 Combined Parking Spaces:** The required parking spaces for any number of separate uses may be combined in one (1) lot but the required space assigned to one use may not be assigned to another use at the same time, except that one-half (1/2) of the parking space required for churches, theatres, or assembly halls whose peak attendance will be at night or on Sunday may be assigned to a use which will be closed at nights or on Sundays.

**89.06 Off-Street Loading and Unloading Space:** Every building or structure used for business, trade or industry shall provide as indicated herein for the loading and unloading of vehicles. Such space shall have access to a public street or alley.

1. Retail business: Minimum of one (1) space of five hundred (500) square feet for each three thousand (3,000) square feet of floor area.
2. Wholesaling, industry, truck terminal: Minimum of one (1) space of five hundred (500) square feet for each ten thousand (10,000) square feet of gross floor area.
3. Bus terminals: Sufficient space to accommodate the maximum number of buses to be stored or to be unloading at the terminal at any one time.

**89.07 Disabled Persons Parking:** Parking spaces for disabled persons shall be provided as specified in the current Disabled Persons Parking Code.

**89.08 Curb Cuts:** Two (2) curb cuts per minimum lot area on each minimum street frontage, maximum width of a curb cut is twenty-five (25) feet, minimum distance between

curb cuts on a single lot shall be forty (40) feet and shall be a minimum of twelve and one-half (12.5) feet from property lines in Business districts. The Site Plan Review Committee may authorize an increase in the width of a curb cut, to a maximum width of forty (40) feet, where warranted for the maneuvering of large vehicles. (*Amended by Ord. 2882, Sec. 1, 7/19/05*)

**89.09** Permitted Use Upon Review of Hattiesburg Planning Commission of Parking in Adjacent District: An activity in this district within three hundred (300) feet of an off-street parking area in a different adjacent zoning district may use said off-street parking provided:

1. This provision is a permitted use on review. See Section 42.
2. All off-street parking requirements are met for each activity per time of day.
3. This provision shall not allow the excess or maximum development of a lot in one district when the development can use land in the same zoned district or allow the use of available space for parking on the lot to be used for additional structures.
4. The three hundred (300) feet is measured from the property line to the property line of the nearest point of the off-street parking facility to be used.

**89.10** Interior Landscaping Requirements: Such landscaped areas shall be located in such a manner as to divide and break up the monotony of paving, or to prevent and discourage cross traffic. These areas shall be distributed appropriately throughout the lot and be subject to review. The following interior landscaping elements shall be required:

1. Terminal Islands: All rows of parking spaces shall be terminated on both ends by landscaping islands which measure nine (9) feet in width and twenty (20) feet in length per row of single parking spaces. At least one (1) tree, or grouping, as per Section 89.15, shall be planted on said island. Parking areas of less than fifteen (15) spaces are exempt from terminal islands. (*Amended by Ord. 2973, Sec. 1, 10/2/07*)
2. Interior Island: Interior landscaped islands, which measure an average of not less than nine (9) feet in width and extend the length of a parking space. There shall be an interior island every one hundred and fifty (150) feet. At least one (1) tree or grouping, as per Section 89.15, shall be planted on every interior island. Interior islands need not be placed directly opposite each other when abutting parking rows. See Diagram. Parking areas of less than five thousand (5,000) square feet are exempt from interior islands. (*Amended by Ord. 2973, Sec. 1, 10/2/07*)
3. Alternative Island Design: To aid in design flexibility, landscaped islands may be in various shapes but shall not be less than one hundred and forty (140) square feet of planting area with at least one (1) tree or grouping as per Section 89.15. (*Added by Ord. 2973, Sec. 1, 10/2/07*)

**89.11 Protection from Vehicular Encroachment:** Parking spaces shall be designed through the use of wheel stops, raised concrete curbing, or otherwise, to prevent the encroachment of vehicles upon or into landscaped areas and/or ADA access routes. (Amended by Ord. 2973, Sec. 1, 10/2/07)

**89.12 Visibility at Intersections:** Public right-of-way and/or Private Street: On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impair or block vision between a height of two and one-half (2.5) and seven (7) feet above the center line grades of any intersecting streets at the area bounded by the street lines of such corner lots and a line joining points along said street lines thirty (30) feet from the point of intersection. See diagram.

**89.13 Intersection of Driveway and Public Right-of-Way and/or Private Street or Landscaped Islands:** In any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impair or block vision between a height of two and one-half (2.5) and seven (7) feet above the center line grades of any intersection street/driveways in the area bounded by the street lines/driveway lines of such corner and a line joining points along said street lines fifteen (15) feet from the point of intersection. See Diagram.

**89.14 Credit for Existing Plant Material:** If the owner(s) can demonstrate that healthy plant material exists on a site prior to its development for the purposes of off-street parking, or other vehicular use areas, the application of the above landscape standards may be adjusted by the Site Plan Review Committee to allow credit for such plant material if such an adjustment is in keeping with and will preserve the intent of this Code. (Amended by Ord. 2973, Sec. 1, 10/2/07)

**89.15 Plant Standards:** All required landscaping shall consist of any of the following or combination thereof: materials such as but not limited to, grafts, ground covers, shrubs, vines, hedges or trees. In addition, a maximum of twenty-five percent (25%) nonliving durable materials may be used to complement, but not to be credited as plants. These materials include, but are not limited to, wood chips, loose rocks and pebbles, wood structures, walls, or fences, but excluding paving and sand. Plant materials used in conformance with provisions of this Code shall conform to the standards recommended by the American Society of Landscape Architects for Mississippi. (Amended by Ord. 2973, Sec. 1, 10/2/07)

1. **Trees:** Trees shall be a minimum of ten (10) feet in height at the time of planting and a minimum of twenty (20) feet at maturity. Trees shall be a species recognized by the State of Mississippi Division of Forestry, as being acceptable for this area. Trees shall be of a species achieving, at maturity, an average spread of crown of greater than fifteen (15) feet and having trunk(s), which can be maintained with a minimum of six (6) feet of clear wood trunk elevation. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping same so as to create the equivalent of a fifteen (15) foot crown spread. Trees species shall have a minimum of two (2) inch caliper measured twelve (12) inches above ground. Trees

of a species whose roots are known to cause damage to public roadways, sewers, or other public works (unless the tree root system is completely contained within a barrier for which a minimum interior containing dimension shall be ten (10) feet square and five (5) feet deep) shall not be accepted. Each such tree shall be planted in twenty-five (25) square feet of planting area with a minimum dimension of at least five (5) feet.

2. Ground Covers: Ground covers used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within three (3) months after planting.
3. Lawn Grass: Grass areas shall be planted and grown as permanent lawns. Grass may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion and providing that in areas where other than solid sod or grass seed is used, grass seed shall be sown for immediate effect and protection until coverage is achieved.

**89.16 Installation and Maintenance**: All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures with the quality of plant material as herein described. All elements of landscaping exclusive of plant material, except hedges, shall be installed so as to meet all other applicable ordinances and code requirements. Landscaping areas shall require protection from encroachment. (Encroachment is defined as any protrusion of a vehicle outside of a parking space, display area or access way into a landscaped area.)

The owner shall be responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from weeds, refuse and debris.

In the event that trees or other landscaped materials should die, such materials shall be replaced at the appropriate planting time as determined by the Urban Forester/City Arborist. Such time shall not exceed nine (9) months. Failure of the owner of the property to maintain the premises in good condition, as set forth above, shall make him liable for the penalties as set forth in this Code. (Amended by Ord. 2973, Sec. 1, 10/2/07)

No required buffer strip, green space, terminal or interior island areas shall be abandoned, paved, or otherwise employed, unless zoning of adjacent property changes and approved by the Site Plan Review Committee. (Amended by Ord. 2973, Sec. 1, 10/2/07)

**89.17 Additional Plant, Installation and Maintenance Standards**:

1. Grass and Ground Cover: All property, other than the required landscaped strip, lying between the property line and vehicular use area shall be landscaped with at least grass or other ground cover, in conjunction with Sections 89.15 and 89.16. (Amended by Ord. 2973, Sec. 1, 10/2/07)

2. Access Ways: Necessary access ways from the public right-of-way through all such landscaping shall be permitted to service the vehicular use area. See Section 89.08, Curb Cuts.

**89.18 Vehicular Use Areas**: Vehicular use areas shall include all areas used for parking, circulation and/or display of any and all types of vehicles, boats, or heavy construction equipment, or other machinery capable of movement over streets and highways, whether self-propelled or not, and all areas upon which such vehicles traverse as a function of the primary uses of the related structures or properties.

This Section shall include, but is not limited to, activities of a drive-in nature such as service stations, convenience stores, banks, restaurants, multiple dwellings and the like. The requirements set forth herein shall also apply to improvements or additions to existing vehicular use areas, but shall not apply to vehicular use areas in existence at the time of adoption of this Code. For the purpose of this Code, improvements shall include the installation of asphalt paving and/or concrete over any previously unimproved vehicular use area. Additions shall include any increase equal to twenty-five (25) percent of the required parking for said use or size of existing vehicular use area. Additions equal to fifty (50) percent of the total area of vehicular use shall require that the remaining fifty (50) percent be brought up to standard both in terms of paving and landscaping.

**89.19 Parking Lot Lighting**: Average of .03 footcandles per square foot shall be required. Lighting shall not create a hazard. (*Amended by Ord. 2881, Sec. 1, 7/19/05*)

**SECTION 90                    PARKING OR STORAGE OF MAJOR RECREATIONAL  
EQUIPMENT**

**90.01** Major recreational equipment, including boats, boat trailers, travel trailers, campers or camper trucks, coaches, motorized dwellings or similar equipment shall not be stored in required front or side yard setbacks.

No such equipment shall be used for living, sleeping, or housekeeping purposes on any lot except in an approved location.

## **SECTION 91                      PLANNED UNIT DEVELOPMENT - PUD**

**91.01 General Description:** The purpose of this district is to provide a means for developing open space areas in larger developments, to take advantage of natural features of the landscape in this design, to improve the quality of urban environment and to reduce the costs of developing and providing public resources and utilities. The owners of any tract of land containing at least five (5) acres may submit a plan for the use and development of the entire tract for residential, compatible business, and related uses as a single and unified project. The basic control of development intensity shall be the requirements of one or more of the residential districts. The cluster development concept may be used under the Planned Unit Development regulations. The Planned Unit Development shall be a superimposed designation providing a broader latitude of design to achieve the above stated goals. A permit is required, see Section 38, Land Development Code Checklist.

**91.02 Site Plan Required:** A detailed site plan of the proposed Planned Unit Development District shall be submitted to the Site Plan Review Committee for study and approval; which shall be considered as a recommendation to the Hattiesburg Planning Commission. Final approval shall be made by the City Council based on the recommendation of the Hattiesburg Planning Commission.

**91.03 Uses Permitted:** Uses permitted in the Planned Unit Development District are those normally necessary to make up a total neighborhood, specifically including the following:

1.     Residential Uses: Any use permitted in the R-3, Multi-Family Residential District.
2.     Business Uses: Permitted commercial uses shall be those of retail type and personal service type businesses associated with community shopping centers and office park development.
3.     Public and Semi-public Facilities: Community centers, schools, parks and other recreational facilities, churches, clubs, public utilities, libraries and other public buildings and structures required to provide essential public services and any other use which primarily serves the residents of such a development.

**91.04 Regulations:**

1.     Residential Lot Size: No minimum lot sizes are established, per se, so the housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features.
2.     Open Space Reservation: In any Planned Unit Development, the amount of land not used by residential buildings, accessory structures, and yards but required by the residential zoning of the site, shall be reserved collectively in contiguous units accessible to all the building sites in the development as maintained open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and conserving visually pleasing elements of the environment. Prior



- to the sale of any lot, site, home or other structure a bond of sufficient surety determined by the the Land Development Code Administrator shall be posted with the City for completion of said open space improvements prior to such sale. The open space developed will constitute no less than an equivalent proportional amount to the area being developed in the case of partial development.
3. Development Density: Business uses in any Planned Unit Development District shall not constitute over twenty-five (25) percent of the land area of such development. Land area occupied by residential, business, public and other buildings and accessory structures shall not exceed forty-five (45) percent of the total land area of such development. Parking areas for business facilities are considered a commercial use of land. Be it further provided that business development may not be started until the residential development is at least one-fourth (1/4) complete.
  4. Homes Association: As part of the plan proposed for any Planned Unit Development, the developer shall submit a set of covenants running with the land providing for an automatic membership in the Homes Association, to be an incorporated nonprofit organization, operating under recorded land agreements, through which each property owner in the Planned Unit Development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, open space and/or other activities of the Association. Once established, the covenants shall continue and remain in force during the entire existence of the Planned Unit Development.
  5. Responsibility for Open Space: Nothing in this Section of the Code shall be construed as a responsibility of the City of Hattiesburg, either for maintenance or liability of the following, which shall include but not be limited to: any private open areas, parks, recreational facilities, and a hold harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that when an owner of a Planned Unit Development desires to dedicate certain land areas to the City for public parks and recreational facilities, and the City approves the nature and location of such lands, and accepts the dedicated areas, the City shall be responsible for the operation and maintenance of these lands and properties.
  6. Common open spaces shall be provided within a planned unit development in accordance with the Land Development Code of Hattiesburg, Mississippi. The size, shape, dimension and location of the open spaces shall be determined by the Site Plan Review Committee in conjunction with the developer or subdivider with consideration being given to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration should also be given in providing parks, recreational facilities, both active and passive, and pedestrian walkways.

Common open space shall be guaranteed by a restrictive covenant describing the open space and its maintenance and improvement running with the land for the benefit of

the residents of the planned unit development. The developer shall file, at the time the approved final plat is filed, legal documents which will produce the aforesaid guarantees and, in particular, will provide for restricting the use of common open spaces for the designated purpose.

7. In order to minimize the disturbance of the natural environment, a general landscaping plan shall be required at the time of preliminary plat submission showing the spacing, sizes, and specific types of landscaping material. The Site Plan Review Committee shall review the landscaping plan in conjunction with the review of the preliminary plat.

The preservation of the natural amenities within the planned unit development shall be given due consideration which shall include topography, trees, and ground cover, natural bodies of water, and other significant natural features. Existing trees shall be preserved wherever possible. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. The Site Plan Review Committee shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees and natural features before the commencement of building operations shall be discouraged by the Site Plan Review Committee.

8. Transportation: The vehicular circulation system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. Minor streets within planned unit developments shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the Site Plan Review Committee, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

9. Land Subdivision: In the construction and installation of all subdivision improvements in the planned unit development, said improvements shall conform to all requirements and standards as set forth in Article 6, unless exception to the requirements is recommended by the Site Plan Review Committee.
10. Private Streets: Private streets and drives of planned unit developments need not meet the requirements of this Code which would otherwise be applicable if the Site Plan Review Committee finds that the design of the proposed streets and common vehicular ways is adequate to protect the public health, safety, and welfare, there is provided adequate off-street parking, separate vehicular and pedestrian traffic, and it will promote the purposes and intent of this Code.

If the owners in the future should request that the private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the City, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners.

11. Appearance of Public Utility Facilities: Public utility facilities and structures shall be architecturally compatible, or shall be properly screened and landscaped in keeping with the character and appearance of the neighborhood. See Section 97, Utilities.
12. City Council Approval: Planned Unit Development Districts and establishment of zoning therefor must be approved by the Hattiesburg City Council. However, the development shall be in accordance with the approved site plan. Any contemplated deviation from the approved site plan shall be reviewed by the Site Plan Review Committee, may be reviewed by Hattiesburg Planning Commission if the Site Plan Review Committee considers the changes to require Hattiesburg Planning Commission consideration, and all recommendations shall be submitted to the Hattiesburg City Council for approval. The Hattiesburg Planning Commission has the authority to require reasonable plan changes for the Planned Unit Development as a prerequisite to approval.

## SECTION 92

## **PLANNED RESIDENTIAL DEVELOPMENT**

92.01 General Description. The purpose of the Planned Residential Development designation is as follows: *(Amended by Ord. 2874, sec. 1, 6/7/05; Added by Ord. 2827, sec. 1, 8/19/03)*

- a. To provide a means for developing and preserving larger common areas of usable open space within residential developments; *(Added by Ord. 2827, sec. 1, 8/19/03)*
- b. To encourage creative, flexible site planning and design to take advantage of the natural features of the landscape; *(Added by Ord. 2827, sec. 1, 8/19/03)*
- c. To provide flexibility for working within the constraints of established urban patterns of existing neighborhoods; *(Added by Ord. 2827, sec. 1, 8/19/03)*
- d. To improve the quality of the urban environment; and *(Added by Ord. 2827, sec. 1, 8/19/03)*
- e. To reduce the costs of developing and providing public resources and utilities. *(Added by Ord. 2827, sec. 1, 8/19/03)*

The owner(s) of a tract of land containing at least one (1) acre in the A-2, R-1A, R-1B, R-1C, R-2, R-3 and B-1 districts may submit a plan for the residential development of the entire tract as a single and unified project. The cluster development concept may be used under the Planned Residential Development regulations. The Planned Residential Development shall be a superimposed designation providing a broader latitude of design to achieve the above-stated goals. A permit is required under Section 38 (Land Development Code Checklist) of these regulations. *(Amended by Ord. 2874, sec. 1, 6/7/05; Added by Ord. 2827, sec. 1, 8/19/03)*

92.02 Site Plan Required: The site plan presentation shall include locations of existing and proposed buildings and structures, location and species of trees to remain, location and species of trees to be removed, access and egress details, off-street parking and loading spaces, proposed landscaping, existing ground elevations, proposed grade elevations, site drainage plans, exterior building elevations and proposed finish materials, and any other information that would aid in assessing the proposal and its compatibility with the Land Development Code. The site plan presentation shall be submitted to the Site Plan Review Committee for study and approval; said approval shall be considered as a recommendation to the Hattiesburg Planning Commission. Final approval shall be made by the City Council based on the recommendation of the Hattiesburg Planning Commission. *(Added by Ord. 2827, sec. 1, 8/19/03)*

92.03 Uses Permitted: Uses permitted in the Planned Residential Development District shall include single-family detached, two-family dwellings and condominiums. *(Amended by Ord.2913, Sec. 2, 4/20/06; Added by Ord. 2827, sec. 1, 8/19/03)*

92.04 Regulations:

1. Residential lot size: No minimum lot sizes are established, per se, so the housing can be clustered or otherwise concentrated or arranged in planned locations on the site to take advantage of its natural features. *(Added by Ord. 2827, sec. 1, 8/19/03)*
2. Height: No building or structure shall exceed three (3) stories in height. *(Amended by Ord.2913, Sec. 2, 4/20/06; Added by Ord. 2827, sec. 1, 8/19/03)*
3. Buffer Strips: A ten (10) foot buffer strip shall be provided around the perimeter of the development, as prescribed under Section 78 of the Land Development Code. *(Added by Ord. 2827, sec. 1, 8/19/03)*
4. Open Space Reservation: In any Planned Residential Development, the amount of land not used by residential buildings, accessory structures, streets, driveways and yards shall be reserved collectively in contiguous units accessible to all the building sites in the development as maintained open space for the purpose of providing parks, recreational facilities, ways for pedestrian movement and circulation, and conserving natural features and visually pleasing elements of the environment. Minimum percent of total land area shall be reserved as open space as follows: *(Amended by Ord.2913, Sec. 2, 4/20/06; Added by Ord. 2827, sec. 1, 8/19/03)*

Single Family Detached – shall have a minimum of fifteen percent (15%)  
Two-Family dwellings – shall have a minimum of twenty percent (20%) and  
Condominiums – shall have a minimum of twenty-five percent (25%).

Prior to the sale of any lot, site, home or other structure, a surety bond or irrevocable letter of credit shall be posted with the City for the completion of open space improvements. The bond amount shall be determined by the Land Development Code Administrator upon receipt of an estimate, provided by the owner, of the cost of completing said improvements. The open space developed will constitute no less than an equivalent proportional amount to the area being developed in the case of partial development. *(Added by Ord. 2827, sec. 1, 8/19/03)*

5. Density: The maximum permitted density in the R-1A, R-1B, R-1C, R-2, R-3 and B-1 districts is one dwelling per 5,000 square feet of net development area; the maximum permitted density in the A-2 district is one dwelling per 43,560 square feet of net development area. Net development area is determined by deducting the minimum required open space, (see item 4 above), from the total land area. In calculating the number of dwellings, change fractions to the nearest whole number; a fraction equal to one-half or greater is raised to the next whole number. *(Amended by Ord.2913,*

*Sec. 2, 4/20/06; Amended by Ord. 2874, sec. 1, 6/7/05; Added by Ord. 2827, sec. 1, 8/19/03)*

6. Appearance of Buildings and Site Features: The location, nature, size, and design of buildings and structures, as presented to the Hattiesburg Planning Commission and City Council, shall be compatible with surrounding properties so as to harmonize with the neighborhood in character and appearance. *(Added by Ord. 2827, sec. 1, 8/19/03)*
7. Impervious Surfaces: Land area occupied by buildings, structures, streets, driveways, sidewalks and other paved surfaces shall not exceed fifty (50) percent of the total land area of the Planned Residential Development; the required open space shall be included in this calculation. *(Added by Ord. 2827, sec. 1, 8/19/03)*
8. Homes Association: As part of the plan proposed for any Planned Residential Development, the developer shall submit a set of covenants, running with the land, providing for an automatic membership in the Homes Association; the Homes Association shall be an incorporated nonprofit organization operating under recorded land agreements, through which each property owner in the development is automatically subject to a charge for an appropriate proportionate share of the expenses for maintaining the common property, open space and/or other activities of the Association. Once established, the covenants shall continue and remain in force during the entire existence of the Planned Residential Development. *(Added by Ord. 2827, sec. 1, 8/19/03)*
9. Responsibility for Open Space: Nothing in this section of the code shall be construed as a responsibility of the City of Hattiesburg, either for maintenance or liability of the following, including but not limited to private open areas, parks and recreational facilities; a hold harmless clause shall be incorporated in the covenants running with the land to this effect. It shall be provided further, however, that when an owner of a Planned Residential Development desires to dedicate certain land areas to the City for public parks and recreational facilities, and the City approves the nature and location of such lands and accepts the dedicated areas, the City shall be responsible for the operation and maintenance of these lands and properties. *(Added by Ord. 2827, sec. 1, 8/19/03)*
10. Common open spaces shall be provided within a Planned Residential Development in accordance with the Land Development Code of Hattiesburg, Mississippi. The Site Plan Review Committee shall consider the size, shape, dimension and location of the open spaces with respect to the size and extent of the proposed development and the physical characteristics of the land being developed. Consideration shall also be given in providing parks, recreational facilities, both active and passive, and pedestrian walkways. *(Added by Ord. 2827, sec. 1, 8/19/03)*

Common open space shall be guaranteed by a restrictive covenant, running with the land, describing the open space and its improvement and maintenance in perpetuity

for the benefit of the residents of the Planned Residential Development. The developer shall file, at the time the approved final plat is filed, legal documents, satisfactory to the City Attorney in form and content, which will produce the aforesaid guarantees and, in particular, will provide for restricting the use of common open spaces for the designated purpose. *(Added by Ord. 2827, sec. 1, 8/19/03)*

11. A general landscaping plan shall be required at the time of preliminary plat submission. The Site Plan Review Committee shall review the landscaping plan in conjunction with the review of the preliminary plat. *(Added by Ord. 2827, sec. 1, 8/19/03)*

The preservation of the natural amenities, including topography, trees and ground cover, natural bodies of water, and other significant features, shall be given due consideration. Existing trees shall be preserved wherever possible. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas and finished grade levels. The owner shall present to the Site Plan Review Committee a plan for the protection of trees and other natural features during construction. *(Added by Ord. 2827, sec. 1, 8/19/03)*

12. Transportation: The vehicular circulation system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. Minor streets within Planned Residential Developments shall not be connected to streets outside the development in such a way as to encourage their use by through traffic. *(Added by Ord. 2827, sec. 1, 8/19/03)*

The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from vehicular movement. This shall include, where deemed to be necessary by the Site Plan Review Committee, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas and other neighborhood uses which generate a considerable amount of pedestrian traffic. *(Added by Ord. 2827, sec. 1, 8/19/03)*

13. Land Subdivision: In the construction and installation of all subdivision improvements in the Planned Residential Development, said improvements shall conform to all requirements and standards as set forth in Article 6 of the Land Development Code. *(Added by Ord. 2827, sec. 1, 8/19/03)*

14. Streets: Public streets shall conform to the requirements of Section 125 of the Land Development Code. Private streets and drives of Planned Residential Developments need not meet the requirements of this Code which would otherwise be applicable if the Site Plan Review Committee finds that the design of the proposed streets and common vehicular ways is adequate to protect the public health, safety and welfare, there is provided adequate off-street parking, separate vehicular and pedestrian traffic, and it will promote the purposes and intent of this regulation. *(Added by Ord. 2827, sec. 1, 8/19/03)*

- If the owners in the future should request that private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the City, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, or to the satisfaction of the Director of Engineering and the Fire Marshal, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners. *(Added by Ord. 2827, sec. 1, 8/19/03)*
15. Appearance of Public Utility Facilities: Public utility facilities and structures shall be architecturally compatible, or shall be properly screened and landscaped in keeping with the character and appearance of the neighborhood. See Section 97 (Utilities) of this code. *(Added by Ord. 2827, sec. 1, 8/19/03)*
16. City Council Approval: Planned Residential Development designation, and the plans and design of Planned Residential Developments, must be approved by the Hattiesburg City Council. The development shall be in accordance with the approved site plan. Any contemplated deviation from the approved site plan shall be reviewed by the Site Plan Review Committee, and substantial changes, including changes in density, lot configuration, physical appearance, and locations of streets and driveways, shall be reviewed by the Hattiesburg Planning Commission and Hattiesburg City Council. The Hattiesburg City Council has the authority to require reasonable plan changes for the Planned Residential Development as a prerequisite to approval. *(Added by Ord. 2827, sec. 1, 8/19/03)*



## **SECTION 94 REGULATIONS OF TEMPORARY CHRISTMAS TREE SALES LOTS**

### **94.01 Regulations of Temporary Christmas Tree Sales Lots:**

1. Christmas trees may be sold in B-3 or B-5 Business Zoning Districts only.
2. Any sales structures shall meet the setback of the district in which located.
3. No parking or sign is permitted on the road right-of-way.
4. Sales period for temporary christmas tree sales lots shall start no sooner than November 15.
5. Temporary christmas tree sales lots shall be cleared by the 1st day of January.

## **SECTION 95            SIGN REGULATIONS**

**95.01 General Description:** The purpose of this Section is to improve the quality of the urban landscape in accordance with the Comprehensive Plan, to provide for an aesthetically pleasing streetscape, to promote community design standards and to promote transportation safety measures through the regulation of the type, location, height and size of specific signs and outdoor displays as they relate to the Land Development Code of the City of Hattiesburg, Mississippi. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

### **95.02 Permit Required for Signs:**

1. Except as otherwise provided in Sections 95.03, Signs excluded from Regulation, and 95.04, Certain Temporary Signs, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this Section. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. If plans submitted for a Site Plan Review or Land Development Code Checklist include sign plans in sufficient detail that the permit issuing authority can determine whether the proposed sign or signs comply with the provisions of this Section, then issuance of the permit shall constitute approval of the proposed sign or signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
3. Signs not approved as provided in Section 95.02, or exempted under the provisions referenced in Section 95.02, may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a permit issued by the Land Development Code Administrator. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

In the case of a lot occupied or intended to be occupied by multiple business enterprises (e.g., a shopping center), one (1) sign permit shall be issued for each lot. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.03 Signs Excluded from Regulation:** The following signs are exempt from regulation under this Section except for those stated in the Sections 95.12, 2 through 5. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

1. Signs not exceeding two (2) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - A. Signs giving property identification names or numbers or names of occupants. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. Signs on mailboxes or newspaper tubes. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- C. Signs posted on private property relating to private parking or warning the public against trespassing or danger from animals. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 2. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 3. Official signs of a noncommercial nature erected by public utilities. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 4. Flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 5. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 6. Signs directing and guiding traffic on private property that do not exceed four (4) square feet each, and that do not exceed four feet in height and bear no advertising matter. Limited to two (2) per driveway. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 7. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.04** Certain Temporary Signs: Permit exemptions and additional regulations: All temporary signs shall comply to all building codes and requirements of this Section. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- 1. The following temporary signs are permitted without a zoning, or sign permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this Section except those contained in Sections 95.05 and 95.06. All signs shall be setback ten (10) feet from the public right-of-way. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - A. Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent: Such signs may not exceed four (4) square feet in area and shall be removed immediately after sale, lease, or rental. For lots of less than two (2) acres, a single sign on each street frontage may be erected. For lots of two (2) acres or more in area and having a street frontage in excess of four hundred (400) feet, one sign not exceeding thirty-two (32)

square feet in area may be erected per street frontage. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- B. Construction site identification signs: Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information including but not limited to sale or leasing information. Not more than one such sign may be erected per site, and it may not exceed one hundred (100) square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within ten (10) days after the issuance of the Certificate of Occupancy. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - C. Signs attached temporarily to the interior of a building window or glass door: Such signs, individually or collectively, may not cover more than seventy-five (75) percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within thirty (30) days after placement. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - D. Displays, including lighting, erected in connection with the observance of holidays: Such signs shall be removed within ten (10) days following the holidays. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - E. Signs erected in connection with elections or political campaigns: Such signs shall be placed no more than sixty (60) days before the election and be removed within three (3) days following the election or conclusion of the campaign. No such sign may exceed sixteen (16) square feet in surface area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - F. Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - a) Not more than one such sign may be located on any lot.
    - b) No such sign may exceed four (4) square feet in surface area.
    - c) Such sign may not be displayed for longer than three (3) consecutive days nor more than ten (10) days of any three hundred sixty five (365) day period.
2. Temporary Trailer/Portable Signs: When used for special events as listed in Section 95.04 (1), above, requires a permit, shall not exceed thirty-two (32) square feet, shall not exceed seventeen (17) days after permitted placement, shall not exceed thirty-four (34) days placement out of any three hundred sixty five (365) day period on the lot. One temporary trailer/portable sign shall be allowed per lot. The trailer/portable

sign shall comply to the requirements of Section 95.04 and all City building codes. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

3. Sign indication that a special event such as a grand opening, festival, or similar event is to take place on the lot where the sign is located: Such sign may be erected not sooner than thirty (30) days before the event and must be removed not later than three (3) days after the event. Such signs shall not be erected for special sale events or sale of products and require a permit. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
4. Other temporary signs not listed in Section 95.04 (1) and (2) above shall be regarded and treated in all respects as permanent signs (wall and free standing signs) except that (as provided in Section 95.03) temporary signs shall not be included in calculating the total amount of permitted sign area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.05 Determining the Number of Signs:**

1. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. For permit, number and spacing purposes, a two-sided or multi-sided on-premise or off-premise sign shall be regarded as one sign so long as the v-type or back-to-back sign facings are no more than five (5) feet apart at the nearest points of the individual sides of the sign structure. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.06 Computation of Sign Area:**

1. The message area of a sign shall be the entire width within a single, continuous perimeter enclosing the outer dimensions of the actual message or copy area including decorative trim, customary extensions or embellishments, any structural elements outside the limits of such display surface. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
3. With respect to two-sided, multi-sided, or three-dimensional signs, the sign message area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the foregoing: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- A. The sign message area of a double-faced, back to back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed five (5) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. The sign message area of a double faced sign constructed in the form of a "V" shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the angle of the "V" does not exceed thirty (30) degrees and at the nearest point does the distance between the backs of such sides exceed five (5) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.07** Permitted Uses and Regulations of Signs in Agricultural and Residential Zoning Districts (A-1, A-2, R-1A, R-1B, R-1C, R-2, R-3, and R-4, when R-4 is subject to Section 95.08): *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

1. Permitted Uses:

- A. Only noncommercial on-premise signs shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. Only signs denoting the name and address of occupants or structure shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- C. No off premise signs shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

2. Free Standing Signs:

- A. One free standing sign per lot. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. Message area shall not exceed two (2) square feet, in area except as provided in Section 95.03. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- C. Church and school bulletin boards or church and school identification signs, and church directional signs which do not exceed one per abutting street on church property and sixteen (16) square feet in area and that are not internally illuminated, and meeting a ten (10) foot setback. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- D. Height shall not exceed six (6) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- E. Front setback shall be a minimum of ten (10) feet from the public right-of-way. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- F. Shall meet the side and rear setback of the zoning district. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 3. Building Mounted Signs:
  - A. Wall Signs Permitted:
    - a. One wall sign per structure. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - b. Message area shall not exceed two (2) square feet in area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - c. Height shall not exceed ten (10) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - d. No sign attached to a building may project more than six (6) inches from the building wall. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. Projecting Signs: Not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - C. Roof Signs: Not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - D. Marquee Signs: Not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - E. Canopy Signs: Not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.08** Subdivision and Multiple Family Development Entrance Signs:

- 1. At any entrance to a residential subdivision or multiple family development with a minimum of twenty-five (25) lots or units, there shall not be more than two (2) signs identifying such subdivision or development. Subdivisions and multiple family developments under twenty-five (25) lots or units shall have no entrance sign(s). *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 2. The sign shall only state the name of the subdivision or development and the developer's name or managing agency, telephone number and the address. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 3. Message area shall not exceed thirty-two (32) square feet, nor may the total surface area of all such signs located at a single entrance exceed sixty-four (64) square feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 4. Height shall not exceed six (6) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 5. Front setback shall be a minimum of ten (10) feet from the public right-of-way.

*(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.09** Permitted Uses and Regulations of Signs in Professional, Neighborhood, and Downtown Business Zoning Districts. (B-1, B-2, and B-4).

1. Permitted Uses:

- A. Commercial on-premise advertising shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. Noncommercial on-premise advertising shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- C. No commercial off-premise advertising signs shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- D. No non-commercial off-premise advertising signs shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

2. Free Standing Signs:

- A. Number of free standing signs:
  - a. One (1) free standing sign per lot. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - b. If a development is located on a corner lot that has at least one hundred fifty (150) feet of frontage on each of the two (2) intersecting public streets, then the development may have not more than one (1) free standing sign along each side of the development bordered by such streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - c. If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (double frontage lot), then the development may have not more than one (1) free standing sign on each side of the development bordered by such streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. Message area shall not exceed thirty-two (32) square feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- C. Height shall not exceed ten (10) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- D. Width shall not exceed eight (8) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*



- E. Front setback shall be a minimum of ten (10) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - F. Side setbacks shall be a minimum of fifteen (15) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - G. Rear setbacks shall be a minimum of twenty-five (25) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
3. Building Mounted Signs:
- A. Wall signs permitted:
    - a. One wall sign per structure in a B-1, Professional District, not to exceed sixteen (16) square feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - b. Two (2) wall signs per structure in B-2 and B-4. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - c. Message area shall be a maximum of fifteen (15) percent of the single wall area not to exceed one hundred (100) square feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. If a development is located on a corner lot that has at least one hundred fifty (150) feet of frontage on each of the two (2) intersecting public streets, then the development may have not more than one (1) building mounted sign along each side of the development bordered by such streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - C. If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (double frontage lot), then the development may have not more than one building mounted sign on each side of the development bordered by such streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - D. Height shall not exceed the top wall line of the building. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - E. Projecting Signs - not permitted, except in the B-4, Downtown Business District.  
The B-4 Downtown Business District shall allow projecting signs as defined below: *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*

1. Street Level Signs Oriented to Pedestrians: *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - a. Street level signs shall be located below the top of the parapet of a single-story building; or located below the second floor of a multi-story building; or, attached to or below a canopy or awning. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - b. Street level signs shall not exceed one (1) square foot of sign for each linear foot of building facade frontage, regardless of the number of building tenants. However, no one sign shall exceed 24 square feet in area. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - c. The bottom of a street level sign that projects from the building shall be a minimum of eight (8) feet above the walkway. The bottom of a street level sign that hangs from a canopy or awning shall be a minimum of seven feet above the walkway. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - d. Street level signs that project on brackets shall be a minimum of eighteen (18) inches inside the curb line. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - e. Street level signs shall not obstruct the view of traffic signs and/or traffic control devices. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - f. Street level signs shall not encroach on or over any public right-of-ways (streets and alleys), except public sidewalks. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. Other Projecting Signs:
  - a. These signs shall be located on multi-story buildings in the area between the top of the parapet and the beltcourse (for purposes of this code, a beltcourse shall be defined as the area of the building facade between the first floor cornice line and the second story window sill line). *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - b. Projecting signs other than street level signs shall not exceed 5

percent of the building facade area to which it is attached. However, in no case shall such signs exceed 45 sq. ft. for two-story buildings or 150 sq. ft. for three or more story buildings. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*

- a. Projecting signs other than street level signs shall be vertically oriented with a height to width ratio of no less than 3 to 2. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
- b. Projecting signs shall be a minimum of eighteen (18) inches inside the curb line. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
- c. Projecting signs shall not obstruct the view of traffic signs and/or traffic control devices. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*
- d. Projecting signs shall not encroach on or over any public right-of-ways (streets and alleys), except public sidewalks. *(Amended by Ord. 2803, Sec. 1, 11/19/02; Amended by Ord. 2583, Sec. 1, 1/21/97)*

F. Roof signs - not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

G. Marquee signs - not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

H. Canopy signs - not permitted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.10 Permitted Uses and Regulations of Signs in Community and Regional Business Districts and Industrial Districts (B-3, B-5, I-1, I-2).**

1. Permitted Uses:

- A. Commercial on-premise advertising shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. Noncommercial on-premise advertising shall be allowed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- C. No commercial off-premise advertising signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- D. No non-commercial off-premise advertising signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- E. Billboards, off-premise or outdoor advertising shall be allowed in the B-5, Regional Business District, I-1 and I-2 Industrial Districts. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

2. On-Premise Free Standing Signs:

A. Number of free standing signs:

- a. One (1) free standing sign per lot when the lot street frontage is less than five hundred (500) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- b. If a development is located on a corner lot that has at least one hundred fifty (150) feet of frontage on each of the two (2) intersecting public streets, then the development may have not more than one (1) free standing sign along each side of the development bordered by such streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- c. If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (double frontage lot), then the development may have not more than one (1) free standing sign on each side of the development bordered by such streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- d. Additional free standing signs per street frontage may be erected when the street frontage exceeds one thousand (1,000) feet. Signs shall be spaced a minimum of five hundred (500) feet apart along all street frontages. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

B. Message Area:

- a. Message area in B-3, Community Business District shall not exceed one-half (1/2) square foot per linear foot of frontage up to two hundred (200) feet of frontage, and shall not exceed two hundred (200) square feet of sign area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- b. Message area in B-5, Regional Business District, I-1 and I-2, Industrial Districts, shall not exceed one (1) square foot per linear foot of lot street footage up to four hundred (400) feet of frontage or four hundred (400) square feet of sign area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- C. Height shall not exceed thirty-five (35) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- D. Width shall not exceed sixteen (16) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - E. Front setback shall be a minimum of ten (10) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - F. Side setback shall be a minimum of fifteen (15) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - G. Rear setback shall be a minimum of twenty-five (25) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
3. Off-Premise Free Standing Signs: Billboards and outdoor advertising signs shall be permitted in B-5, Regional Business District, I-1 and I-2 Industrial Districts. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- A. Off-premise signs (billboards and outdoor advertising signs), under this section shall be spaced a distance of one thousand (1000) feet from any other off-premise sign on the same side of the street or highway. Said distance is to be measured on a line parallel to the street or highway the sign is facing. Back-to-back and v-type signs are considered one structure for spacing purposes. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. Message area shall not exceed four hundred (400) square feet of message area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - C. Such signs shall have a minimum clearance of ten (10) feet above ground level, and the maximum height of each such sign structure shall not exceed thirty-five (35) feet. For these purposes, measurements shall be from the grade level of the adjacent roadbed to the top of the sign, unless the support ground upon which the sign is located is higher than the adjacent roadbed, and then measurements shall be from the support ground to the top of the sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - D. Free standing signs shall not exceed two (2) facings. Width shall not exceed forty (40) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - E. Front setback shall be a minimum of twenty-five (25) feet. An off premise sign shall not be zero lot lined. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - D. Side setback shall be a minimum of fifteen (15) feet. An off premise sign shall not be zero lot lined. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- E. Rear setback shall be a minimum of twenty- five (25) feet. An off premise sign shall not be zero lot lined. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- F. No free standing (off-premise) outdoor sign shall be located within one hundred (100) feet of an A-1, A-2, R-1, R-1B, R-1C, R-2, R-3 or R-4 District, nor shall any lighting on such sign create a glare in any such residential zones. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- G. No free standing (off-premise) outdoor sign shall be located on a lot where an existing on premise free standing sign is located. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

4. Building Mounted Signs:

- A. Building mounted signs: Three (3) per structure.  
*(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. Wall Mounted Signs permitted:
  - a. Message area shall be a maximum of fifteen (15) percent of the single wall area. No single sign area shall exceed three hundred fifty (350) feet. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - b. No sign may extend above any parapet or be placed upon any roof surface except that, for purposes of this Section, roof surfaces constructed at an angle of seventy-five (75) degrees or more from horizontal shall be regarded as wall space. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- C. Projecting, marquee, under the canopy signs:
  - a. Projecting, marquee and under the canopy signs shall be at least ten (10) feet at their lowest levels above the street or ground level. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - b. Projecting, marquee and under the canopy signs shall not project over a public right-of-way nor project by more than five (5) feet beyond the building line. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - c. Surface area of projecting, marquee, and under the canopy signs shall be included within the maximum area for building mounted signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

1. Projecting sign shall not exceed twenty (20) square feet per facing, not to exceed forty (40) total square feet in surface area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. Under the canopy sign shall not exceed ten (10) square feet per facing, not to exceed twenty (20) total square feet in surface area. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- d. Height of projecting, marquee, signs shall not exceed the top of the second story of the structure. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- e. Number of projecting, marquee, under the canopy signs shall not exceed one (1) per structure. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

#### **95.11 Sign Illumination and Sign Containing Lights**

1. Unless otherwise prohibited by this Section, signs may be illuminated if such illumination is in accordance with this section. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. No sign within one hundred fifty (150) feet of a residential zone may be illuminated between the hours of 11 p.m. and 6 a.m., unless the impact of such lighting beyond the boundaries of the lot where it is located is entirely inconsequential. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
3. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
4. Except as herein provided:
  - A. Internally illuminated signs are not permissible in the A-1, A-2, R-1A, R-1B, R-1C, R-2, R-3 and R-4 zoning districts. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. Where permissible, internally illuminated free standing signs may not be illuminated during hours that the business or enterprise advertised by such sign is not open for business or in operation. This subsection shall not apply to the following types of signs. *(Amended by Ord. 2870, Sec.2, 4/19/05; Amended by Ord. 2583, Sec. 1, 1/21/97)*
    - a. Signs that constitute an integral part of a vending machine, telephone booth, device that indicates the time, date, or weather conditions, or similar device whose principal function is not to convey an advertising message.

- b. Signs that do not exceed two (2) square feet in area and that convey the message that a business enterprise is open or closed or that a place of lodging does or does not have a vacancy. *(Amended by Ord. 2870, Sec. 2, 4/19/05; Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 4. Subject to Section 95.11, 7., illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar area are prohibited. *(Amended by Ord. 2870, Sec. 2, 4/19/05; Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 5. Subject to Section 95.11, 4., no sign may contain or be illuminated with flashing or intermittent lights or lights of changing degrees of intensity, except as follows: *(Amended by Ord. 2898, Sec. 1, 2/7/06; Amended by Ord. 2870, Sec. 2, 4/19/05; Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - A. The restoration and operation of historic signs within a local historic conservation district or a district listed in the National Register of Historic Places; and *(Added by Ord. 2870, Sec. 2, 4/19/05)*
  - B. Electronic message board signs located in the B-3, B-5 and I-1 zoning districts, and along certain roadways in the B-2 district as a Use Permitted on Review, upon approval by the Site Plan Review Committee and subject to the following conditions: *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
    - a. The minimum allowable period of time that a complete message may be displayed is one minute; a complete message may contain up to three sequential still frames or displays, or may contain no more than 27 scrolling or traveling characters; the same complete message may scroll or travel across the message board multiple times during the one-minute message time; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
    - b. The minimum allowable message on-time for each sequential frame of a complete message is three seconds; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
    - c. The maximum allowable message off-time is two seconds; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
    - d. The electronic message board display may consist of alphabetic or numeric characters on a plain background and may not include any video, graphic, pictorial or photographic images; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*



- e. No, flashing, blinking or scintillating messages are permitted; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
- f. The use of red lights is prohibited; only amber or white lights are permitted to be used in electronic message board signs; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
- g. Electronic message board signs are permitted to be located on, and shall be considered a portion of, the wall sign or primary freestanding sign; the electronic message board shall be no larger than 40% of the message area of the wall sign or freestanding sign upon which the message board is located; *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
- h. Only one two-sided electronic message board is permitted per lot; and *(Amended by Ord. 2898, Sec. 1, 2/7/06; Added by Ord. 2870, Sec. 2, 4/19/05)*
- i. Applications for electronic message signs in the B-2 district shall be considered for properties along the following roadways: Highway 49; Hardy Street west of Highway 49; Lincoln Road between Broadway Drive and South 28th Avenue; Lincoln Road 100 feet west of South 40th Avenue to Interstate 59; and West 4th Street west of Highway 49. In recommending approval of a Use Permit on Review, the Planning Commission shall consider—in addition to the standards listed under Section 16 of this code—the nature of traffic along the roadway, the character of the business district, the proximity to residential districts, the protection of adjacent residential districts from light trespass; and the ability to comply with size, height and placement requirements for signs in the B-2 district.” *(Added by Ord. 2898, Sec. 1, 2/7/06)*

- 7. Sections 95.11, 5. and 95.11, 6. do not apply to temporary signs erected in connection with the observance of holidays. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

#### **95.12 Miscellaneous Restrictions and Prohibitions:**

- 1. No sign shall be located so that it interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads. On a corner lot in any district, nothing shall be erected or placed in such a manner as to materially impair or block vision between a height of two and one-half (2.5) and ten (10) feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines thirty (30) feet from the point of intersection of the right-of-way. See diagram. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

2. Signs that revolve or are animated or that utilize movement or apparent movement are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - A. Is not a primary design feature of the sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. The restriction of this subsection shall not apply to signs specified in 95.11, 4. or to signs indicating the time, date, or temperature. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. No sign shall be erected so that by its location, color, size, shape, nature, or message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
4. Free standing signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property. The sign shall be designed to be removable at the sign structure base/foundation. The free standing sign shall meet the building code specifications for wind load, design. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
5. Building mounted signs shall be securely fastened to the building structure so that there is no danger that either the sign or the support structure may be moved by the wind or other forces of nature and cause injury to persons or property. These signs shall be designed to be removable. The building mounted signs shall meet the building code specifications for wind load, design. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
6. No sign shall be erected which: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - A. Bears or contains statements, words or pictures of an obscene, pornographic, immoral character, or which contains advertising matter that is untruthful. *(Ord. 2583, Sec. 1, 1/21/97; Ord. 2463, Sec. 4, 9/21/93)*
  - B. Emits audible sound, odor or visible matter. *(Ord. 2463, Sec. 4, 9/21/93)*
7. No sign or advertising material shall be written on or affixed upon any tree, bush, shrubbery, utility pole, traffic sign, fence or street marker. (This includes political posters). *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
8. No sign shall be placed on, in or over any private property without the written consent of the property owner; nor shall any sign be placed on, in, or over any public property,

including public right-of-way, without the written consent of the public authority having jurisdiction over the property. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.13 Maintenance of Signs:**

1. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to free standing signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
2. If a sign, other than an off-premise sign, advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall, within ninety (90) days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
3. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within ninety (90) days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This section shall not be constructed to alter the effect of Section 95.15, 3., which prohibits the replacement of a nonconforming sign. Nor shall this section be construed to prevent the changing of the message of a sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
4. The immediate area around a free standing sign shall be kept clear of all debris and maintained by the landowner, or by the sign owner as agent of the landowner, in an attractive manner so as not to create visual blight. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
5. The Land Code Administrator may cause to be removed any sign if on which the advertising message becomes illegible in whole or in part. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.14 Unlawful Cutting of Trees or Shrubs:**

1. No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- A. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the city or other agency having jurisdiction over the streets. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- B. In any area where such trees or shrubs are required to remain by city code. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

**95.15 Nonconforming Signs:**

- 1. Subject to the remaining restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Article may be continued. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 2. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged/reduced or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Section. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 4. If a nonconforming sign structure is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this chapter, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign is "destroyed" if damaged to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 5. The message of a nonconforming sign may be changed so long as this does not create any new nonconformities. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 6. Subject to the other provisions of this Section, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed within any 12-month period fifty (50) percent of the value (tax value if listed for tax purposes) of such sign. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- 7. If a nonconforming sign remains blank for a continuous period of one hundred eighty (180) days, that billboard shall be deemed abandoned and shall, within ninety (90) days after such abandonment, be altered to comply with this Article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Section, a sign is "blank" if: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

- A. It advertise a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. The advertising message it displays becomes illegible in whole or substantial part. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - C. The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
8. The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered to comply with the provisions of this article or removed within ninety (90) days after the effective date of this Article: *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
- A. Portable signs and temporary signs. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*
  - B. Signs that are in violation of Section 95.15. *(Amended by Ord. 2583, Sec. 1, 1/21/97)*

## SECTION 96

## SITE PLAN REVIEW

**96.01 Purpose of Site Plan Review:** Site Plan Review shall be required, as stated by the provisions of this Code, to ensure compliance with Land Development Code and other ordinances as they apply to large-scale and/or other projects, to expedite procedures necessary for the obtaining of building permits; to provide the developer with one central review of his development proposal; to conserve the time and efforts of City employees in various departments; and to provide for a speedy processing of applications for building permits on large scale and other projects. A Site Plan Review fee shall be charged in accordance with the adopted fee schedule.

**96.02 Site Plan Review Required:** A site plan review shall be required for the following:

1. All development or re-development except owner/occupied single-family lots, which have already been approved by the Planning Commission and those determined by the Building Official to be un-applicable, and shall include, but not be limited to, the following:
  - a. Any subdivision, re-subdivision, or re-platting of land subject to the requirements of Article 6, Land Subdivision.
  - b. Any residential, business or industrial development having structures in excess of three (3) stories.
  - c. Any change in occupancy type.
  - d. Any hazardous development and/or use within the I-2, Heavy Industrial District.
  - e. Planned Unit Development or Planned Residential Development Districts.
  - f. Other special cases and projects that may be brought to the Committee's attention by the Mayor, City Council, Department Director or the Land Development Code Administrator.
  - g. Manufactured Home Parks.
  - h. Any open parking area to be constructed or enlarged.
  - i. Any residential, business or industrial development under the Historic Conservation Code.
  - j. Any structure regulated by Section 81, Height.  
(Sec. 96.02 Amended by Ord. 2977, Sec. 6, 1/22/08)

---

*\* Cross Reference - Chapter 2 of the Code of Ordinances for schedule of associated fees*

**96.03** Contents: The site development plan required to be submitted under Section 96.02 above and the requirement of these Land Development Code regulations shall include the following elements:

1. Statement of ownership and control of the proposed development.
2. Statement describing in detail the character and intended use of the development.
3. A dimensioned site plan based on exact survey and or properly recorded plat(s) of the property drawn to scale of sufficient size to show:
  - A. Exact location of all buildings and structures.
  - B. All means of ingress and egress.
  - C. All screens and buffers.
  - D. Off-street parking and loading areas.
  - E. Refuse collection areas.
  - F. Access to utilities and points of utilities hookup.
  - G. Natural features such as streams, lakes or other topographic features.
  - H. Grading plan.
4. Storm drainage and sanitary sewer plans.
5. Architectural definitions for buildings in the development; location, size and types.
6. Plans for recreation facilities, if any, including buildings for such use.
7. Such additional data, maps, plans, or statements as may be required for the particular use or activity involved.
8. Such additional data as the applicant may believe is pertinent to the site development plan.
9. Design professional certification stating that the site development plan is in compliance with all applicable city ordinances except as noted, and standard acceptable practice.

10. Items 3, 4, 5, and 9 above shall be prepared by a registered surveyor, engineer, or architect as may be appropriate to the particular item.

**96.04 Conditions and General Considerations on Issuance of Site Plan Approval:** The site plan submitted for such development as defined in this Section shall provide that the proposed lot sizes, lot coverage, density, setback provisions, key map showing entire project and its relation to surrounding areas, roads, and water courses, and other factors are in conformity with the requirements of this Section and other applicable ordinances and laws. In addition to such general considerations, said plan shall be approved only after a consideration of the following factors:

1. Ingress and egress to the property and proposed structure thereon, with particular reference to automotive and pedestrian safety, traffic flow and control, provision of services and servicing for utilities, and access in case of fire or catastrophe. Discourage the routing of vehicular traffic to and through minor residential streets.
2. Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent properties and the consequence of such drainage on overall city capacities in accordance with a current storm drainage management study. Proposed development should provide for proper surface drainage so that removal of surface waters will not adversely affect neighboring properties or public storm drainage systems and will, so far as practical, conserve the water resources of the area and avoid flooding, erosion, and detrimental depositing of sediments of any kind. No water shall be impounded on roofs, canopies, or paved areas. Surface water shall be disposed of in a manner consistent with sound engineering and ecological practices. The drainage system will be designed so that, except in unusual circumstances, the rate of runoff of surface water from the site in the condition in which it is proposed to be developed will not exceed the rate of runoff from the site in its undeveloped or existing condition.
3. Conditions on ownership, control and use generally, and conditions on ownership, control, use, and maintenance of open space or common lands to insure preservation of such lands for their intended purposes.
4. All utility connections shall be indicated and shall be in conformity with the standards and requirements for connection to utility companies proposed to serve the property whether said utility companies are public or private.
5. Off-street parking and loading areas, with attention to automotive and pedestrian safety, traffic flow and control, access in case of fire and catastrophe, and screening and landscaping.
6. Recreation and open spaces, with attention to the location, size, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties, and relationship to community wide open spaces and recreation facilities.



7. Density and/or purpose of the development, with attention to its relationship to adjacent and nearby properties. Result in minimal degradation of unique or unreplaceable land types.
8. General site arrangement, amenities, and convenience, with particular reference to insuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be so at variance with other development in the area as to cause a substantial negative impact on such property values.
  - A. Disposal of Waste:  
Adequate provision for the disposal of all solid, liquid and gaseous wastes and for the avoidance of odor and other air pollutants that may be generated at the site. All applicable pollution control standards shall be observed.
  - B. Noise:  
All applicable regulations dealing with control of outside noise expected to be generated at the site shall be complied with.
9. All setbacks, parking areas and accessory structures shall be so landscaped, located and constructed so as not to interfere with the use of the surrounding property. Outside storage areas, service, and machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings, or other screening methods as shall reasonably be required to prevent any adverse effect upon the environment or nearby property.

**96.05 Procedure:** A preliminary site plan, as provided in Section 96.03, shall be filed with the Land Development Code Administrator whose duty it shall be to submit the plan to the Site Plan Review Committee.

1. Compliance: The Site Plan Review Committee shall certify to the Land Development Code Administrator that said site plan does or does not comply with all ordinances of Hattiesburg, Mississippi. If the site plan does comply and there is no rezoning or other consideration pending, the Land Development Code Administrator shall forward the approved site plan to the Planning Commission for approval, and so notify the Applicant in writing. If a rezoning application is pending, he shall forward such approved site plan to the Planning Commission and the appropriate City departments as applicable along with a written statement that such action is pending, and so notify the applicant in writing. If the site plan does not comply, the Site Plan Review Committee shall so specify in what respects it does not comply in writing to the applicant and to the Land Development Code Administrator, who shall then require correction and compliance before further processing.

2. Time Period for Review: In all cases, the Site Plan Review Committee shall have up to or a maximum of thirty (30) days from the date of filing to review and recommend either approval, approval with specific conditions, or disapproval of any site plan.
3. Action of the Committee Binding: Subject to approval by the Planning Commission and the City Council, action of the Site Plan Review Committee shall be binding on all City Departments as far as site plan approval for obtaining building permit is concerned. Upon expiration of the thirty (30) day period and failure of the Committee to act, the Planning Director shall immediately forward the application to the Planning Commission for resolution.
4. Should the site development plan be approved and no action taken by the developer, this approval shall be valid for three (3) years from the time of approval, subject to the Land Development Code Administrator's annual review.

## **SECTION 97            UTILITIES**

**97.01** Provisions of this Section shall govern the location and size of utilities which are structural in nature. Underground utilities are exempt from these regulations. Examples of utilities covered by these regulations are electric or gas substations, telephone exchange structures, water wells, water towers, meters, but not including utility poles or transformers, street lights, or traffic signals.

1.     Utilities less than six (6) feet in height and/or less than thirty (30) square feet in size shall not be regulated.
2.     Utilities greater than six (6) feet in height and greater than thirty-one (31) square feet in size shall be required to meet the setback requirements of the district which shall include a minimum buffer of ten (10) feet from all adjacent property lines. See Section 78, Buffer Strip Regulations.

## **SECTION 98 WIRELESS TELECOMMUNICATION SERVICE TOWERS, RELATED EQUIPMENT AND OTHER TOWERS**

**98.01 Purpose and Intent:** The purpose of this ordinance amendment is to establish guidelines to address the rapid expansion of the wireless telecommunications industry, other commercial and non-commercial Towers, and related facilities with reasonable and nondiscriminatory policies that will not discourage growth and competition for the industry, will enhance the ability of the industry to provide services quickly, effectively and efficiently, while at the same time protect public health, safety and welfare. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

To that extent, the goal of this ordinance is to facilitate the reasonable needs of Wireless Telecommunications Service providers and Tower owners and to minimize potential adverse impact of such facilities on the community, aesthetic or otherwise, by: *(Added by Ord. 2805, Sec. 1, 12/3/02)*

1. Minimizing the total number of Towers throughout the city and immediate surrounding area. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
2. Promoting joint use of existing and new Towers for placement of Antennas by multiple providers and by encouraging multiple providers to place Antennas in or on other existing structures. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. Encouraging placement of Towers and Antennas on city property, non-residential and other properties where adverse impact would be minimal. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. Protecting residential areas and other appropriate land uses from the potential adverse impact of Towers and Antennas, both aesthetic and otherwise. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
5. Encouraging users of Towers and Antennas to place and configure them in such a way that minimizes visual impact, effects from lighting, design and signs. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
6. Avoiding potential damage to adjacent properties from Tower failure, through engineering design and siting with adequate setback from adjacent properties and safety review prior to installation. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
7. Provide the minimum regulation of Amateur Radio Antennas to insure the health, safety and welfare of adjoining landowners. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

### **98.02 Definitions:**

1. Antenna: Any structure, device or apparatus used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional Antennas, such

as panel Antennas, microwave dishes, space satellite receiving systems, parabolic or panel Antennas, and omni-directional Antennas, such as whip Antennas and other similar transmitting or receiving equipment intended for personal and/or commercial use. Antenna does not include the Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

2. City Property: Any and all property owned, leased, acquired, controlled, conveyed to, forfeited to, or purchased by the City of Hattiesburg, Mississippi. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. Cellular on Wheels (COWs): A self-contained, fully functional, portable Wireless Telecommunications Service site; a mobile Wireless Telecommunications Service Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. FAA: Federal Aviation Administration. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
5. FCC: Federal Communications Commission. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
6. Governing Authority: Governing Authority shall mean the Mayor and City Council for the City of Hattiesburg. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
7. Height: The vertical distance measured from the base of the Tower to the highest point on a structure or an antenna support structure including the base pad and any Antenna of an antenna support structure. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
8. Person: Any natural person, a partnership of two (2) or more persons having a joint or common interest, corporation, partnership, limited partnership, limited liability company, or other entity or form of entity, including an association of persons or entities. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
9. Public or Private Utility: Any person, firm, corporation, municipal department, commission, agency 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. For the purpose of this ordinance, Wireless Telecommunication Services shall not be considered public and/or private utility uses and are defined separately. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
10. Satellite Dish: An inclusive term meaning any Antenna designed to receive direct broadcast satellite service, including direct-to-home satellite services or video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instruction television fixed services, local multipoint distribution services or television broadcast signals, via direct or orbital satellite signals. The term shall also include any parabolic Antenna in the form of a dish and which is used to transmit or receive radio or T.V. signals, microwave signals, voice or video signals of

whatever form, or other forms of electromagnetic signals. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

11. Tower: Any ground or roof mounted pole, spire, mast, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an Antenna, meteorological device, or similar apparatus above grade, including but not limited to *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
  - A. Monopole Antenna Structure – self supporting, single pole structure with no guy wire support, tapering from the base to the top and so designed to support fixtures, which hold one or more Antennas and related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - B. Lattice Antenna Structure – a self-supporting, open steel (or other suitable material) frame lattice structure so designed to support fixtures holding one or more Antennas and related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - C. Guyed Antenna Structure – a guyed structure so designed to support fixtures, which hold one or more Antennas and related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

Towers may be designed for various uses including commercial, non-commercial (e.g., amateur radio or “Ham” operators) and public safety uses. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

12. Wireless Telecommunication Service (WTS): Any wireless telecommunication service defined in the Telecommunications Act of 1996 or other FCC licensed or non-licensed commercial Wireless Telecommunication Services, which may include, but are not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may be developed in the future. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
13. Wireless Telecommunication Facility (WTF): Any unstaffed facility built and used for transmission or reception of wireless telecommunications services, usually consisting of a Tower, Antennas, connection cables, equipment structures or facilities and any required security and/or privacy fencing, lighting, signs and landscaping. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

### **98.03 Applicability:**

1. Height Limitations: The requirements set forth in this ordinance shall govern the location of Towers, Antennas, and associated accessories which, when installed, will exceed twenty-one (21) feet in height above existing grade or if installed on an existing structure, exceeding twenty-one (21) feet in height above the structure. The height

limitations applicable to buildings and non-tower structures shall not apply to Towers, Antennas and associated accessories. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

2. Legal, Non-Conforming (Grandfathered ) Towers and Antennas: Any Tower or Antenna existing on the effective date of this ordinance to which this ordinance applies shall not be required to bring such equipment into compliance, except that it shall be mandatory for the owner of the Tower to register same with the Department of Urban Development within three months of the adoption of this ordinance. Failure to register the Tower during the three month period shall preclude its protection under the legal, non-conforming provision. The legal, non-conforming status will only apply as follows *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
  - A. The existing Tower as it is configured with existing Antennas, cables and accessories as of the date of adoption of this ordinance amendment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - B. Any alterations or changes made to a legal, non-conforming Tower, will require permitting as later defined in this ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - C. Exact replacement of a damaged or inoperable accessory and/or Antenna under normal maintenance will not require permitting. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - D. Legal, non-conforming Towers shall be subject to inspections required by either the City Inspection Department or the City Engineering Department to insure the integrity of the Tower and its condition relative to the safety and general welfare of the public. These inspections may be scheduled, or at the discretion of those Departments when deemed necessary. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. Amendments: Should any provision of this Ordinance be in conflict with any federal or state law, rule or regulation, this Ordinance shall be considered amended to comply with the law, rule or regulation. The invalidity of any provision shall not affect other provisions which shall remain in full force and effect. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. Violations: Any violation of any part of this ordinance shall constitute a misdemeanor. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

#### **98.04 Construction Permit Application and Fees.**

1. Construction Permit: It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or erect, replace, or modify any Tower or any Antenna to which this ordinance applies without first making application to the Department of Urban

Development and securing a construction permit therefore as provided herein. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

2. Commercial Construction Permit Fees: A non-refundable application fee shall accompany a commercial application at the initial rate of \$1500 per WTS or other commercial Tower and/or \$500 per WTS or other commercial Antenna. Such fee shall be reviewed and adjusted from time to time. In the course of its consideration of an application, the Department of Urban Development may deem it necessary, in complex situations, to employ an engineer or other consultant(s) qualified in the design and installation of Wireless Telecommunication Facilities or commercial Tower design to assist the City in the technical aspects of the application. In such cases, any reasonable costs incurred by the City for the technical review, not to exceed two thousand dollars (\$2,000), shall be reimbursed to the City by the applicant prior to final approval. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. Construction Permit Application: Each application shall contain the following information as well as additional information that the Department of Urban Development may require from time to time *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
  - A. The name, address and telephone number of the person requesting the permit. The person named shall be a primary contact who has authority to act on behalf of the person or entity requesting the construction permit. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - B. A scaled site plan, elevation view and other supporting drawings and design data showing the proposed location and specifications of the Tower, Antenna or both, as well as equipment housing, landscaping, lighting, parking, access and fencing. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - C. The location of all other Towers and Antennas owned by the applicant inside the City and within one (1) mile of the City limits. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - D. Each application shall state whether the Tower or Antenna is a permitted use (*i.e.* on City Property) or a Use Permit Upon Review. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - E. A report from a qualified and licensed professional engineer that provides the following:
    1. Engineer's statement that no existing Tower, structure, or alternate technology is available within the applicant's search area for the installation of a proposed Antenna or Tower that will meet the needs of the user or WTS provider *(Added by Ord. 2805, Sec. 1, 12/3/02)*;



2. The Tower and/or Antenna height and design, including a cross section and elevation *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  3. The height above grade for all potential mounting positions for co-located Antennas and the minimum separation distances between Antennas *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  4. The Tower's capacity, including the number and type of Antennas *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  5. A statement of non-interference with established public safety telecommunications structures *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  6. Engineer's stamp and registration number licensed in the State of Mississippi *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  7. The estimated cost of the Tower, Antenna and other related equipment; and *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  8. Estimated costs for removal of the Tower or Antenna should it become abandoned or unused. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- F. The applicant shall post a bond with the City sufficient to cover the estimated cost of the removal in the event the applicant becomes insolvent or otherwise fails to remove the Tower. Such bond shall be for a term co-extensive with the existence of the Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- G. The applicant shall provide proof of liability insurance for a minimum of \$1,000,000 naming the City of Hattiesburg as additional insured See Section 98.06 (11). *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- H. Owners of all commercial Towers, including but not limited to those for Wireless Telecommunications Service, shall file a letter of intent committing the Tower owner and all successors to allow the shared use of the Tower provided the additional user agrees in writing to meet reasonable terms and conditions for shared use. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- I. Written authorization from the site owner for the application. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- J. Before the issuance of a permit for the construction of a Tower the following supplemental information shall be submitted *(Added by Ord. 2805, Sec. 1, 12/3/02);*

1. A Use Permit Upon Review (if applicable) approved by the governing body *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
  2. Site Plan approved by the Site Plan Review Committee *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
  3. Copy of the appropriate FAA or FCC license or pending application for approval of the Tower or Antenna, if applicable *(Added by Ord. 2805, Sec. 1, 12/3/02)*;
  4. Proof that the proposed Tower complies with regulations administered by the FAA and FCC or that it is exempt from those requirements; and *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  5. A report from a licensed professional engineer, registered in the State of Mississippi, which demonstrates the Tower's compliance with all applicable codes and ordinances. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- K. A copy of all information submitted to the Mississippi Department of Archives and History for Section 106 review purposes under the National Preservation Act and 36 CFR Part 800 along with a copy of the letter or certificate clearing the Tower, by the Mississippi Department of Archives and History. No permit shall be issued until the clearance letter is issued by the Mississippi Department of Archives and History and received by the Department of Urban Development. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- L. If an Environmental Assessment (EA) is required as a result of FCC action granting applicant's Application for Antenna Structure Registration pursuant to the National Environmental Policy Act (NEPA), the applicant must provide a copy of the EA with the application. No permit shall be issued until the EA has been submitted to the Department of Urban Development along with the findings of the FCC regarding the EA. Specifically, the applicant must advise the board whether the FCC has issued a finding of no significant impact (FONSI) or has required the preparation of an environmental impact statement (EIS). *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- M. Any additional information that the Planning Commission and/or City Council may from time to time require or may request after the initial application is filed that will assist it in evaluating the application or Use Permit Upon Review. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. Processing.
- A. Each construction permit application shall be processed within a reasonable period of time after the application has been filed. A permit or denial of permit

shall be issued not later than one hundred twenty (120) days after the date on which the permit application was made. If a Use Permit Upon Review is required for issuance of the construction permit, then the time period shall not begin to run until application has been made for the Use Permit Upon Review. The Governing Authority may extend the time period for granting or denial of a permit beyond the allowed time in increments not to exceed thirty (30) days if the Governing Authority finds that, due to the nature and scope of the application, additional time is required. The reasons for the additional time shall be provided to the applicant in writing. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- B. If the request for a construction permit is denied then the denial shall be provided to the applicant in writing within ten (10) days of denial. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

#### **98.05 Zoning District Regulations.**

- 1. Permitted Uses: General. The uses listed herein are permitted uses and shall not require a use permit upon review. Notwithstanding the foregoing, all such uses shall comply with all applicable local, state, and federal codes, ordinances and regulations. Prior to the installation of any Antenna or Tower covered by this ordinance the owner of such Antenna or Tower shall make written application as required in Section 98.04 of this ordinance amendment and include all information required therein. If the use requires a Use Permit Upon Review then the applicant shall also comply with the application for such permit and other requirements set forth in Section 16 and 42 of the Land Development Code Ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)* Permitted Uses are as follows:

- A. The placement of a Tower or Antenna, including other supporting equipment, on City Property that is zoned commercial or industrial; provided however, that the Tower shall be set back the height of the Tower on all sides from the Tower site's property lines and from any public right-of-ways, up to a maximum Tower height of 150 feet *(Added by Ord. 2805, Sec. 1, 12/3/02);*
- B. Installation of an Antenna on an existing structure other than a Tower (such as a building, light pole, water Tower, or other free-standing nonresidential structure) that is fifty (50) feet in height or greater, provided that the additional Antenna adds no more than twenty-one (21) feet to the height of the existing structure *(Added by Ord. 2805, Sec. 1, 12/3/02);*
- C. Installation of an Antenna on any existing Tower of any height, so long as the addition of said Antenna extends no more than twenty-one (21) feet above the height of the existing Tower or structure and the existing Tower is not a legal, non-conforming (grandfathered) Tower *(Added by Ord. 2805, Sec. 1, 12/3/02);*

D. An Antenna that is attached to a C.O.W. (Cellular on Wheels) may be located on property on which a Tower is a permitted use or on which a Use Permit Upon Review has been granted *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

2. Uses Permitted Upon Review by the Planning Commission. General - In addition to other applicable provisions of the Land Development Code Ordinance, the following provisions shall also govern the issuance of a Use Permit Upon Review for Towers *(Added by Ord. 2805, Sec. 1, 12/3/02)*:

A. If the Tower is not a permitted use under this ordinance, then a use permit upon review shall be required for the construction of a Tower in all zoning districts. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

B. In granting a use permit upon review, the Governing Authority may impose stipulations to buffer or otherwise minimize any adverse effect of the proposed Tower on adjoining properties or that such conditions are in the best interest of the community. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

C. If a Use Permit Upon Review is required the applicant shall provide the following additional information in addition to that required for the Construction Permit *(Added by Ord. 2805, Sec. 1, 12/3/02)*:

1. If the applicant is not a WTS provider holding a FCC license to provide such WTS then the applicant shall provide a binding letter of intent or contract with a licensed WTS provider to locate on the proposed Tower if the use will be for WTS. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

2. If the Tower will be used for WTS then an explanation of the gap in service, call volume problems or other problems the Tower and Antenna is intended to address and specific areas where mobile users are unable to access the national telephone network either through the applicant or another WTS provider which this proposed site will address. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

3. Parameters for the WTS search ring and the design criteria for the entire area including the City of Hattiesburg. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

D. Factors Considered in Granting a Use Permit Upon Review. The applicant must provide information in the application for a use permit upon review showing the following *(Added by Ord. 2805, Sec. 1, 12/3/02)*:

1. the proposed use will not harm the stability, integrity and character of a residential neighborhood *(Added by Ord. 2805, Sec. 1, 12/3/02)*;

2. the proposed use will not harm the stability of the business community *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  3. the proposed use will not harm the quality of life, neighborhood identity or community pride *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  4. the proposed use will conserve and protect the physical infrastructure of the City and will not cause traffic hazards or congestion, increase fire hazards or otherwise affect the general welfare of the City *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  5. the proposed use will further the public good rather than harm it in preference to the private interest of an individual; and. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  6. the proposed use will not conflict with the Comprehensive Plan. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- E. In addition to those items in paragraph 2, the Governing Authority also may consider the following additional factors, including but not limited to, the following *(Added by Ord. 2805, Sec. 1, 12/3/02):*
1. Height of the proposed Tower or Antenna *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  2. Proximity of the Tower to residential structures and residentially-zoned district boundaries *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  3. Technical or engineering requirements limiting placement of the Tower or Antenna in other areas to allow the provision of the coverage desired by WTS provider *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  4. Nature of uses on adjacent and nearby properties *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  5. Surrounding topography, tree coverage and foliage *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  6. Design of the Tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual intrusiveness *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  7. Availability of suitable existing Towers and other structures *(Added by Ord. 2805, Sec. 1, 12/3/02);*

8. Any other factors, issues or concerns identified as relevant by the Governing Authority. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
3. The Governing Authority shall determine whether the Telecommunications Act of 1996 applies and, if so, whether a denial of the application would prohibit or have the effect of prohibiting the provision of Wireless Telecommunications Services in the area of the proposed Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
4. A denial of the permitted use upon review shall be provided to the applicant in writing not less than ten (10) days following a hearing. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

**98.06 Tower; Performance Standards and Other Requirements**

1. Co-Location Requirements with Existing Towers or Other Structures. All commercial or public Towers erected, constructed, or located within the City shall comply with the following requirements *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
  - A. Any proposed Tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's Antennas and comparable Antennas for at least two additional users if the Tower is over 100 feet in height or for at least one additional user if the Tower is over 50 feet in height and less than 100 feet. Towers must be designed to allow for future rearrangement of Antennas upon the Tower and to accept Antennas mounted at varying heights. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - B. No new Tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Governing Authority that no existing Tower or other structure can accommodate the applicant's proposed Antenna within a one mile search radius (one half mile for Towers under 120 feet in height, one quarter mile for Towers under 80 feet in height) of the proposed Tower. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - C. If the Tower is to be located on City Property a waiver of this requirement may be obtained from the Governing Authority. Evidence submitted to demonstrate that no existing Tower or structure can accommodate the applicant's proposed Antenna may consist of any of the following *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
    1. Existing Towers or structures are located within the search area but not meet the applicant's engineering requirements. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
    2. Existing Towers or structures are not of sufficient height to meet applicant's engineering requirements. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

3. Existing Towers or structures do not have sufficient structural capacity to support applicant's proposed Antenna and related equipment and the existing or approved Tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  4. The applicant's proposed Antenna would cause electromagnetic interference with the Antenna on the existing Towers or structures, or the Antenna on the existing Towers or structures would cause interference with the applicant's proposed Antenna. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  5. The fees or costs required to share an existing Tower or structure or to adapt an existing Tower or structure for sharing are unreasonable. Costs exceeding new Tower construction are presumed unreasonable. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  6. Property owners or owners of existing Towers or structures are unwilling to accommodate reasonably the applicant's needs. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  7. The applicant demonstrates that there are other limiting factors that render existing Towers and structures unsuitable. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- D. Any evidence submitted to the Governing Authority in order to meet the requirements of paragraph (c) shall be documented by a qualified and licensed professional engineer. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
2. Tower and Antenna Construction and Design Requirements.
- A. All Tower construction within the City of Hattiesburg, shall comply with the requirements set forth in all applicable current federal, state and city codes. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - B. A ten foot (10') landscaped buffer strip and a fence with a minimum height of six feet (6') shall be required around all commercial Tower sites. See Section 78, Buffer Strip Regulations for landscape requirements. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - C. Towers and Antennas may be designed to blend into the surrounding environment, to the extent possible, through the use of color and camouflaging architectural treatment, unless the FAA or other federal or state authorities require

otherwise or that the goal of co-location would be better served by an alternate design. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- D. Towers shall be of a monopole design or lattice Antenna structure unless the Governing Authority determines that an alternative design would better blend in to the surrounding environment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- E. The City may require additional design criteria depending upon the environment and the zoning district in which the Tower is located. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

3. Tower Setbacks.

- A. The Tower shall be set back the height of the Tower on all sides from the Tower site's property lines and from any public right-of-ways. The set back shall be measured from property line to any area occupied by the primary structure. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- B. Structures will be set back from abutting parcels or streets sufficient to *(Added by Ord. 2805, Sec. 1, 12/3/02):*
  - 1. Contain on site, all ice fall or debris from Tower failure *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  - 2. Protect the general public from RFI emissions in excess of that allowed by the FCC *(Added by Ord. 2805, Sec. 1, 12/3/02);*
  - 3. Preserve the privacy of adjoining property. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- C. If a Tower is placed on an existing structure (i.e. water tank, building) the height of the existing structure will not be included as part of the Tower height. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

4. Tower Lighting and Sound.

- A. Towers shall not be illuminated through the use of artificial lights such as strobe lights or other lighting devices unless specifically required by the FAA or other state and federal government agencies. Light fixtures may be attached if it is part of the design incorporated into the Tower structure to be used for the illumination of athletic fields, parking lots, streets or other similar areas. Lighting of the accessory buildings for security purposes is permissible but may not result in unnecessary glare on adjacent properties. *(Added by Ord. 2805, Sec. 1, 12/3/02)*



- B. No unusual sound emissions such as alarms, bells or buzzers are permitted, except for public warning systems. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
5. Signs and Advertising: Towers shall not display signs or advertisements for commercial or non-commercial purposes, unless such signs are for the purpose of providing warning or specific equipment information. A sign will be required with 2 inch lettering providing emergency contact information, height of Tower, latitude and longitude of the Tower base and Tower height above sea level. The Tower information sign and its location shall be reviewed by the Department of Urban Development before installation. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
6. Accessory Utility Buildings and Screening: All utility buildings and structures for a Wireless Telecommunication Facility or Tower shall be designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. The governing authority may require additional screening or otherwise require design modifications to insure that the attractiveness and the aesthetic quality of the area is not adversely impacted. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
7. Abandoned or Unused Towers: All abandoned, unused or obsolete Towers and accompanying accessory equipment shall be removed by the Tower and/or Antenna owner within 12 months of cessation of use. In the event that a Tower and its associated equipment are not removed within this time period, the Tower and associated equipment may be removed by the City and the cost of removal assessed against the property. The City may grant an exception to this requirement if the Tower owner proves the Tower is being actively marketed with the purpose of returning it to use. In no event may time be extended beyond six (6) months. Certain bond requirements as set forth in Section 98.06 (11) shall be met. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
8. Proof of Non-Interference: Each permit application for construction of a Tower or Antenna shall include either a preliminary or a certified statement that the construction of the Tower or Antenna, including reception and transmission functions, will not interfere with radio, television and public safety communications devices or other wireless communication services enjoyed by adjacent residential and nonresidential properties. In the event only a preliminary statement is submitted with the application a final statement of non-interference certified by a licensed engineer registered in the State of Mississippi shall be provided prior to issuance of a construction permit. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
9. Radio Frequency Emissions: Each application must show that any Antenna placed on the Tower meets state and federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new or more restrictive standards are adopted

by federal or state regulations then the Antenna shall be made to comply. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

10. Spacing: Tower locations may not be closer than one-quarter (1/4) of a mile, except on City Property. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
11. Indemnity; Claim Resolution: The owner of the Tower and all Wireless Telecommunications Service providers must show by certificate from a licensed, professional engineer registered in the State of Mississippi that the proposed facility will contain only equipment meeting FCC rules, and must file with the Department of Urban Development a written indemnification of the City of Hattiesburg and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life, at no cost to the City, in form approved by the City's attorney. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
12. Private/Personal, Non-Commercial: Transmitting or Receive Only Antennas: This ordinance shall not limit the height of private/personal, non-commercial Towers (e.g., Amateur Radio Towers). Towers subject to this ordinance (Section 98.03) are, however, subject to referenced engineering standards, FCC requirements relative to Non-Ionizing Electromagnetic Radiation limits (NIER), as well as all local rules and regulations as specified below. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - A. A building permit issued by the Department of Urban Development shall be required to construct all new Towers. The building permit application shall include *(Added by Ord. 2805, Sec. 1, 12/3/02):*
    1. A permit fee of Fifteen dollars (\$15.00) . *(Added by Ord. 2805, Sec. 1, 12/3/02)*
    2. A copy of the Tower owner's FCC amateur station license, if applicable. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
    3. Provide manufacturer's specifications, when available, showing the tower to be designed and engineered such that the Tower (with all its Antennas, accessories and cables), when installed, meets the National Standard ANSI/EIA/TIA-222E and all applicable wind standards. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
    4. Proof of insurance coverage for any physical damage incurred to adjacent properties from the Tower and/or related equipment. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
    5. For a Tower that will exceed one-hundred feet (100') in Height, a description of the height of the Tower and a description along with a diagram showing the location of all buildings, structures, roads, sidewalks,

streets, and other dwellings in which people may live that would be within a straight line fall radius of the Tower if it were to fall in a straight line in any direction. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- B. A self supporting Tower that does not utilize down guys shall be set back five (5) feet from the side yard and rear yard property lines. The Tower may not be erected in the front yard of any property. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - C. In the case of a retractable crank up/crank down Tower when its in the lowest or cranked down position, the setback shall be no closer than a minimum of five (5) feet from the side yard and rear yard property lines. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - D. Tower height in the case of private/personal, non-commercial Towers shall be considered to be the height of the highest accessory mounted on or attached to the Tower regardless of the Tower type (self supported, guyed or retractable) or the height of the Tower, whichever is highest. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
  - E. Private/personal, non-commercial Towers shall be subject to inspections by either the City Inspection Department or the City Engineering Department to insure the integrity of the Tower and its condition relative to the safety and general welfare of the public. These inspections may be scheduled, or at the discretion of those Departments when deemed necessary. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
13. Application to Satellite Dishes: This ordinance shall apply to all Satellite Dishes and other similar forms of Antennas located within the City of Hattiesburg, except that the following shall be exempt from the requirements of this ordinance *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
- A. Any antenna or satellite dish described below that is mounted at a height no greater than twelve (12) feet above grade (this measurement includes both the height of the mast or tower to which the antenna is attached as well as the height of the structure upon which it is mounted, such as a house, if applicable) *(Added by Ord. 2805, Sec. 1, 12/3/02)*:
    - 1. that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or . *(Added by Ord. 2805, Sec. 1, 12/3/02)*
    - 2. that is designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

- B. An antenna that is designed to receive television broadcast signals that is mounted at a height no greater than twelve (12) feet. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- C. Any Antenna or Satellite Dish of a parabolic nature with a diameter of greater than one foot but less than six feet, that is mounted at a height less than twelve (12) feet above average existing grade and located in the rear yard of the residential or business zoned parcel. The measurement twelve (12) feet shall include the combination of the Antenna as well as its mounting structure when attached together and mounted. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- D. The City of Hattiesburg expressly finds that in order to protect the safety and welfare of its citizens, to protect adjacent property owners from damage by excessively tall, bulky or heavy antennas mounted on insufficiently designed or constructed towers or mast and to insure the aesthetic value of the City is protected that it is necessary to regulate antennas that exceed the requirements of paragraph (a) by application of the provisions of this ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- E. Any antenna or satellite dish that does not fall within the exceptions set forth in (a) above shall be subject to applicable regulations contained in this ordinance. *(Added by Ord. 2805, Sec. 1, 12/3/02)*
- F. Notwithstanding the exemptions in paragraph (a), all satellite dishes shall be installed in the rear of all residential or commercial buildings to the extent possible unless such requirement will impose additional unreasonable expense or delay or preclude reception of an acceptable quality signal. A written statement from the installer or technician outlining that installation in the rear yard will impose additional unreasonable expense or delay or preclude reception of an acceptable quality signal shall be sufficient for an exception to this requirement. *(Added by Ord. 2805, Sec. 1, 12/3/02)*

**SECTION 99            RESERVED**

**SECTION 100        RESERVED**

# **ARTICLE 6**

## **LAND SUBDIVISION**

## **SECTION 101            GENERAL DESCRIPTION:**

**101.01**    The subdivision of land is an important part of the community development process because the welfare of the entire community is affected in many important respects by the subdivision and subsequent development of its lands.

The advantages afforded by the regulation of land development accrue to the citizens of the community, to the home owner and/or other occupants of premises, to the landowner, to the developer, and to the investor.

The regulation of the subdivision of property is intended to, and should be administered in a manner that will implement the Comprehensive Plan; harmoniously relate development of various tracts of land with overall community needs; establish minimum criteria and standards to which improvements shall be installed and/or constructed; and provide a means for the orderly recordation of the subdivided parcels as well as the location and salient features of improvements thereto.

The regulations and standards for the subdivision of lands as provided herein are proposed as a means of assuring the development of the City of Hattiesburg to standards commensurate with the wishes of its citizens based on the reasonable long term cost for the development.

## **SECTION 102        LAND SUBDIVISION PROCEDURE**

**102.01**        Any person or persons, firm, corporation, or other proprietor owning or having interest in a tract or parcel of land located within the corporate limits of this municipality who may desire to plat, subdivide, and/or develop said tract or parcel of land shall signify intent to do so by contacting the Department of Planning and Community Development and identifying the tract or parcel involved and the general purpose for which the land is to be platted or subdivided. When the following steps are taken, it should save time and money for the developer and the City and provide for the expeditious processing of the plat.

### **1.        Step One - Pre-application Conference**

The purpose of the "Pre-application Conference" is to afford the subdivider an opportunity to confer with appropriate city officials on proposed plans in advance of preparing and filing the preliminary plat. This "conference" is made available to inform the subdivider of the nature and extent of municipal requirements thereby possibly saving him considerable time and expense.

The subdivider should prepare a simple preliminary plan in sketch form (to approximate scale) to provide general information concerning location, lot size, street patterns and relation to existing community facilities to be presented at the Pre-application Conference.

After understandings have been reached during the Pre-application Conference, the Subdivider is ready for the next step.

### **2.        Step Two - Preliminary Plat**

The subdivider shall prepare and submit a preliminary plat for review by the Planning Commission and the Site Plan Review Committee. The Planning Commission and the Governing Authority will approve the preliminary plat.

The preliminary plat shall show the essential information as provided herein together with such supplementary data as may be required to show the character and extent of the proposed subdivision development. Sufficient copies of the preliminary plat and other information shall be supplied as necessary to expedite its processing for proper review.

### **3.        Step Three - Construction Plans and Specifications**

Following approval of the Preliminary Plat, the subdivider shall submit detailed construction plans and specifications to the City Engineer.

During construction of the subdivision, the City Engineer and the Land Development Code Administrator, or their representatives, shall have the right to conduct on-site inspections.

4. Step Four - "As-Built" Construction Plans and Specifications

Prior to the filing of the final plat, the subdivider shall submit "as built" construction plans and specifications for the City Engineer's final inspection. These documents shall depict the actual construction of all required improvements. A registered engineer shall certify on these documents and by letter that the actual construction was completed in conformity with the As-Built.

5. Step Five - Final Plat

The final plat shall be submitted for Governing Authority approval after completion of all improvements required by conditional approval of the Planning Commission and the Governing Authority and must show all information necessary for recording.

The final plat must conform substantially to the preliminary plat as approved.

6. Step Six - Recording the Plat

In order to be an official and legal plat, it is necessary to record the final approved plat, along with all applicable covenants with the Chancery Clerk of Forrest or Lamar County, as appropriate, in accordance with this Code and state law.

**102.02** Expedient Process for the Division of Non-Residentially Zoned Properties.

If, upon recommendation of the Site Plan Review Committee by majority vote, the Land Code Administrator determines that it would be in the best interest of the city, he/she may, at his/her sole discretion, authorize the following procedure when application is made for the division of a lot, parcel or tract of non-residentially zoned land in which not more than three (3) lots or parcels are being created from a non-residentially zoned tract of property for the purpose, whether immediate or future, of sale or building development of non-residentially zoned properties. *(Added by Ord. 2680, Sec. 1, 3/16/99)*

1. Procedure: The property owner shall apply to the Department of Urban Development for a Certificate to Divide Non-Residentially Zoned Property with a site plan setting forth the proposed division of property. The Land Code Administrator and the Site Plan Review Committee shall review the site plan to determine the following *(Added by Ord. 2680, Sec. 1, 3/16/99)*:

- A. That each new lot or parcel created would be in compliance with appropriate zoning ordinances, building codes or other city regulations, if any. *(Added by Ord. 2680, Sec. 1, 3/16/99)*



- B. That the proposed division would not deny any lot or parcel direct access to a dedicated public street. *(Added by Ord. 2680, Sec. 1, 3/16/99)*
  - C. That the City would not be required to accept for the public dedication any street, utility or sewer easement. *(Added by Ord. 2680, Sec. 1, 3/16/99)*
- 2. Approval: Upon approval of the Land Code Administrator and the Site Plan Review Committee, the property owner would seek to provide the necessary legal plat with appropriate descriptions and conveyances, as recorded in the land deed records of the Chancery Clerk of the applicable county, to the Land Code Administrator for issuance of the Certificate to Divide Non-Residentially Zoned Property. *(Added by Ord. 2680, Sec. 1, 3/16/99)*
  - 3. Disapproval: If the Land Code Administrator and the Site Plan Review Committee cannot agree to authorize the division of non-residentially zoned property by this procedure, then the division request is disapproved. The property owner may then proceed to make application to the Planning Commission for consideration under the normal subdivision procedure. *(Added by Ord. 2680, Sec. 1, 3/16/99)*
  - 4. Public Hearing and Notification: Within fifteen (15) days of filing a request to divide non-residentially zoned property by this procedure, the Land Code Administrator shall notify the property owner in writing of the decision. Notification of adjacent property owners or a public hearing are not required when the expedient process is used. *(Added by Ord. 2680, Sec. 1, 3/16/99)*

## **SECTION 103            VACATION AND/OR ALTERATION OF RECORDED PLATS**

**103.01**    If an owner desires to vacate and/or alter a plat of any land which has been previously recorded as a subdivision within the City of Hattiesburg, the vacation and/or alteration of such plat shall be accomplished as required by law.

## **SECTION 104            SUBDIVISION PHASING**

**104.01**    If the subdivider desires to construct the subdivision in phases, he shall submit a phasing schedule.

If a major thoroughfare or collector and other improvements are required by the Comprehensive Plan, the first phase shall implement the construction of the required major thoroughfares and/or collectors and other improvements.

The phasing schedule shall be approved by the Governing Authority. See Section 118, Improvement Guarantees.

## **SECTION 105      PLANNED UNIT DEVELOPMENT OR PLANNED RESIDENTIAL DEVELOPMENT PLAT AND PLAN SUBMISSION**

**105.01** Where a subdivider or developer wishes to develop land in accordance with the provisions set forth in Sections 91 and 92 of the Official Land Development Code of Hattiesburg, Mississippi, for a planned unit development or planned residential development, the subdivider shall also conform to the provisions set forth in Article 6 of these regulations. *(Amended by Ord. 2827, Sec. 2, 8/19/03)*

After the subdivider has received approval of the required site plan of the proposed planned unit development or planned residential development from the Site Plan Review Committee and the Governing Authority as specified in the Land Development Code, the subdivider, if he/she intends to subdivide the proposed development, shall conform to the procedures and requirements regarding submission, review, and approval and recording of plats, plans and data as specified in Article 6. The subdivider may submit the request for subdivision simultaneously with the request for planned unit development or planned residential development. In addition to the final plat specifications set forth in Section 113, the final plat for the planned unit development or planned residential development shall also identify the property to be transferred to public agencies, the common properties to be transferred by the developer to the Homes Association, and any other parcels, such as a church site or shopping center, to be kept by the developer or transferred to others. *(Amended by Ord. 2827, Sec. 2, 8/19/03)*

### **105.02      Private Streets:**

1. Private streets of planned unit developments and planned residential developments shall meet the requirements of this Code, except as provided under Sections 91.04.10 and 92.04.14 of the Land Development Code. *(Amended by Ord. 2827, Sec. 2, 8/19/03)*
2. If the owners in the future should request that the private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the City, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners.

### **105.03      Traffic Circulation:**

1. The vehicular circulations system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. Minor streets within planned unit developments and planned residential developments shall not be connected to streets outside the development in such a way as to encourage their use by through traffic. *(Amended by Ord. 2827, Sec. 2, 8/19/03)*

2. The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the Site Plan Review Committee, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

**105.04 Required Improvements:** In the construction and installation of all subdivision improvements in the planned unit development or planned residential development, said improvements shall conform to all requirements and standards as set forth in Article 6, unless exception to the requirements is recommended by the Site Plan Review Committee. *(Amended by Ord. 2827, Sec. 2, 8/19/03)*

**105.05 Environment Design:**

1. In order to minimize the disturbance of the natural environment, a general landscaping plan shall be required at the time of preliminary plat submission showing the spacing, sizes, and specific types of landscaping material. The Site Plan Review Committee shall review the landscaping plan in conjunction with the review of the preliminary plat.
2. The preservation of the natural amenities which shall include topography, trees, and ground cover, natural bodies of water, and other significant natural features, shall be given due consideration. Existing trees shall be preserved wherever possible. The location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. The Site Plan Review Committee shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees and natural features before the commencement of building operations shall be discouraged by the Site Plan Review Committee. *(Amended by Ord. 2827, Sec. 2, 8/19/03)*

**SECTION 106        RESERVED**

## **SECTION 107            PRE-APPLICATION DEVELOPMENT LAYOUT**

**107.01**        The development layout for the purpose of pre-application review as specified in Section 102 shall show in simple form sufficient data to permit a responsible evaluation of the physical factors of the proposed development. The layout should show in reasonable form the existing and proposed layout of the streets, and the approximate arrangement of lots and utilities. At the subdivider's option, he may also submit a location map, topography, approximate number of lots proposed, current or proposed zoning, parks and playgrounds, and any other additional information that will help him obtain an evaluation of his proposed development.

## **SECTION 108            PRELIMINARY PLAT REQUIRED**

**108.01**        The subdivider shall submit the following to the Planning Director at least ten (10) full working days prior to the next regular meeting of the Site Plan Review Committee:

1.        An appropriate number of good quality copies of the preliminary plat conforming to the requirements set forth in Section 110.01.
2.        Any other supplementary data as specified in Section 110.04.
3.        The required fee payment as specified in Section 24, Fees.

## **SECTION 109            PRELIMINARY PLAT REVIEW PROCEDURE**

**109.01**        After receipt of the preliminary plat and supplementary data, the Director of Planning and Community Development shall forward the copies of the preliminary plat and supplementary material to the appropriate Departments that are represented on the Site Plan Review Committee. This committee shall examine the preliminary plat to check if the proposed development meets the required specifications, with each Department giving special consideration and emphasis to the proposed plans regarding that Department's area of expertise.

**109.02**        The findings of the aforementioned Departments shall be forwarded to the Planning Director within seven (7) full working days after the date the Departments received the preliminary plat and supplementary data. The applicant requesting the preliminary review, or his authorized representative(s) shall, if requested or required, meet with the Site Plan Review Committee to answer any questions concerning the development of the plat. The Site Plan Review Committee shall meet at an appointed time within seven (7) full working days and review any requirements. The Site Plan Review Committee members shall recommend approval or disapproval of the preliminary plat by the next scheduled meeting of the Hattiesburg Planning Commission following its review with the applicant.

**109.03**        The Site Plan Review Committee may recommend approval or disapproval of the preliminary plat as submitted, or before approval may recommend that the applicant modify, alter, adjust, or otherwise amend the preliminary plat. Such conditions may be accepted and agreed to by the applicant at that time or appealed to the Hattiesburg Planning Commission. A recommendation to the Governing Authority shall then be made by the Hattiesburg Planning Commission. The recommendation of the Hattiesburg Planning Commission may be accepted and agreed to by the applicant at that time or appealed to the Governing Authority as set forth herein. The action of the Governing Authority along with the conditions applying to such approval, if any, shall be noted in writing and attached to an appropriate number of copies of the preliminary plat. One (1) copy shall be returned to subdivider, three (3) copies shall be retained by the City Engineer, and three (3) copies shall be retained by the Planning Director.

**109.04**        In such case where the subdivider decides, at his option, to resubmit a preliminary plat due to substantial deficiencies and omissions on the plat and certain conditions have been placed on said plat, the subdivider may resubmit the plat, meeting the conditions placed on the plat.

**109.05**        Written notification of the preliminary plat approval or denial shall be sent to the subdivider.

**109.06**        Approval of the preliminary plat shall lapse unless a final plat in substantial agreement with the preliminary plat is submitted within twelve (12) months from the date of preliminary plat approval, or unless an extension of time is requested in writing by the subdivider(s) and expressly granted in writing by the City Engineer.

**109.07** Approval of a preliminary plat shall not constitute approval of the final plat. It indicates only approval of the layout as a guide to the preparation of the final plat which will be submitted for approval to the Governing Authority and for recording upon fulfillment of the requirements of this Code and the conditions of the preliminary plat approval, if any. However, if approval of the preliminary plat is given by the Governing Authority, the subdivider shall be guaranteed that if the final plat submitted to the City Engineer and Land Development Code Administrator, on their review, conforms substantially to the approved preliminary plat, the final plat shall be approved by the Governing Authority. See Section 109.05.

**109.08** Where a substantial change is desired in an approved preliminary plat, such change may be proposed by the subdivider subject to review of the Site Plan Review Committee and approval of the Hattiesburg Planning Commission.

## **SECTION 110            PRELIMINARY PLAT SPECIFICATION AND CONSTRUCTION DRAWINGS AND SPECIFICATIONS**

The preliminary plat for submission as set forth in Section 104 shall meet the following requirements in regard to form and content:

**110.01    Form for Preliminary Plat:** The preliminary plat shall be submitted on a sheet size as small as possible for convenience but no less than eighteen (18) by twenty-four (24) inches. If the complete lot layout cannot be shown on one (1) sheet, it may be shown on more than one (1) sheet with an index map on a separate sheet of the same size.

**110.02    Scale:** The preliminary plat shall be clearly and legibly drawn at a minimum scale of one (1) inch to two hundred (200) feet.

**110.03    Content of Preliminary Plat:** The preliminary plat shall show the following information:

1.    The title under which the proposed subdivision is to be recorded with the name(s) and address(s) of the owner(s) and the name and registration number of the engineer and surveyor licensed to practice in the State of Mississippi.
2.    Date of preliminary plat, location, north arrow, scale of plat in graphic form.
3.    Vicinity map showing the relationship of the subdivision site to the surrounding area and identification of the neighborhood in which the site is located. List township, range and Section designations and show limits of the proposed subdivision.
4.    Location and size of existing streets, water, sewer, and other utilities to which the proposed development is to be connected, or otherwise abutting the property.
5.    Present zoning classifications of the land to be subdivided and the zoning classifications of adjacent land and/or subdivisions.
6.    Total acreage of the land to be subdivided and the number of lots proposed.
7.    Contour lines of ground elevations, based on Mean Sea Level; contour lines shall be at least two (2) foot intervals, maximum.
8.    If any portion of the land being subdivided is below the elevation of Intermediate Regional Floods (100-Year Flood Frequency) as defined in published current Federal Emergency Management Agency, Flood Insurance Rate Map, U. S. Army Corps of Engineers Flood Plain Information Studies, Hattiesburg Damage Prevention Code, or other such responsible agencies, such flood limits shall be shown on the plat; or certified if not located in Flood Plain.



9. Location of proposed streets, including names along with dimensions of the street improvements and right-of-ways; dimensions of alleys, easements, lot and block numbers and lot lines with approximate dimensions.
10. Sites, if any, to be reserved or intended to be dedicated for parks, playgrounds, open spaces, lakes, ponds and other public uses.

**110.04** Supplementary information which shall be provided with the preliminary plat includes:

1. Statement of the proposed use of lots, giving types of residential buildings with number of proposed dwelling units, or type of business or industry, as applicable, so as to reveal the effect of development on traffic, fire hazards, or congestion of population;
2. If any zoning changes are contemplated, the proposed zoning classifications should be indicated and the reasons for the proposed zoning changes.

**110.05** The construction plans and specifications as required in Section 102 shall meet the following requirements with regard to form and content:

**110.06** Form for Construction Plans: Construction plans shall be submitted on twenty-four (24) inch by thirty-six (36) inch sheets and shall consist of combination plan and profile for each street and a typical cross-section of the proposed grading, drainage, base course and pavement. Detailed plans shall be submitted for the water and sanitary sewer systems and for culverts, drainage structures and bridges, or if applicable, standard plans issued by the Mississippi State Highway Department may be included for reference.

**110.07** Scale for Construction Plans: The plan and profile streets (street and sanitary sewers) shall be drawn to suitable scales, but of at least one (1) inch equal fifty (50) feet horizontal and one (1) inch equals ten (10) feet vertical. The datum used shall be noted on the plans and shall be USGS data.

**110.08** Contents: The construction plans shall contain the following information and sheets:

1. Location sheet depicting subdivision in relation to all existing streets and property in the general area and showing the name of the subdivision engineer and developer.
2. Drainage and geometric layout sheet with contour lines depicting drainage areas, proposed drainage facilities with drainage area to be served by each facility noted, curves data and typical street sections.
3. Water and sewer layout sheet depicting proposed water and sanitary sewer facilities, including fire hydrants, to include approximate location of service connections.

4. Combination plans and profile sheets showing construction requirements for each proposed street and appurtenances. The plan profile drawings of the proposed sanitary sewers shall depict the location of lines and final grades; sanitary manholes, inverts, and top elevation; length, size and slope of pipes between manholes; types of materials to be used; creek crossings; and pump stations and force mains.
5. Standard detail sheets.
6. Special detail sheets.

**110.09** Supplemental information to be provided with the construction plans include:

1. Design Data and Design Assumption used by Engineer shall be shown on the plans requested by the City Engineer and Land Development Code Administrator.
2. If and when the plans of the public utilities have been received by the subdivider from the appropriate utility companies, the subdivider shall submit one (1) copy of each of the said plans showing all additional easements to the City Engineer and Land Development Code Administrator.

## **SECTION 111            FINAL PLAT REVIEW**

**111.01**      Approval of a final plat by the Governing Authority shall be required before any plat shall be filed and recorded by the Office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi, unless specifically exempted from these requirements as provided in Section 10.03.

**111.02**      The City Engineer and the Land Development Code Administrator shall review the final plat and supplementary data in order to determine compliance with the requirements of this Code and conformance with the approved Preliminary Plat, including any conditions attached thereto, by the Governing Authority. Review and action shall be taken by the City Engineer and the Land Development Code Administrator within fifteen (15) full working days after receipt of the final plat and other required data. If no action is taken within this time period by the City Engineer and the Land Development Code Administrator, the Governing Authority may approve the final plat without delay.

**111.03**      If the final plat substantially conforms to the approved preliminary plat, the said City Engineer and Land Development Code Administrator shall so attest and shall forward same to the Governing Authority recommending approval of the final plat. If the final plat does not substantially conform to the approved preliminary plat, then it shall not be recommended to the Governing Authority for approval. The subdivider, after notification of nonconformance by the City Engineer and/or the Land Development Code Administrator, may agree to correct the deficiencies making any changes indicated in the notification. If appealed, the Governing Authority shall afford a public hearing on the final plat. See Section 42, Public Hearing Procedure.

**111.04**      The final plat shall not be approved by the Governing Authority until the subdivider has complied with one of the following alternatives:

1.      Actually completed construction of all the improvements required by this Code and any conditions attached to the approve Preliminary Plat, or
2.      Posted with the City an improvement guarantee as specified in Section 118 in an amount equal to the total estimated cost of installation of the required improvements specified in Section 118.02.

**111.05**      The power of approval of a final plat shall be reserved exclusively to the Governing Authority.

**111.06**      After recommendation of the final plat is given by the City Engineer and the Land Development Code Administrator, the Governing Authority shall within two regularly scheduled meetings take action on the said plat. If approved by the Governing Authority, the City Clerk shall sign the final plat showing the approval of the plat. If the final plat is disapproved, a

statement of reasons for disapproval shall be attached to the final plat and the same shall be returned to the applicant.

**111.07** After receiving the approved final plat, the City Clerk shall have the final plat duly recorded in the Office of the Chancery Clerk of Forrest County and/or Lamar County, Mississippi, as required by law and subdivider shall be responsible for payment of the recording fee.

**111.08** Upon approval of a final plat by the Governing Authority and the recording of said plat, the subdivider may transfer title of the lots contained in the subdivision by referencing the subdivision name and lot number.

**111.09** Copies of the final plat that have been duly approved shall be distributed as follows:

1. One (1) permanent, reproducible copy shall be filed with the City Engineer;
2. One (1) good quality linen backed paper original shall be filed with the City Clerk;
3. One (1) permanent, reproducible copy shall be filed with the Planning Director;
4. One (1) good quality linen-backed paper duplicate shall be filed with the Chancery Clerk in Forrest County and/or Lamar County, Mississippi.

## **SECTION 112        RESERVED**

## **SECTION 113            FINAL PLAT SPECIFICATIONS**

**113.01**     The final plat shall conform substantially to the preliminary plat as approved, and if desired by the subdivider, it may constitute only that phase of the approved preliminary plat which he proposes to record and develop at the time, provided, however, that such phase conforms to all requirements of this Code. The specifications of the final plat of the subdivision shall be as follows. See Section 104, Subdivision Phasing.

**113.02**     Form: The final plat shall in every case be made on sheets of good quality linen-backed paper, eighteen (18) by twenty-four (24) inches in size, with additional copies as specified in Section 111.09.

**113.03**     Scale: The final plat shall be clearly and legibly drawn at a minimum scale of one (1) inch equals two hundred (200) feet.

**113.04**     Contents: The final plat shall be prepared as provided herein and following the statutes of Mississippi relating to subdivision plats, the requirements of which includes:

1.     A full and detailed description of land embraced in the map or plat, showing the township and range in which such land is situated, the sections and parts of sections platted and in plain letters that such land is a subdivision located in the City of Hattiesburg.
2.     The name of the city.
3.     The name(s) of the owner(s), of the engineers, surveyor and other persons making the plat.
4.     The signatures of the owner(s) and surveyor(s) which shall be acknowledged as deeds are acknowledged.
5.     The sections and parts of sections platted designated by lines drawn upon the final plat with appropriate letters and figures.
6.     A plain designation of the cardinal points of the compass, a correct graphic scale and dates.
7.     All public grounds, except streets and alleys, by their boundaries, courses and extent.
8.     All streets and alleys by their courses, lengths, widths, and other dimensions and curve data.
9.     All the lots intended for sale numbered either by progressive numbers, or if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered.

10. Dimensions, angles, curve data, bearings, etc., of all lots, but where all the lots in any block are of the same dimensions, it shall be sufficient to make the precise length and width upon one tier thereof, but all gores, triangles, or on other lots, either squares or parallelograms, shall have the lengths of their sides plainly defined by figures.
11. All adjacent streets and alleys, and those parts of existing subdivisions abutting them.
12. If any portion of the land as subdivided is below the elevation of Intermediate Regional Floods (100-Year Flood Frequency) as defined in published current Federal Emergency Management Agency Hattiesburg Flood Insurance Rate Map, U.S. Army Corps of Engineers Flood Plain Information Studies, and Hattiesburg Flood Damage Prevention Code or other such responsible agencies, such flood limits shall be shown on the plat; or certified if not located in Flood Plain.
13. The point of beginning of the survey.
14. Location and description of boundary monuments. See Section 115, Monuments.
15. Location of all utility and drainage easements.
16. Registered Professional Engineer's or Registered Land Survey's Certificate. See Section 140.01.
17. Owner's Certificate. See Section 140.02.
18. Acknowledgement Form. See Section 140.03.
19. City Approval and Acceptance Form. See Section 140.04.
20. Certificate of Comparison Form. See Section 140.05.
21. Certificate of Filing and Recordation Form. See Section 140.06.

**113.05** Supplementary information to be presented subsequent to the final plat shall include:

1. A good quality reproducible of the "as built" construction plans depicting the exact location of all required improvements as proposed on the approved construction plans. Such plans shall contain a certified statement by the registered engineer employed by the subdivider attesting that a final field survey was conducted and that the "as built" plans resulted from said survey and are true and correct to the best of the engineer's knowledge;
2. A deed dedicating to the City all lands and/or improvements other than the dedicated streets and utilities desired for City acceptance and maintenance, if any;

3. If not previously submitted, one (1) copy of the layout plans of the private utilities, if available.

**SECTION 114      RESERVED**

## **SECTION 115        MONUMENTS**

**115.01**    Concrete monuments shall be placed at all subdivision corners or changes in alignment along the boundary of the subdivision. Concrete monuments shall consist of four (4) inch by four (4) inch or four (4) inch diameter, concrete posts not less than thirty (30) inches in length, reinforced with a single 1/2-inch steel rod extending not less than 1/4-inch or more than 1/2-inch above the top of the concrete. Concrete monuments shall be firmly set in the ground to a depth of twenty-four (24) inches, except at intersections where they shall be set flush with the ground.

**115.02**    Two concrete monuments shall be registered to the State Plain Coordinate System. One monument shall serve as a bench mark and shall also be registered to a known section corner.

**115.03**    Markers shall be placed at all lot corners or changes in alignment in lot boundaries. These markers shall consist of iron pins not less than 3/4-inch in diameter and not less than eighteen (18) inches in length.

**115.04**    Markers shall be set with the top thereof flushed with the finished grade. Where farming operations or other land uses might destroy or disturb the markers, they shall be sunk underground and referenced to permanent land markers.



## **SECTION 116        IMPROVEMENTS**

**116.01**     In consideration of the City of Hattiesburg's acceptance of any subdivision and assuming the responsibility of maintaining the dedicated improvements laid out therein, the developer shall cause to be constructed, at no expense to the City of Hattiesburg, the following minimum improvements in accordance with the approved plans and the current Standard Specifications for Construction of Streets, Pavement, Sewers and Water Distribution Systems of the City of Hattiesburg.

1.     Grading of streets and sidewalks shall be for the full width of the right-of-way. Valid exceptions to the grading requirement outside of the improvement area may be granted if necessitated by excessive grade change and/or the excessive removal of large trees which would be caused by the grading of the full right-of-way width providing such is approved by the City Engineer.
2.     Surface drainage of streets shall be by concrete curb and gutter with curb inlets, manholes and underground storm sewers.
3.     Installation of pipe culverts, box culverts, bridges or other drainage structures as required on the approved plans.
4.     Excavation of drainage ditches, including erosion control.
5.     Topping of subgrades with selected sub-base materials as required on the approved plans.
6.     Construction of pavement base and surface courses.
7.     Grading, dressing and erosion control measures on shoulders and slopes.
8.     Construction of sanitary sewer system, including collection sewers, services to all lots, force mains, lift stations, and all appurtenances, and connecting sewers to existing sanitary sewers as per plans approved by the City Engineer, and meet the state and federal regulations.
9.     Construction of water systems including water main, services to all lots, fire hydrants, valves, any and all appurtenances per plans approved by the City Engineer and meet state and federal regulations.
10.    All improvements shall carry a one (1) year warranty after acceptance of the final plat.

**116.02**     All underground utility street crossings shall be installed prior to construction of the base course of the streets, or in lieu thereof, such utility lines shall be jacked or bored under the street after the base course has been installed. When the subdivider or his designated agent is ready to install the final wearing surface on the streets, he shall not do so until he notifies the

City Engineer or his designated agent(s) and receives approval for the installation from said City Engineer. If all improvements except the final wearing surface have been completed at the time at which the City Engineer wishes to submit the final plat for approval, he may, after obtaining approval from the City Engineer, pay a paving fee in an amount of one hundred and twenty-five (125) percent of the cost to properly complete all paving of the roadway in accordance with the approved construction plans and specifications. The City may then accept the street for maintenance and place the final wearing surface when the City deems substantial construction of the structures has been completed.

**116.03** It shall be the responsibility of the developer to mark or cause to be marked the "as built" location of all water and sanitary sewer services to individual lots. The location of water and sanitary sewer services shall be a permanent/imprinted mark on the face of the curb with the letter "W" to denote water and with the letter "S" to denote sewer.

## **SECTION 117            OPTIONAL IMPROVEMENTS**

**117.01** While not to be considered as required improvements, it shall be the policy of the Governing Authority that any additional improvements such as parks and open space, sidewalks, landscaping, suitably designed retaining walls, nature trails, pedestrian bridges over exposed waterways, and any similar improvements which in total would contribute to the livability and desirable visual appearance of the subdivision, are most highly recommended and encouraged. Any proposed improvements within existing or proposed street rights-of-way shall be subject to review by the Site Plan Review Committee and approved by the Land Development Code Administrator.

**117.02** When sidewalks are constructed in a subdivision they shall be subject to approval by the City Engineer and shall be constructed in accordance with City of Hattiesburg standard specifications. See Section 116.01, 1.

**117.03** It shall be the responsibility of the Hattiesburg Planning Commission and the Department of Planning and Community Development to constantly monitor residential development in Hattiesburg to ascertain directions and patterns of growth for the purpose of anticipating where parks and open spaces for recreational purposes will be needed and to recommend to the Governing Authority acquisition of such land by the City of Hattiesburg before such acquisition is preempted by development.

## **SECTION 118           IMPROVEMENT GUARANTEES**

**118.01**     Request for the final plat approval may be granted by the Governing Authority if one of the following improvements guarantees is posted with the City.

**118.02**     Performance Bond: Where the subdivision is to be approved in phases, a performance bond may be required for the construction of improvements of later phases. The amount of this performance bond, equal to the estimated cost, shall be submitted by the developer's engineer for approval by the City Engineer. The City Engineer may then recommend the amount estimated to the Governing Authority for approval. The duration of the bond shall be until such time as the improvements are accepted by the City. Where performance bond(s) have been deposited with the City for the purpose of guaranteeing that improvements are actually installed as proposed, said bond(s) shall be returned by the Governing Authority to the subdivider when the final inspection of the required improvements have been made by the City Engineer or his designated representative(s) and certification has been made by the City Engineer that the improvements have been satisfactorily constructed as required.

**118.03**     Cash or Securities Bond Account: The subdivider may, in lieu of performance bond, deposit cash or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank. In the case of a cash or securities bond account, and for the use of any instrument other than cash, the bank with which the funds/instrument are to be deposited, shall be subject to the approval of the Governing Authority. The amount of the deposit shall be at least equal to the cost of installing the required improvement specified in Section 116, as approved by the City Engineer. To utilize the bond account option, the subdivider shall file with the Governing Authority an agreement between the financial bank and himself guaranteeing the following:

1.     That the funds of said bond account shall be held in trust until released by the Governing Authority and may not be used or pledged by the subdivider as security in any other matter during that period;
2.     And that in the case of a failure on the part of the subdivider to satisfactorily complete said improvements within the specified time period, then the bank shall immediately make the funds in said account available to the City for use in the completion of those improvements; and that if any interest is earned on the account, the interest shall remain with the City.

**118.04**     Satisfactory Completion of Improvements: If any portion of the required improvements shall fail to be accepted for dedication either for reason of incompleteness or for reason of substandard construction, then the Governing Authority shall take the following actions:

1.     Where improvements have been guaranteed through the posting of a performance bond under Section 118.02, the Bonding Company issuing said bond shall be advised that the guaranteed improvements must be completed or reconstructed under the bond. Where

the improvements have been guaranteed through depositing of readily convertible instruments or through establishment of an approved bond account under Section 118.03, the Governing Authority shall declare whatever security has been pledged as a guarantee to be forfeited. Where the Governing Authority is not already in possession of said guarantee, it shall immediately take the actions necessary to obtain it.

2. The Governing Authority shall use the guarantee which is deemed applicable to finance the completion of contracted improvements or the construction of such improvements to the proper specifications. Unused portions of these securities shall be returned to the subdivider, bonding company, or crediting institution, as is appropriate.

**118.05 Maintenance Bond:** In order to assure that the installation and construction of streets and other improvements are satisfactory, and that the standards prescribed in these regulations have been fulfilled, the subdivider shall post a maintenance bond upon completion of these improvements guaranteeing to the City the reasonable costs resulting from defective workmanship and/or materials. The amount of the maintenance bond shall be submitted by the Development Engineer for approval by the City Engineer. This maintenance bond shall be in effect for one (1) year after acceptance of these improvements by the Governing Authorities. Where the application of this Section would impose an undue hardship upon an owner and/or developer, the Governing Authority, upon the recommendation of the City Engineer, may waive the requirements of this Section.

## **SECTION 119            INSPECTION AND CERTIFICATION OF REQUIRED IMPROVEMENTS**

**119.01**     The developer shall employ a Mississippi registered professional engineer to inspect the improvements as they are installed. This engineer shall then certify to the City Engineer that each improvement has been constructed in accordance with the requirements of Section 115.01.

**119.02**     Upon approval of the preliminary plat and construction plans and specifications with such changes and alterations, if any, as may be ordered, the developer may proceed with proposed improvements.

**119.03**     After completion of all improvements the City Engineer shall make a final inspection of the required improvements which are delineated in Section 116, and any other improvements to be accepted by the City, after certification by developer's engineer that such improvements have been completed in accordance with City specifications. Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause found to exist prior to final acceptance of the work, shall be removed and replaced in an acceptable manner at no cost to the City of Hattiesburg. The City Engineer, acting as the duly authorized representative of the City of Hattiesburg and subject to the rules and regulations contained herein, shall decide all questions which may arise as to quality or acceptability of materials furnished or work performed. Such decisions may be appealed to the Governing Authority. This final inspection and acceptance of each phase shall be binding upon the City subject to correction by the developer and his contractor or any damage which might occur during subsequent work on other required improvements.

**119.04**     If the City Engineer has verified that the constructed improvements are complete and free from defect, then upon receipt of the final plat, as described in Section 113, and any other statements and certificates and/or agreements, the Governing Authority shall accept the dedication of those improvements. The Governing Authority may, at its discretion, accept the dedication of any portion of the required improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

## **SECTION 120            RESERVED**

## **SECTION 121            GENERAL DEVELOPMENT PROVISIONS**

**121.01**        The City Engineer shall establish and revise as necessary, subject to the approval of the Governing Authority, a schedule of minimum acceptable sizes and types of water and sewer pipes and street rights-of-way and paved widths for subdivision and residential development, based upon the number of residences capable of being erected in said subdivision and such other factors as he shall consider relevant. If the city, in anticipation of occupancy development outside the boundaries of a subdivision, finds that the water and/or sewer and/or travel needs of said outside occupancy development will be best served by the use of water lines and/or sewer lines and/or streets through all or any portion of said subdivision, the subdivider shall be required to construct such water lines and/or sewer lines and/or street in said subdivision of adequate size to service said outside occupancy development, as determined by the City Engineer; provided however, the City will pay the difference in actual construction cost (specifically excluding the costs of rights-of-way and easements) between that approved by the said schedule and that required by the City, said amount to be determined by the said City Engineer and approved by the City, acting through its Governing Authority, prior to acceptance of the preliminary plat of said subdivision. The provisions of this Article set forth the standards by which subdivision developments will be functionally related to existing land uses, streets and utility systems and be so designed and located that the public health, safety and welfare of the community will be promoted and protected.

## **SECTION 122        SUITABILITY OF LAND**

**122.01**    The subdivision of land affected by conditions undesirable to urban development shall not be approved until satisfactory evidence is provided by a registered professional engineer outlining the steps to be taken to overcome these conditions. The subdivision of land whose elevation is below the 100 year flood elevation as indicated by the Federal Emergency Management Agency, the U. S. Corps of Engineers, and the City of Hattiesburg Flood Damage Prevention Code shall not be permitted for residential, commercial, or industrial uses until provisions have been made to either raise the elevation of the building site above such flood elevation or to raise the floor level of any structure to be erected thereon above such flood level by the use of piles or piers, as specified in the City of Hattiesburg Flood Damage Prevention Code. If the building site is raised by filling, channeling, and/or a combination of both, it shall not unduly restrict the flow of water in the main channel nor unduly increase flood heights in lower regions of the subject drainage basin and shall meet all requirements of the City of Hattiesburg Flood Damage Prevention Code. Land on which development cannot take place may be set aside for open space uses which will produce acceptable development conditions.



## **SECTION 123        LOTS**

**123.01** Except where lot design is accomplished by approved planned unit development given in Section 91 of the Land Development Code, all lots shall conform to the following requirements.

1. The lot size, width, depth, shape and orientation, and the minimum set-back lines of all uses shall be appropriate for the location of the subdivision and for the type of development and use contemplated as prescribed by the provisions of the Land Development Code.
2. The subdividing of land shall be such as to provide, by means of a public or private street, each lot with satisfactory access to an existing public street or land.
3. Double frontage lots shall be avoided except where essential to provide separation of development from major or minor arterials or collectors or to overcome specific disadvantages of topography and orientation. A planting screen and easement, unbroken by a driveway, of at least ten (10) feet in width shall be provided along back lot lines abutting such a major or minor arterial or collector or other disadvantageous use(s). Access of double frontage lots shall not be allowed onto the major or minor arterials or collectors or on streets of a minimum right-of-way of eighty (80) feet.
4. Side lot lines shall be as close as possible at right angles to straight street lines, and radial to curved street lines. Each lot must front for the minimum width distance required by the Land Development Code on a public dedicated street or approved private drive. Provided, however, that lots fronting on a turn-around, this minimum lot width can be measured at the building set back line providing the dimension at the street or private drive frontage is at least twenty (20) feet wide.
5. Where platted lots and lands of a subdivision are subject to flooding as indicated by the delineation of the Intermediate Regional Floods (100-Year Flood Frequency) as defined as published in current Federal Emergency Management Agency Flood Insurance Rate Map, U. S. Army Corps of Engineers Flood Plain Information Studies, and the Hattiesburg Flood Damage Prevention Code or other such responsible agencies, the limits of such areas subject to flooding shall clearly be indicated on the preliminary and final plats.

## **SECTION 124        BLOCKS**

**124.01**        As a usual practice, blocks should be no less than four hundred (400) feet nor more than twelve hundred (1200) feet in length, except where it is necessary to secure an efficient use of land such as institutional, commercial, or industrial areas, and a dead end street shall not exceed eight hundred (800) feet, including turn around. Necessary variances in the length, shape and width of blocks may be granted in keeping with the provisions of Sections 46 and 96.

**124.02**        Blocks shall be wide enough to allow two (2) rows of lots that are of the dimensions required by the Land Development Code. Where such is prevented by topographic conditions, the Site Plan Review Committee may approve a single row of lots in keeping with the dimensional requirements of the zoning district.

## **SECTION 125        STREETS**

**125.01**    The design of streets shall conform to the minimum criteria set forth hereinbelow depicted in this Code or by other City ordinances, and shall be considered in their relationship to existing and planned streets, to topographic conditions, to public convenience and safety, and their appropriate relation to the proposed uses of the land to be served by such streets.

**125.02**    The arrangement of streets in a subdivision shall either:

1.     Provide for the continuation of existing streets in surrounding areas,
2.     Conform to a plan for area development adopted by the Hattiesburg Planning Commission and approved by the Governing Authority to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

**125.03**    Residential streets shall be so laid out that their use by through traffic will be discouraged. Where a proposed residential subdivision abuts or contains an existing or proposed arterial street, the Site Plan Review Committee may require that the streets or lots be designed in such a way as to provide adequate protection of residential properties.

**125.04**    Where a proposed subdivision abuts or contains a railroad, freeway, limited or controlled access highway right-of-way, the Site Plan Review Committee may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with due regard for the requirement of approach grades and further grade separations.

**125.05**    Half-streets shall be prohibited.

**125.06**    Horizontal and Vertical Alignment:

1.     The maximum length of a minor street designed to have only one end open shall be eight hundred (800) feet unless a greater length is required due to unusual topographic conditions or to property access limitations, and approval is granted by the Site Plan Review Committee. A turn-around having a minimum diameter of seventy-five (75) feet between curb faces and a minimum right-of-way of one hundred (100) feet shall be provided at the closed end of such streets.
2.     The minimum stopping sight distances for horizontal curves on minor residential streets shall be two hundred (200) feet.
3.     Reverse curves shall be avoided where possible. Should it become absolutely necessary to utilize a reverse curve, a tangent of at least one hundred (100) feet shall be introduced between curves.
4.     The minimum radius of curvature permitted on a horizontal curve shall depend upon design speed and corresponding friction coefficients developed by AASHTO (American Association of State Highway and Transportation Officials), but shall not be less than one hundred seventy-five (175) feet.
5.     All changes in street grades shall be made with vertical curves. The minimum required stopping sight distance for a vertical curve shall be computed using formulas developed by AASHTO, but shall not be less than two hundred (200) feet, except in residential areas, the minimum required shall not be less than one hundred (100) feet.
6.     The maximum gradient shall not exceed eight (8) percent except where steeper grades are mandatory due to unusual topographic conditions and approval is granted by the City Engineer. The minimum grade shall be such as to allow for adequate drainage

without undue spread of storm water over the travel lane, but shall not be less than one-half (0.5) percent.

**125.07**    Intersection Design:

1.    Streets shall be designed to intersect at approximately right angles. Skewed intersections shall be avoided and in no case shall the angle of intersection be less than seventy-five (75) degrees.
2.    Street intersections and approaches shall be designed on as flat a grade as possible. Street gradients within one hundred (100) feet of intersections shall not exceed four (4) percent, and every reasonable effort shall be made to keep the gradient below two (2) percent.
3.    The minimum curb radius permitted at intersections shall be twenty (20) feet for minor residential streets, and twenty-five (25) feet for collector streets, and for streets serving commercial or industrial developments.
4.    Two streets intersecting the same street (T-intersection) shall be avoided, but when required because of unusual topographic conditions shall be offset a minimum of one hundred twenty-five (125) feet (centerline offset).
5.    Turning lanes shall be provided at heavily traveled intersections as determined by the City Engineer or Site Plan Review Committee.
6.    When possible, intersections on sharp horizontal curves or near the vertex of crest vertical curves shall be avoided.

**125.08**    Typical Section and Pavement:

1.    Streets shall be designed with a parabolic crown of one and one-half (1.5) percent.
2.    Street pavement designs shall be based on consideration of the anticipated traffic volumes by weight, the subgrade soil, surface drainage, ground water and climatic conditions. The pavement thickness shall be a function of the load supporting value of the subgrade soil beneath the pavement and of the load distribution characteristics of the proposed pavement structure. Soil borings by a licensed geotechnical firm may be required by the City Engineer.
3.    Streets serving low density single family and moderate density single and two-family residential districts (A-1, A-2, R-1, and R-2, zoning district) as established in the Official Land Development Code shall have a minimum street width of twenty-seven (27) feet back to back of curb and a minimum right-of-way of fifty (50) feet. No on-street parking permitted.
4.    Streets serving a moderate density and/or high density residential district (R-3 and R-4 zoning district) in the official Land Development Code shall have a minimum street width of thirty-two (32) feet back to back of curb and a minimum right-of-way width of sixty (60) feet. One side on-street parking permitted.
5.    Streets serving commercial or industrial developments shall have a minimum street and right-of-way widths as determined by the Site Plan Review Committee. Sixty (60) feet of paved surface may be required, with a minimum eighty (80) feet of right-of-way. No on-street parking permitted.
6.    If it is determined by the Comprehensive Planning Process and/or the Site Plan Review Committee that a street within a proposed development will serve as a secondary or arterial route shall conform to said Comprehensive Plan or, said committee may require that an additional right-of-way width be dedicated.

7. Concrete sidewalks, when installed, shall be a minimum of four (4) inches in thickness and three (3) feet in width, and shall be properly designed to drain.
8. All streets shall be designed with curb and gutter, unless located in an approved Planned Unit Development.

**125.09** Proposed streets which are obviously in alignment with others already existing and named shall bear the names of the existing streets as designated with the Forrest-Lamar Emergency Communications District. In no case shall names of proposed streets duplicate or be confused with existing street names. Street names shall be subject to the approval of the Site Plan Review Committee.

**125.10** The building shall front the street which the lot fronts in all approved and recorded subdivisions unless otherwise approved, after careful review of the facts involved by the Site Plan Review Committee. In the cases of corner lots, the buildings shall front one or both of the streets that the lot abuts.

## **SECTION 126            STORM DRAINAGE SYSTEMS**

**126.01**    The design of storm water drainage systems shall insure adequate control of storm water runoff through the use of properly sized and positioned drainage structures including, but not limited to, curb and gutter, curb and grate inlets, storm sewer pipe, box culverts, intersectional drains, open ditches and bridges. The design of storm drainage systems shall be in accordance with accepted engineering practice and meet or exceeds the requirements to control storm water runoff for the twenty-five year flood level.

**126.02**    The design of storm water drainage systems shall be compatible with the current storm water drainage plan. Minimum right-of-way required by the plan shall be dedicated.

**126.03**    Drainage facilities shall be designed to prevent damage to adjacent properties.

1.    Accommodation of Upstream Drainage Areas: A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall approve the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development.
2.    Effect on Downstream Drainage Areas: The Developer's Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Local drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility, the Site Plan Review Committee may withhold approval of the subdivision until provisions have been made for the improvement of said potential conditions in such sum as the Site Plan Review Committee shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

### **126.04    Storm Drainage Pipe and Culverts:**

1.    Pipe and culvert sizes shall be selected by use of computed hydrological and hydraulic data. Design flows shall be based on climatic factors such as rainfall intensity, duration, frequency and distribution and physiographic factors such as size, shape, and slope of drainage area, anticipated land use or cover, surface infiltration condition, soil type and topographical condition. Pipe selection shall be based on its hydraulic capacity considering size, slope, and roughness characteristics as well as its tendency to become choked and the ability to clean and remove obstructions.
2.    The minimum storm drainage pipe size shall be fifteen (15) inches.
3.    Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit construction of a full width roadway including side slopes. Headwalls or flared end section aprons as well as channel bottom and slope protection shall be provided at the upstream and discharge end of the cross drain as required by the City Engineer.

### **126.05    Streets, Curb and Gutter, and Inlets:**

1.    The horizontal and vertical alignment of streets shall be compatible with the storm water runoff system and drainage design.
2.    Street grades shall be coordinated with lot drainage as proposed in the grading plan.
3.    The hydraulic capacity of the curb and gutter shall be determined by accepted engineering procedure taking into consideration roughness, street cross-slope, and street gradient, and allowable spread of water over the travel line.

Draft w/text amendments as of 10/08/07

4. The hydraulic capacity of curb inlets shall be determined by accepted engineering procedure taking into consideration inlet geometry and characteristics of the gutter flow. Curb inlets shall be spaced so as to limit the spread of water to not more than one quarter of the street width during a design storm of five (5) year return period and fifteen (15) minute duration. Inlets shall also be located at all low points in the gutter grade, to prevent gutter flow from crossing traffic lanes of an intersecting street, or at points of special concern as designated by the City Engineer.

**126.06** The structural design of all box culverts or bridges shall conform to the standard plans of the Mississippi State Highway Department for a load capacity of twenty (20) tons minimum. Bridges, where required, may be constructed on creosoted pile bents or reinforced concrete pile and steel with reinforced concrete deck up to a maximum of nineteen (19) feet center to center of bents. Bridges requiring spans greater than nineteen (19) feet shall be constructed of reinforced concrete or structural steel with a reinforced concrete deck. No mud sills or timber grills will be permitted for bridge foundations. All bridges shall be provided with substantial guard rails on both sides of two four (4) foot sidewalks.

## **SECTION 127        SANITARY SEWER SYSTEMS**

**127.01**    Design Criteria: The minimum design standards of the sanitary sewer system for each subdivision shall conform to the following:

1.     Minimum pipe size - eight (8) inches
2.     Minimum pipe slope - 0.400% for eight (8) inch pipe
3.     Minimum velocity - two (2) feet per second
4.     Maximum velocity - nine (9) feet per second or greater when topography dictates
5.     Maximum depth flow - one-half (1/2) pipe diameter after multiplying by peak factor
6.     Waste per person - one hundred twenty (120) gallons per day including infiltration
7.     People per dwelling unit - four (4)
8.     Peak factor - three and one-half (3.5) minimum
9.     Maximum manhole separation - four hundred (400) feet with manholes required at each grade change and alignment change
10.    Minimum cover - three (3) feet
11.    Minimum stubout diameter - six (6) inches, one stubout per lot
12.    Top manhole elevation - ground elevation, minimum

**127.02**    Pump Stations: The use of sewer lift stations should be minimized. However, when pump stations cannot be avoided, they should be designed for easy maintenance, maximum operating life, and adequate pumping capacity. The designed calculations must show flow rates and velocities for the pump station and force main. Some requirements for pump stations include:

1.     Minimum of two (2) pumps, each of which has capacity to handle the expected load, said pumps shall alternate
2.     Adequate controls with overload and lightning protection and alternators
3.     Adequate pump housing and heaters to prevent freezing
4.     Adequate capacity for not more than seventy-five (75) percent duty cycle under peak flow conditions
5.     Necessary access road and security fencing
6.     Minimum flow rate of two (2) feet per second in force main, with a maximum of twelve (12) feet per second with dual pump operation
7.     Adequate vented wet wall
8.     Three phase pumps shall be required
9.     An approved alarm system
10.    Auxiliary power generators as required by state or federal regulations.



**127.03** All plans and specifications shall comply with appropriate state and federal regulations.

**SECTION 128            WATER SUPPLY SYSTEMS**

**128.01** Water mains shall be designed, constructed and properly connected with the public water supply system in such a manner as to adequately serve all lots shown on the subdivision plat for both domestic and fire protection purposes, and will adhere to the minimum requirements set forth herein below.

- 1. Water distribution systems shall be designed using the Hardy Cross Method. The Hazen-Williams formula shall be used in computing head loss.
- 2. Water distribution systems shall be designed for the peak hour flow, or the maximum day flow, plus fire flow, whichever is greater. Domestic flows and fire flows shall be determined on the following report and any future updates of the current "Comprehensive Water System Analysis and Plan" for the City of Hattiesburg, Mississippi. Fire flows shall also be determined from the following publication and any future updates of the current "Guide for Determination of Required Fire Flow", by Insurance Services Office, 160 Water Street, New York, NY 10038
- 3. The water distribution system shall be designed so that the following range of dynamic pressures are provided: fifty (50) psi to ninety (90) psi for average daily flows; minimum twenty (20) psi to thirty-five (35) psi for peak hour flows; thirty-five (35) to fifty (50) psi for maximum daily flow plus fire flow. The minimum dynamic pressure at any point shall be twenty (20) psi.
- 4. The maximum design velocity shall not exceed five (5) fps.
- 5. Water distribution systems shall be laid out on a grid system with cross connections at cross streets. Dead end pipes shall be avoided whenever possible.
- 6. Valves shall be installed at each intersection or change in pipe size, and shall be placed so that no single case of pipe breakage shall require service off from an artery, or more than five hundred (500) feet of pipe in high value districts, or more than eight hundred (800) feet of pipe in any area.
- 7. The distribution and spacing of hydrants shall be based on the following table which is subject to periodic update, but in no case shall the maximum spacing exceed five hundred (500) feet. Valves shall be installed on each fire hydrant to meet Mississippi Fire Rating Bureau specifications.

**STANDARD HYDRANT DISTRIBUTION**

Fire Flow Required, gpm	Average Area per Hydrant, square feet
1,000 or less	160,000
1,500	150,000
2,000	140,000
2,500	130,000
3,000	120,000
3,500	110,000
4,000	100,000
4,500	95,000
5,000	90,000
5,500	85,000
6,000	80,000
6,500	75,000
7,000	70,000
7,500	65,000
8,000	60,000
8,500	57,500

Draft w/text amendments as of 10/08/07

9,000	55,000
10,000	50,000
11,000	45,000
12,000	40,000

8. Mains shall be minimum of six (6) inches in diameter where length is six hundred (600) feet or less and must be gridded or looped for more than one source of supply. Mains installed for distance greater than six hundred (600) feet shall be gridded or looped with more than one source of supply. The size shall be determined by using accepted engineering calculation methods as approved by the City Engineer.
9. The fire hydrant's lowest nozzle shall be a minimum of eighteen (18) inches and a maximum of thirty (30) inches above street or curb grade.

**128.02** The calculating method for areas of higher density development potential, based upon the zoning of the properties to be served, shall reflect the higher density development and the main size increased, if conditions warrant.

**128.03** The requirements for water distribution systems serving commercial and industrial developments shall be determined by engineering analysis based on specific water requirements for the type of use intended or those required by the height and density permitted by the zoning classification of the property, whichever is greater.

**128.04** Newly installed systems shall be pressure tested at one hundred twenty-five (125) pounds for eight (8) hours under the inspection of the City of Hattiesburg Engineer.

**128.05** All newly installed systems shall be sterilized and must pass bacteriological test to the satisfaction of the City of Hattiesburg's Water Department and the Mississippi State Board of Health, prior to placing said system in service, or accepted by City.

**128.06** All water used in hydrostatic test shall be potable water; containers holding water shall be sterile.

**128.07** The City of Hattiesburg Engineer shall be notified prior to the beginning of any project in order that the installation can be made under the inspection of the appropriate technical personnel of that office.

**128.08** It shall be the responsibility of the developer, or his contractor, to reimburse the City of Hattiesburg for tie-ins to existing mains, if made by the City, and sterilizing based upon Fee Schedule, see Section 24, Fees.

**128.09** The Developer shall provide the Fire Department with residual flow pressure, static pressure and gallons per minute (gpm) flows for each fire hydrant installed.

**128.10** All plans and specifications shall comply with appropriate state and federal regulations.

## **SECTION 129            EASEMENTS AND RIGHT-OF-WAYS**

**129.01**    Utility, drainage, transportation easements, or right-of-ways of an appropriate width as required shall be provided. A minimum width of twenty-five (25) feet shall be required for drainage easements. A minimum width of fifteen (15) feet shall be required for utility easements. Drainage easements shall not be combined with utility easements.

**129.02**    Where easements or right-of-ways intersect or sharp changes in alignment are necessary, corners shall be cut off sufficiently to permit equipment access, subject to the approval of the City Engineer.

**129.03**    No buildings or structures shall be placed within easements or right-of-ways. Any landscaping and fencing is done at the risk of the property owner.

**129.04**    Any overhanging limbs, shrubbery, or other vegetation forming an obstruction may be moved if necessary from within the limits of a utility easement at the discretion of the maintenance personnel of the utility which has installed or is installing within such easement.

**129.05**    Easements or right-of-ways which do not open at both ends upon a street, alley, or another easement, shall not be permitted. The City Engineer may approve a dead-end easement, but only where such easement cannot be avoided.

## **SECTION 130       ALLEYS**

**130.01**     Alleys may be provided to the rear of lots only in commercial and industrial developments and only where other definite and assured provision cannot be made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed. The use of alleys must be approved by the Site Plan Review Committee.

**130.02**     If approved, the width of an alley in commercial and/or industrial subdivisions shall be a minimum of thirty (30) feet. The pavement width will be determined by the Site Plan Review Committee.

**130.03**     Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

**130.04**     Dead-end alleys shall be avoided where possible, but if unavoidable, such alleys shall be provided with adequate turnaround facilities at the dead-ends as determined by the Site Plan Review Committee.

## **SECTION 131        EROSION AND SEDIMENT CONTROLS**

### **131.01    Purpose**

The purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the natural environment in Hattiesburg, Mississippi. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs the topsoil or alters the flow of storm water as a result from land disturbance activity within the City of Hattiesburg.

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of ponds and lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat. (*Added by Ord. 2947, Sec. 1, 2/20/07*)

### **131.02.   Definitions**

BMPs: Best Management Practices means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States.

Clearing: Any activity that removes the vegetative surface cover.

Drainage Way: Any channel that conveys surface runoff throughout the site.

Erosion: Erosion is the displacement of solids (soil, mud, rock and other particles) by the agents of wind, water or ice, mechanical processes including vehicular traffic, by downward or down-slope movement in response to gravity.

Erosion Control: A barrier that prevents erosion from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin; (i.e., silt fences or other BMPs).

Erosion and Sediment Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading: Excavation or fill of material, including the resulting conditions thereof.

Land Disturbance Permit: A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

MDEQ: Mississippi Department of Environmental Quality.

NOI: Notice of Intent to commence construction activity on one or more acre(s).

Sediment Control: Measures that prevent eroded sediment from leaving the site.

Site: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified development.

Stabilization: The application of practices that prevent exposed soil from eroding.

Start of Construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Storm Water: Any rainfall, runoff, snowmelt runoff, and surface runoff.

Storm Water Pollution Prevention Plan (SWPPP): A plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the storm water, and a description of measures or practices to control these pollutants. *(Added by Ord. 2947, Sec. 2, 2/20/07)*

**131.03     Land Disturbance Permit Required**

- 1. No land disturbance, construction or land development activity may commence, and no land owner or land developer shall receive Site Plan Approval, preliminary plat approval, or any building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this ordinance. Permits for land disturbance and storm water pollution prevention plans (SWPPP) are required as follows:
  - A. Less than one-half acre (21,780 square feet) of land disturbed: No permit or SWPPP required.
  - B. One-half acre to 0.999 acre of land disturbed: A City of Hattiesburg Land Disturbance Permit is required. A SWPP is not required.
  - C. One acre to 4.999 acres of land disturbed: A City of Hattiesburg Land Disturbance Permit, a Small Construction General Permit, a Notice of Intent (NOI) and SWPPP are required. The application packets are available from the City of Hattiesburg’s Department of Urban Development. (MDEQ approval not required, unless deemed necessary.)
  - D. Five acres or greater: A City of Hattiesburg Land Disturbance Permit, a MDEQ Large Construction Permit, NOI and SWPPP are required. The Large Construction General Permit package must be submitted directly to MDEQ, Jackson, MS. No permits will be issued pending MDEQ approval of a Large Construction General permit. Copies of the permit application and subsequent modifications and approvals shall be submitted to the City of Hattiesburg Site Plan Review Committee.

Permits Required			
Acre(s) Disturbed	Land Disturbance Permit Required from the City	Construction Permits (including Notice of Intent & SWPPP) Required	Submittal and Approval Required by:
Less than ½ acre (21,780 sq. ft.)	No	No	None
0.5 (½) acre to 0.999 acre	Yes	No	City
1 acre to 4.999 acres	Yes	Small Construction General Permit	City
5 acres or greater	Yes	MDEQ Large Construction General Permit	MDEQ

- 2. No land disturbance permit is required for the following activities:
  - A. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - B. Existing nursery and agricultural operations conducted as a permitted main or accessory use. *(Added by Ord. 2947, Sec. 3, 2/20/07)*

**131.04     Application Requirements**

The application for a Land Disturbance Permit is required by the city for all parcels containing one-half acre or more of disturbed land area, in addition to a small or large construction general permit, if applicable. The following application materials shall be submitted to the Land Development Code Administrator:

1. Land Disturbance Permit. The application for the Land Disturbance Permit for one-half acre to 0.999 acre shall be submitted on a form provided by the Land Development Code Administrator and shall contain the following information:
  - A. Location of the subject property;
  - B. Detailed site plan delineating proposed area of land disturbance and placement of erosion and sediment control measures.
  - C. Narrative describing proposed activity and any measures that will be employed to minimize erosion and sedimentation.
  - D. Any other information deemed necessary for review.

Application for said land disturbance permit shall be made prior to commencing any land disturbance activities or, if the activity requires approval by the Site Plan Review Committee, the land disturbance application may be submitted concurrently with the application for Site Plan Review as described under Section 96 of the Land Development Code.

2. Small Construction General Permit. The application for a Small Construction General Permit is required for any parcel containing between one acre and 4.999 acres. Application materials shall be submitted to the Land Development Code Administrator and shall contain the following information:
  - A. Land Disturbance Permit application;
  - B. Small Construction General Permit application, which includes;
    1. Notice of Intent (NOI); and
    2. Storm Water Pollution Prevention Plan.

Applications for said permits are provided by the Land Development Code Administrator. The applications shall be submitted concurrently with the application for Site Plan Review as described under Section 96 of the City of Hattiesburg Land Development Code.

3. Large Construction General Permit. The application for a Large Construction General Permit is required for any parcel containing five acres or more and is made directly to the Mississippi Department of Environmental Quality (MDEQ). A copy of the MDEQ application materials shall be submitted to the Land Development Code Administrator along with a site plan and shall contain the following information:
  - A. Land Disturbance Permit application;
  - B. Large Construction General Permit application, which includes;
    1. Notice of Intent (NOI); and
    2. Storm Water Pollution Prevention Plan.

Copies of all application materials are provided by the Land Development Code Administrator and shall be submitted to the Hattiesburg Site Plan Review Committee along with an application for Site Plan Review. No land disturbance or construction related permits will be issued by the City of Hattiesburg without MDEQ approval of the Large Construction General permit. Subsequent plan modifications and approvals shall be made available to the committee. *(Added by Ord. 2947, Sec. 4, 2/20/07)*



**131.05     Responsibility for Administration, Review, Approval and Enforcement**

- 1.     Land Development Code Administrator. The Land Development Code Administrator or his/her designee shall be responsible for administrating and coordinating the review of all permit applications.
- 2.     Site Plan Review Committee. The City of Hattiesburg Site Plan Review Committee shall be responsible for reviewing and approving all Land Disturbance Permit and Small Construction General Permit applications as outlined in Section III.
- 3.     Building Official. The Building Official, acting as a representative of the Urban Development Department, or his/her designee shall be responsible for issuing land disturbance and small construction general permits, subject to Site Plan Review Approval. Other responsibilities include monitoring, inspecting, and enforcement, as required, of properties with approved Land Disturbance Permits.
- 4.     Director of Public Services. The Director of Public Services or his/her designee shall be responsible for making periodic inspections and recommendations in coordination with the permitting responsibilities of the Building Official.

Responsibility for Administration and Enforcement of Land Disturbance Permits and Small Construction General Permits						
	Administration	Review	Approval	Issuing Permits	Inspection	Enforcement
Land Development Code Administrator	X					
Site Plan Review Committee		X	X			
Building Official				X	X	X
Director of Public Services					X	

*(Added by Ord. 2947, Sec. 5, 2/20/07)*

**131.06     Land Disturbance Permit and Small Construction General Permit Review and Approval**

- 1.     Land Disturbance Permit. The Site Plan Review Committee will review each application for approval of a Land Disturbance Permit to determine its conformance with the provisions of this ordinance. Within 30 days after receiving an application, or 90 days, in the event that the plan is subject to approval of the governing body, the Site Plan Review Committee shall, in writing:
  - A.     Approve the permit application;
  - B.     Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
  - C.     Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application.
- 2.     Small Construction General Permit. The Site Plan Review Committee will review each application for approval of a Small Construction General Permit to determine its conformance with the provisions of this ordinance. Within 30 days after receiving an application, or 90 days, in the event that the plan is subject to approval of the governing body and/or MDEQ, the Site Plan Review Committee shall, in writing:
  - A.     Approve the permit application;
  - B.     Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

- C. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application.
3. Large Construction General Permit: The Site Plan Review Committee will require a copy of the application, as submitted to MDEQ for approval, for a Large Construction General Permit. The Site Plan Review Committee will review the Land Disturbance Permit application to determine its conformance with the provisions of this ordinance. Within 30 days after receiving an application, or 90 days, in the event that the plan is subject to approval of the governing body and/or MDEQ, the Site Plan Review Committee shall, in writing:
- A. Approve the permit application;
  - B. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
  - C. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application.

If recommended by the Site Plan Review Committee, the applicant may be required by the Department of Public Services to file a performance bond, irrevocable letter of credit, or other improvement security in an amount deemed sufficient by the Director of Public Services or his/her designee. The intent of the aforementioned agreements is to cover all costs of improvements, landscaping, engineering and inspection, and maintenance of improvements for such period of time as specified by the Site Plan Review Committee. These measures are required to cover the cost of failure or repair of improvements installed on the site. *(Added by Ord. 2947, Sec. 6, 2/20/07)*

#### **131.07 Storm Water Pollution Prevention Plan (SWPPP)**

1. SWPPP Development. A SWPPP shall be developed and implemented by the owner or operator of Small and Large Construction General permit projects. The Storm Water Pollution Prevention Plan (SWPPP) shall at a minimum, be in accordance with the standards set forth in the "MS Storm Water Pollution Prevention Plan (SWPPP) Guidance Manual for Construction Activities" or MDEQ equivalent. The planning and design manual can be obtained from the Mississippi Department of Environmental Quality, Jackson, Mississippi.
2. The SWPPP must include a description of the appropriate control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges.

- A. The SWPPP shall be retained at the permitted site or locally available. A copy of the SWPPP must be made available to the City of Hattiesburg and/or MDEQ inspectors for review at the time of an on-site inspection.
- B. BMPs shall be in place upon commencement of construction.
- C. The City's Building Official, the Director of Public Services or their designated representative may notify the owner or operator at any time that the SWPPP does not meet the minimum requirements of this permit. After notification, the owner or operator shall amend the SWPPP, implement the changes and certify in writing to the Building Official that the requested changes have been made. Unless otherwise provided by the Building Official, the requested changes shall be made within 5 business days.
- D. The owner or operator shall amend the SWPPP and implement the changes before there is a change in land disturbance, construction, operation, or maintenance, which may potentially affect the discharge of pollutants to State waters.

The owner or operator shall amend the SWPPP and implement the changes if the SWPPP proves to be ineffective in controlling storm water pollutants including, but not limited to, significant sediment leaving the site and non-functioning BMPs.  
(Added by Ord. 2947, Sec. 7, 2/20/07)

### **131.08 Inspection**

- 1. The Director of the Public Services Department or his/her designated representative, and the Building Official of the Urban Development Department or his/her designated representative shall coordinate inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Storm Water Pollution Prevention Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Site Plan Review Committee shall be maintained at the project site and made available for periodic inspection by the City of Hattiesburg and/or MDEQ during the progress of the work. To obtain inspections, the permittee shall notify the office of the Building Official in the Urban Development Department at least two working days before the following:
  - A. Installation of sediment and erosion measures (Inspection by Public Services Dept.);
  - B. Completion of site clearing and grubbing (Inspection by Public Services Dept.);
  - C. Start of building construction; (Inspection by Urban Development Dept.);
  - D. Completion of final grading (Inspection by Urban Development Dept.);
  - E. Completion of final landscaping (Inspection by Urban Development Dept.).

2. Inspection Requirements. The permittee or his/her representative shall make regular weekly inspections of all control measures in accordance with the inspection schedule outlined on the approved Storm Water Pollution Prevention Plan. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Site Plan Review Committee at the time interval specified in the approved permit.
3. Inspection Schedules.  
Inspection of all erosion controls and other SWPPP requirements shall be performed by the permittee or his/her representative during land disturbing activities. Inspections shall be performed:
  - A. At least once a week;
  - B. Within 24 hours of the end of a storm event of a half-inch or greater;
  - C. As often as is necessary to ensure that appropriate erosion and sediment controls have been properly constructed and maintained and determine if additional or alternative control measures are required.
4. Documentation of Inspections. All inspections associated with this permit must be documented and certified (refer to Inspection and Certification forms found in Small or Large Construction General Permit). Documentation must include the day and time the inspection was performed, who performed the inspection, any deficiencies noted, and corrective action needed. Documentation of all inspections must be kept with the SWPPP. Inspections must continue until such time that planned construction activities have been completed, land disturbing activities have ceased and disturbed areas have been stabilized with no significant erosion occurring.
5. Authorized Entry  
The Building Official, Director of Public Services or their designated representative shall enter the property of the applicant as deemed necessary to make periodic inspections to ensure the validity of the reports filed under Section B. (*Added by Ord. 2947, Sec. 8, 2/20/07*)

## **131.09 Enforcement**

1. Stop-Work Order; Revocation of Permit  
In the event that any natural person, legal entities or corporation holding a land disturbance permit pursuant to this ordinance violates the terms of the permit or implements a site development in such a manner as to adversely affect the health, welfare, and/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, the Building Official may suspend or revoke the land disturbance permit.

2. Violation and Penalties

No natural person, legal entities or corporation shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine as established by the Section 1-10 and 1-11 in the City Code of Ordinances. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration. *(Added by Ord. 2947, Sec. 9, 2/20/07)*

**SECTION 132        RESERVED**

### **SECTION 133        PRIVATE STREETS**

**133.01** If the owners in the future should request that the private streets be changed to public streets, the owners do fully agree that, before the acceptance of such streets by the City, the owners will bear full expense of reconstruction or any other action necessary to make the streets fully conform to the requirements applicable to public streets, prior to dedication and acceptance. The owners also shall agree that these streets shall be dedicated to public use without compensation to the owners.

### **SECTION 134        TRAFFIC CIRCULATION**

**134.01** The vehicular circulation system shall be designed so as to permit smooth traffic flow with minimum hazards to pedestrian traffic. Minor streets shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

**134.02** The pedestrian circulation system and its related walkways shall be insulated as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the Site Plan Review Committee, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

### **SECTION 135        REQUIRED IMPROVEMENTS**

**135.01** In the construction and installation of all subdivision improvements, said improvements shall conform to all requirements and standards as set forth in Article 6, unless exception to the requirements is recommended by the Site Plan Review Committee and approved by the City Engineer.

## **SECTION 136 ENVIRONMENT DESIGN**

**136.01** In order to minimize the disturbance of the natural environment, a general landscaping plan shall be required at the time of preliminary plat submission showing the spacing, sizes, and specific types of landscaping material. The Site Plan Review Committee shall review the landscaping plan in conjunction with the review of the preliminary plat.

**136.02** The preservation of natural amenities shall be given due consideration which shall include topography, trees, and ground cover, natural bodies of water, and other significant natural features. Existing trees shall be preserved whenever possible. The location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels. The Site Plan Review Committee shall inquire into the means whereby trees and other natural features will be protected during construction. Excessive site clearing of top soil, trees, and natural features before the commencement of building operations shall be discouraged by the Site Plan Review Committee.

**SECTION 137      STANDARD STREET CROSS SECTIONS**

**SECTION 138      RESERVED**

**SECTION 139      RESERVED**